

SENATE BILL REPORT

SSB 5850

As Passed Senate, March 11, 2005

Title: An act relating to the definition of sick leave under the family care act.

Brief Description: Clarifying the definition of "sick leave" for family leave.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Spanel, Keiser, Kohl-Welles and Shin).

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 3/1/05 [DPS].
Passed Senate: 3/11/05, 48-0.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5850 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Honeyford, Keiser and Prentice.

Staff: Jennifer Strus (786-7316)

Background: If under the terms of either a collective bargaining agreement or an employer policy, the employee is entitled to sick leave or other paid time off, the employer must allow the employee to use any sick leave or other paid time off, to care for a sick child or a spouse, parent, parent-in-law or grandparent of the employee who has a serious health or emergency condition.

Summary of Bill: The definition of "sick leave or other paid time off" must include any self-administered short-term or long-term disability plan unless the employer maintains a separate paid sick leave plan or practice. It does not include those disability policies covered by the Employment Retirement Income Security Act (ERISA).

The definition of "parent" is amended to include adoptive parents.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: For a number of employees, their principal sick leave plan is called a disability plan and as a result some employers will not allow employees to use accrued time under the disability plan to care for a sick child or family member. There are a small number of employers exploiting a loophole in the family care act and this bill would close that

loophole. Some employers call their sick leave plan a disability plan and are able to avoid the intent of the family care act and this bill would not allow them to do that anymore.

Testimony Against: Employers who provide short term disability plans will be encouraged to reduce them so that they do not fit under ERISA. By the language of the bill, employers will hire third party administrators of their disability plans and avoid the effects of the bill. Further, the bill would have the effect of encouraging employers to abandon these policies altogether which would harm the worker.

Who Testified: PRO: Senator Spanel, prime sponsor; Don Houtchens, PACE Local 8 - 590; Marilyn Watkins, Economic Opportunity Institute; Robby Stern, Washington State Labor Council.

CON: Kris Tefft, Association of Washington Business.

House Amendment(s): There are two House amendments, a committee amendment and a floor amendment, both of which amend the same section of the statute. Both amendments clarify that if an employee does not have paid sick leave, the employee may use disability leave not covered by ERISA to care for ill family members. The House floor amendment also clarifies that an employee may use disability leave to care for an ill family member if that leave is not established or maintained through the purchase of insurance.

Passed House: 58-38.