

HOUSE BILL REPORT

HB 1474

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to leave from employment for family care.

Brief Description: Expanding provisions for leave from employment for family care.

Sponsor(s): Representatives Ebersole, Wang, Cole, Franklin, Jones, Leonard, Spanel, Heavey, Cantwell, Prentice, Belcher, Fraser, Jacobsen, Pruitt, Dellwo, Nelson, Rust, Brekke, Sprenkle, O'Brien, Inslee, Wineberry and Anderson.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 14, 1991, DPA.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass as amended.* Signed by 7 members: Representatives Heavey, Chair; Cole, Vice Chair; Franklin; Jones; R. King; O'Brien; and Prentice.

Minority Report: *Do not pass.* Signed by 4 members: Representatives Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Vance; and Wilson.

Staff: Chris Cordes (786-7117).

Background: In 1989, the Legislature enacted family leave legislation. The legislation requires employers employing 100 or more to grant an employee family leave to care for a newborn or newly adopted child under six, or to care for a terminally ill child under 18. The provisions limit family leave to 12 weeks during any 24 month period. On return from family leave, the employee has a right to reinstatement to the employee's same position, an equivalent position, or any vacant position. If both parents are employed by the same employer, the employees together are limited to a total of 12 weeks of family leave. Anti-discrimination provisions prohibit discrimination against a person for opposing unlawful leave practices, filing a family leave complaint, or testifying in a proceeding.

Summary of Amended Bill:

Broadened coverage

The employers covered by the family leave provisions are expanded from those employing a daily average of 100 or more to those employing a daily average of 50 or more. The definition of "child" is broadened to include foster children and legal wards, and covers adopted children and foster children under age 16.

Expansion of reasons for granting leave

An employee is entitled to family leave to care for family members with serious health conditions. Family members include the employee's child under age 18 and a child age 18 or older who is incapable of self-care, the employee's spouse, and parents, including the spouse's parents. A serious health condition is a physical or mental condition that requires inpatient care or continuing treatment or supervision by a health care provider.

Leave includes parental leave to care for foster children under age 16 when placement is the permanent plan.

Application to collective bargaining agreements

Employers under unexpired collective bargaining agreements and employee benefit plans will not be subject to the act until the expiration of the agreements or plans.

Repealers

The section is repealed that (1) directs cessation of enforcement of the state law upon enactment of a substantially similar federal law; and (2) prohibits a private right of action for violations of the chapter. Another section is repealed that limits the leave to which parents employed by the same employer are entitled.

Other provisions

Reinstatement rights are prioritized to favor reinstatement of the employee to the same position. Anti-discrimination provisions are amended to prohibit discrimination when the employee exercises any rights afforded by the family leave law. No employer policy may be applied to limit or discourage the use of family leave.

Amended Bill Compared to Original Bill: The amendment makes a grammatical correction.

Fiscal Note: Available.

Effective Date: The bill takes effect September 1, 1991.

Testimony For: (1) The Legislature recognizes that families have changed and that support for families is required. Most other industrial countries are far ahead of the United States with respect to family leave policies. Employees should not be faced with the choice between job and family when a family member needs care. It is time to expand the family leave law to other situations since it has not resulted in any known problems. The aging of the population means that more families will be providing care for parents. Older adopted children also need the benefit of having parents available during difficult adjustment periods. (2) Some changes in the law may be acceptable, but the threshold for employer coverage should not be changed.

Testimony Against: The state should not be mandating employee benefits. These laws create significant hardships for small businesses. Small business owners need flexibility to survive. They are usually able to work out an acceptable leave with employees on a case-by-case basis.

Witnesses: In favor: Larry Kenney and Karen Kaiser, Washington State Labor Council; Donna Smith; Amy Stephson and Ann Simon, Coalition for Family Leave; and Penny Germaine. Opposed to expanding employer coverage: Linda Matson, National Federation of Independent Business; Jan Gee, Washington Retail Association; and Clif Finch, Association of Washington Business. Opposed: Gary Smith, Independent Business Association; and Diane Sims, Ellen Champion, John Vipond, and Erla Smith.