

SHB 2602 - H AMD 1223

By Representative Condotta

FAILED 2/18/2008

1 On page 2, beginning on line 14, after "(1)" strike all
2 material through "RCW 49.78.020." on line 26 and insert "Child"
3 "department," "director," "employee," employer," intermittent
4 leave," "reduced leave schedule," and "spouse" have the same
5 meanings as in RCW 49.78.020.

6 (2) "Domestic violence" has the same meaning as in RCW
7 26.50.010.

8 (3) "Family member" means a spouse, parent, child, and persons
9 jointly residing in the same household, whose interests are not
10 adverse to the employee as it relates to domestic violence, sexual
11 assault, and stalking.

12 (4) "Parent" means the biological parent of an employee or an
13 individual who stood in loco parentis to an employee when the
14 employee was a child.

15 (5) "Sick leave and other paid time off" has the same meaning
16 as in RCW 49.12.265."

17 Renumber the remaining subsections consecutively and correct
18 any internal references accordingly.

19 On page 2, line 29, after "**Sec. 3.**" strike "An" and insert
20 "Subject to section 6 of this act, an"

21 On page 5, after line 34, insert the following:

22 "NEW SECTION. **Sec. 6.** Subject to section 4(1) through (3) of
23 this act, an employee shall be entitled to a maximum of twelve
24 workweeks of leave during any twelve-month period. This chapter
25 does not create a right for an employee to take leave that exceeds
26 the leave time allowed under, or is in addition to the leave time
27 permitted by, the federal family and medical leave act of 1993 (Act
28 Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) and chapter 49.78 RCW."

1 Renumber the remaining sections consecutively and correct any
2 internal references accordingly.

3 On page 5, line 35, after "(1)" strike "The" and insert
4 "Subject to section 6 of this act, the"

5 On page 6, beginning on line 9, strike sections 7 thorough 12
6 and insert the following:

7 "NEW SECTION. Sec. 7. (1) It is unlawful for any employer to:

8 (a) Interfere with, restrain, or deny the exercise of, or the
9 attempt to exercise, any right provided under this chapter; or

10 (b) Discharge or in any other manner discriminate against any
11 individual for opposing any practice made unlawful by this chapter.

12 (2) It is unlawful for any person to discharge or in any other
13 manner discriminate against any individual because the individual
14 has:

15 (a) Filed any charge, or has instituted or caused to be
16 instituted any proceeding, under or related to this chapter;

17 (b) Given, or is about to give, any information in connection
18 with any inquiry or proceeding relating to any right provided under
19 this chapter; or

20 (c) Testified, or is about to testify, in any inquiry or
21 proceeding relating to any right provided under this chapter.

22 (3) The department shall enforce this section by investigating
23 complaints as provided for in RCW 49.78.310 and levying penalties
24 if applicable under the provisions of RCW 49.78.320. An employer
25 who violates this section may be subject to a civil action as
26 provided in RCW 49.78.330."

27 Renumber the remaining sections consecutively and correct any
28 internal references accordingly.

EFFECT: Defines "employer," "employee," and several other terms by reference to the state Family Leave Law (state FMLA). Narrows covered employers from any employer of one or more persons in the substitute bill to any employer with 50 or more employees during each of 20 or more workweeks in the current or

preceding calendar year. Narrows covered employees from all employees in the substitute bill to persons who have been employed for at least 12 months by the employer for at least 1250 hours of service during the previous 12 months.

Modifies family members for whom an employee may take leave. Excludes grandparents, parents-in-law, adoptive parents, persons with whom the employee has a dating relationship, and persons whose interests are adverse to the employee as it relates to the domestic violence, sexual assault, or stalking. Adds persons jointly residing in the same household.

Limits the reasonable leave to twelve workweeks in any 12 month period. Provides that an employee who takes leave under the federal Family and Medical Leave Act (FMLA) may not take more than 12 weeks of combined leave in certain circumstances.

Modifies the prohibited acts, administrative complaint and investigation process, and civil cause of action to align with the state FMLA. Provides that an employer who violates the provisions is subject to a civil penalty of not less than \$1000 for each violation (rather than a fine of up to \$500 for the first infraction and up to \$1000 for subsequent infractions). Authorizes liquidated damages under specified circumstances (liquidated damages are not authorized under the substitute bill).

Strikes section providing that information the Department of Labor and Industries has in a complaint file or employee record related to the provisions is not open to public inspection except under specified circumstances.