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HOUSE BILL 2940

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Simpson, G., Campbell, Cooper, Jarrett, Ormsby and Conway

Read first time 01/23/2004. Referred to Committee on Commerce & Labor.

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

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

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

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

1 under eighteen years old with a terminal health condition, and for  
2 meeting other family responsibilities.

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

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

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

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

21 (2)(a) The following provisions of this chapter are in effect:

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

25 (ii) The leave required under section 4 of this act; and

26 (iii) An employee's entitlement to leave for sickness or temporary  
27 disability because of pregnancy or childbirth, which shall be in  
28 addition to the family leave required by 29 U.S.C. (~~29.2612~~) Sec.  
29 2612(a)(1)(A) and (B) of the federal family and medical leave act of  
30 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) (~~shall be in addition~~  
31 to any leave for sickness or temporary disability because of pregnancy  
32 or childbirth).

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

1 the employer complies with the requirements of the initial notice of  
2 infraction.

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

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

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

13 (4) Except as provided in section 4 of this act, "employer" means:  
14 (a) Any person, firm, corporation, partnership, business trust, legal  
15 representative, or other business entity which engages in any business,  
16 industry, profession, or activity in this state and includes any unit  
17 of local government including, but not limited to, a county, city,  
18 town, municipal corporation, quasi-municipal corporation, or political  
19 subdivision, which (i) employed a daily average of one hundred or more  
20 employees during the last calendar quarter at the place where the  
21 employee requesting leave reports for work, or (ii) employed a daily  
22 average of one hundred or more employees during the last calendar  
23 quarter within a twenty mile radius of the place where the employee  
24 requesting leave reports for work, where the employer maintains a  
25 central hiring location and customarily transfers employees among  
26 workplaces; and (b) the state, state institutions, and state agencies.

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

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

34 (7) "Parent" means a biological or adoptive parent, or a  
35 stepparent.

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

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

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

7 (1) In addition to other family leave to which the employee is  
8 entitled under this chapter or federal law, an employee is entitled to  
9 four hours per calendar quarter of family leave during any twelve-month  
10 period to participate in parent-teacher school conferences.

11 (2) An employer may require that the leave provided under this  
12 section:

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

17 (b) Be taken after an employee first uses the employee's total  
18 accumulated leave, not including leave under this chapter, to which the  
19 employee is otherwise entitled. However, the employer is not required  
20 to allow an employee to use the employee's other leave in place of the  
21 leave provided under this section.

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

25 (4) An employee planning to take leave under this section must  
26 provide the employer with written notice at least five days in advance  
27 of the anticipated date or dates of leave, stating the dates during  
28 which the employee intends to take the leave. If the employee fails to  
29 give the required notice, the employer may deny that request for leave.

30 (5) As used in this section, "employer" means any person, firm,  
31 corporation, partnership, business trust, legal representative, or  
32 other business entity that engages in any business, industry,  
33 profession, or activity in this state and employs eight or more  
34 employees, the state, state institutions, state agencies, and any unit  
35 of local government, including but not limited to, a county, city,  
36 town, municipal corporation, quasi-municipal corporation, or political  
37 subdivision.

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

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

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