
HOUSE BILL 1519

State of Washington

56th Legislature

1999 Regular Session

By Representatives Dickerson, Clements, Conway, Lovick, Keiser, O'Brien, Romero, Ogden, Hurst, Scott, Kenney, Regala, Fisher, Veloria, Tokuda, Cooper, Stensen, Cody, Santos, Gombosky, Kagi, Edmonds, Lantz and Wood

Read first time 01/27/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to increasing leave from employment; amending RCW
2 49.78.010, 49.78.005, and 49.78.020; adding new sections to chapter
3 49.78 RCW; creating a new section; and recodifying RCW 49.78.005.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.78.010 and 1989 1st ex.s. c 11 s 1 are each amended
6 to read as follows:

7 The legislature finds that the demands of the workplace and of
8 families need to be balanced to promote family stability and economic
9 security. Changes in workplace leave policies are desirable to
10 accommodate changes in the work force such as rising numbers of dual-
11 career couples and working single parents. In addition, given the
12 mobility of American society, many people no longer have available
13 community or family support networks and therefore need additional
14 flexibility in the workplace to meet their family responsibilities.
15 The legislature declares it to be in the public interest to provide
16 reasonable family leave for caring for a child upon the birth or
17 adoption of ((a)) the child ((and to care)), for caring for a child
18 under eighteen years old with a terminal health condition, and for
19 meeting other family responsibilities.

1 **Sec. 2.** RCW 49.78.005 and 1997 c 16 s 1 are each amended to read
2 as follows:

3 (1) Except as provided in subsection (2) of this section, the
4 department shall cease to administer and enforce this chapter beginning
5 on July 27, 1997, and until the earlier of the following dates:

6 (a) The effective date of the repeal of the federal family and
7 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6);
8 or

9 (b) July 1st of the year following the year in which amendments to
10 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
11 P.L. 103-3, 107 Stat. 6) take effect that provide less family leave
12 than is provided under RCW 49.78.030. In determining whether the
13 federal law provides the same or more leave, the department shall only
14 consider whether (i) the total period of leave allowed under the
15 amended federal law is twelve or more workweeks in a twenty-four month
16 period, and (ii) the types of leave authorized under the amended
17 federal law are similar to the types authorized (~~((in this chapter))~~)
18 under RCW 49.78.030.

19 (2)(a) The following provisions of this chapter shall be in effect:

20 (i) An employee's right under RCW 49.78.070(1)(b) to be returned to
21 a workplace within twenty miles of the employee's workplace when leave
22 commenced (~~((shall remain in effect))~~).

23 (ii) The leave required under section 4 of this act.

24 (iii) An employee's entitlement to leave for sickness or temporary
25 disability because of pregnancy or childbirth, which shall be in
26 addition to the family leave required by 29 U.S.C. (~~((29-2612))~~) Sec.
27 2612(a)(1)(A) and (B) of the federal family and medical leave act of
28 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) (~~((shall be in addition~~
29 to any leave for sickness or temporary disability because of pregnancy
30 or childbirth)).

31 (b) The department shall enforce this subsection under RCW
32 49.78.140 through 49.78.190, except that an initial notice of
33 infraction shall state that the employer has thirty days in which to
34 take corrective action. No infraction or penalty may be assessed if
35 the employer complies with the requirements of the initial notice of
36 infraction.

37 **Sec. 3.** RCW 49.78.020 and 1996 c 178 s 14 are each amended to read
38 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Child" means a biological or adopted child, or a stepchild,
4 living with the employee.

5 (2) "Department" means the department of labor and industries.

6 (3) "Employee" means a person other than an independent contractor
7 employed by an employer on a continuous basis for the previous fifty-
8 two weeks for at least thirty-five hours per week.

9 (4) Except as provided in section 4 of this act, "employer" means:

10 (a) Any person, firm, corporation, partnership, business trust, legal
11 representative, or other business entity which engages in any business,
12 industry, profession, or activity in this state and includes any unit
13 of local government including, but not limited to, a county, city,
14 town, municipal corporation, quasi-municipal corporation, or political
15 subdivision, which (i) employed a daily average of one hundred or more
16 employees during the last calendar quarter at the place where the
17 employee requesting leave reports for work, or (ii) employed a daily
18 average of one hundred or more employees during the last calendar
19 quarter within a twenty mile radius of the place where the employee
20 requesting leave reports for work, where the employer maintains a
21 central hiring location and customarily transfers employees among
22 workplaces; and (b) the state, state institutions, and state agencies.

23 (5) "Family leave" means leave from employment (~~(to care for a~~
24 ~~newborn or newly adopted child under the age of six or a child under~~
25 ~~eighteen years old with a terminal health condition,~~) as provided in
26 RCW 49.78.030 and section 4 of this act.

27 (6) "Health care provider" means a person licensed as a physician
28 under chapter 18.71 RCW or an osteopathic physician and surgeon under
29 chapter 18.57 RCW.

30 (7) "Parent" means a biological or adoptive parent, or a
31 stepparent.

32 (8) "Reduced leave schedule" means leave scheduled for fewer than
33 an employee's usual number of hours or days per workweek.

34 (9) "Terminal health condition" means a condition caused by injury,
35 disease, or illness, that, within reasonable medical judgment, is
36 incurable and will produce death within the period of leave to which
37 the employee is entitled.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.78 RCW
2 to read as follows:

3 (1) In addition to other family leave to which the employee is
4 entitled under this chapter or federal law, an employee is entitled to
5 ten work days of family leave during any twelve-month period to:

6 (a) Participate in educational activities involving the employee's
7 child in a primary or secondary public school program including, but
8 not limited to, school conferences and other school meetings, classroom
9 and school-sponsored sports activities, and educational enrichment
10 programs;

11 (b) Provide assistance to the employee's child, spouse, or parent,
12 or spouse's parent when there is an urgent need to resolve a critical
13 or time-sensitive personal issue, including, by way of illustration and
14 not as a limitation, arranging emergency day care or residential care
15 in a facility or arranging for and accompanying the family member to
16 nonroutine diagnostic testing;

17 (c) Participate with the employee's child, spouse, or parent, or
18 spouse's parent in group activities sponsored for children or families,
19 or both, by a community organization;

20 (d) Obtain services related to issues arising from domestic
21 violence and participate in a course of treatment for physical and
22 psychological injuries, or both, resulting from domestic violence.

23 (2) An employer may require that the leave provided under this
24 section:

25 (a) Be unpaid. If an employer provides paid leave for the purposes
26 covered in subsection (1) of this section for fewer than ten work days
27 in a twelve-month period, the additional hours of leave added to attain
28 the ten-day total may be unpaid; and

29 (b) Be taken after an employee first uses the employee's total
30 accumulated leave, not including leave under this chapter, to which the
31 employee is otherwise entitled. However, the employer is not required
32 to allow an employee to use the employee's other leave in place of the
33 leave provided under this section.

34 (3) An employer may require that a request for leave under this
35 section be supported by reasonable information or a certification for
36 verification purposes.

37 (4)(a) Except as provided in (b) of this subsection, an employee
38 planning to take leave under this section must provide the employer
39 with written notice at least five days in advance of the anticipated

1 date or dates of leave, stating the dates during which the employee
2 intends to take the leave. If the employee fails to give the required
3 notice, the employer may deny that request for leave.

4 (b) If, because of an emergency, leave under this section is not
5 foreseeable five or more days before the leave is to take place, the
6 employee is not required to give notice but must make a reasonable
7 effort to schedule the leave so as not to unduly disrupt the operations
8 of the employer.

9 (5) As used in this section, "employer" means any person, firm,
10 corporation, partnership, business trust, legal representative, or
11 other business entity that engages in any business, industry,
12 profession, or activity in this state and employs eight or more
13 employees, the state, state institutions, state agencies, and any unit
14 of local government, including but not limited to, a county, city,
15 town, municipal corporation, quasi-municipal corporation, or political
16 subdivision.

17 NEW SECTION. **Sec. 5.** With respect to employees covered by a
18 collective bargaining agreement in effect on the effective date of this
19 section or an employee benefit plan with a stated year ending on or
20 after the effective date of this section, this act does not apply until
21 the later of: (1) The first day following expiration of the collective
22 bargaining agreement; or (2) the first day of the next plan year, as
23 applicable.

24 NEW SECTION. **Sec. 6.** RCW 49.78.005 is recodified as a section in
25 chapter 49.78 RCW, to be codified between RCW 49.78.010 and 49.78.020.

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