
**Labor & Workplace Standards
Committee**

HB 1399

Brief Description: Concerning paid family and medical leave.

Sponsors: Representatives Robinson, Doglio, Sells, Hudgins, Ormsby, Springer, Gregerson, Frame, Appleton, Bergquist, Riccelli, Tharinger, Stanford, Slatter, Goodman, Reeves, Macri and Ortiz-Self; by request of Employment Security Department.

Brief Summary of Bill

- Establishes provisions regarding disclosure of private information under the paid family and medical leave program.
- Makes changes regarding employer waivers and supplementation of benefits, voluntary plans, waiting period, and other matters.

Hearing Date: 1/22/19

Staff: Joan Elgee (786-7106).

Background:

In 2017 a paid family and medical leave (PFML) program was enacted to provide partial wage replacement to employees on leave for specified family and medical reasons. Employees are eligible for benefits after working at least 820 hours in a qualifying period. Premium collection began January 1, 2019, and benefits are payable beginning January 1, 2020. The Employment Security Department (Department) administers the program.

Voluntary Plans.

An employer may opt out of the state plan for either family leave or medical leave or both by having a voluntary plan that meets specified standards. Under a voluntary plan, to be eligible for benefits an employee must meet the 820 hours requirement and also have worked at least 340 hours for the voluntary plan employer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The law directs the Department to adopt rules to allow benefits or prevent duplication of benefits to employees covered by one or more voluntary plans or the state plan. The law also specifically states that an employee covered by a voluntary plan at the commencement of a period of leave may not receive benefits from the state plan.

An employee may appeal a voluntary plan employer's denial of liability under a claim.

Benefits.

A seven-day waiting period is required before benefits are payable, except for the birth or placement of a child.

An employee must provide an employer at least 30 days' notice for foreseeable leave.

An employer may supplement an employee's PFML benefits. However, with respect to other accrued time off, an employer is limited to allowing an employee to use other paid time off or receive PFML benefits.

An employee is not entitled to benefits for any day in which a care recipient works part of the day during substantially similar hours as those of the employer from whom benefits are claimed.

The Department must withhold child support from a benefit payment if the employee volunteers that he or she owes child support, and the Department may verify delinquent child support.

Definitions.

The PFML program gives certain employees job protection, which must include equivalent employment benefits. The definition of "benefits" excludes benefits provided by an employer's practice or written policy.

Wages, for purposes of benefits and premiums, is defined by reference to unemployment insurance provisions, with some exceptions.

Disclosure and Privacy.

As a condition to receiving benefits, employees must consent to the disclosure of information deemed private under state law. Initial disclosure of the information to another state agency is solely for purposes of administering the PFML program. Further disclosure is subject to provisions in unemployment insurance statutes.

Other.

Employers may request a conditional waiver from both employer and employee premiums if the employee works outside the state and is not expected to work for 820 hours in the state in the qualifying period.

Summary of Bill:

Voluntary Plans.

An employer may waive the qualifying hours requirements to allow an employee to be immediately eligible for coverage.

An employee may appeal any adverse decision by an employer, not limited to a denial of liability.

Benefits.

The seven-day waiting period begins when the employee takes leave for the minimum eight-hour claim duration and is seven consecutive calendar days.

An employer may waive the requirements for the employee to provide notice of leave.

An employer may offer supplemental benefit payments, such as vacation, sick, or other paid time off, to an employee on leave. The employee may choose whether to receive these payments.

Individuals may not receive benefits for any period of time in which a care recipient is working.

The Department may verify all child support obligations, not limited to delinquent obligations or dependent on the employee's disclosure.

An assignment of a right to benefits is void and benefits are generally exempt from execution except for child support.

Definitions.

The exclusion of benefits provided by an employer's practice or written policy is removed. "Wages" is defined for the PFML program, without referencing unemployment insurance statutes.

Disclosure and Privacy.

The PFML program specific provisions are added regarding disclosure and privacy. Information concerning an individual or employer is generally private and confidential. If all details identifying an individual or employer are deleted, the information may be disclosed. Individuals have access to all information concerning the individual, and employers have access to their own records, information relating to a decision to allow or deny benefits if the decision is based on material information provided by the employer, and information related to the employer's premium assessment. The Department may disclose records to a third party acting on behalf of an individual or employer with a signed release. The release must:

- identify the information to be disclosed;
- state that state government files will be accessed to obtain the information;
- state the specific purpose for which the information is sought and that the information will only be used for that purpose; and
- indicate all the parties who may receive the information.

The Department may enter into data-sharing contracts with specified state agencies under certain conditions, including that the director or other official of a state agency provides a written verification of the need for the specific information. Information may be disclosed to the Department of Social and Health Services to verify child support obligations, to the Department of Revenue to determine tax liability or compliance with registration and licensing requirements, and to other specified agencies.

The Department may release information to the Legislature upon consent of the individuals and organizations whose information is contained in the records, and may disclose information to the Internal Revenue Service if necessary to administer provisions related to withholding.

In an appeal proceeding, an interested party may have access to information that is material to the issues. Parties to a judicial or administrative proceeding may receive private information upon a written finding by the presiding officer that the need for the information outweighs any reasons for privacy.

The PFML program may disclose information to private parties assisting in the operation, management, and implementation of the PFML program.

Entities receiving information have an affirmative obligation to take all reasonable actions to prevent disclosure of confidential information. A misuse or unauthorized release of information subjects the entity to a civil penalty of up to \$20,000, adjusted by the consumer price index.

The Department has rule-making authority regarding the privacy and disclosure provisions.

Other.

The reference to "qualifying period" for purposes of determining whether a conditional waiver is appropriate is changed to four consecutive complete calendar quarters.

A cross-reference is corrected and the provisions are reorganized.

Appropriation: None.

Fiscal Note: Requested on January 18, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.