

SENATE BILL REPORT

SB 5586

As Reported by Senate Committee On:
Labor & Commerce, February 7, 2023

Title: An act relating to employees' paid family or medical leave data.

Brief Description: Concerning employees' paid family or medical leave data.

Sponsors: Senators King, Robinson and Wellman.

Brief History:

Committee Activity: Labor & Commerce: 2/02/23, 2/07/23 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Authorizes certain interested parties, beginning January 1, 2024, to access specified information relating to an employee's paid family or medical leave claim, for the sole purpose of administering internal employer leave or benefit practices under established policies.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5586 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, MacEwen, Robinson and Stanford.

Minority Report: That it be referred without recommendation.

Signed by Senator Schoesler.

Staff: Matt Shepard-Koningsor (786-7627)

Background: Private and Confidential Information. In general, Paid Family and Medical Leave Program records and information is held private and confidential by the Employment

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

Security Department (ESD). This includes information pertaining to employees and employers. An individual must have access to information concerning that individual held by ESD unless the information is exempt from disclosure under the Public Records Act. An employer must have access to its own information relating to any claim or determination for family or medical leave benefits by an individual; 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 that employer's premium assessment. ESD may disclose information to a third-party acting on behalf of an individual or employer under certain conditions.

Summary of Bill (First Substitute): Interested party means a current employer, a current employer's third-party administrator, or an employee. ESD may specify the term further in rule.

Beginning January 1, 2024, any interested party may have access to certain information related to an employee's paid family or medical leave claim. The interested party may have access in a manner defined by rule to the following information related to the employee's claim:

- type of leave being taken;
- requested duration of leave including the approved dates of leave;
- remaining hours of leave available in the employee's entitlement;
- weekly benefit amount; and
- actual benefits paid and hours claimed.

Information provided is considered to be accurate based on ESD's information at the time of the request. Information may only be used to administer internal employer leave or benefit practices under established employer policies. ESD may investigate unauthorized uses of records and information in accordance with existing Paid Family and Medical Leave law regarding unlawful practices.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Defines "interested party" as a current employer, a current employer's third-party administrator, or an employee, and allows ESD to specify the term further in rule.
- Grants ESD the ability to investigate unauthorized uses of obtained records and information in accordance with existing PFML law regarding unlawful practices.
- Adds a January 1, 2024, effective date.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2024.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill allows businesses to have the information so they can plan and do the work necessary to accommodate those that are on PFML, while providing protections to keep the information safe. Non-confidential information should be available to employers. Currently, employers are not able to see which weeks and days are covered under PFML after an employee is approved for leave. The bill fixes this unintended consequence. Employers cannot appropriately and timely coordinate supplemental benefits for employees receiving a PFML benefit. We are pro but are asking for several amendments such as clarifying the enforcement regarding how this data can be used, and some limitation of what data can be requested to protect employee privacy. We would like to know when employees are paid by PFML and how much they are paid. Employees and employers are having issues knowing the details of PFML.

OTHER: This is a concern ESD has heard from employers since PFML launched. Employers are not able to access employee data relating to the actual claim usage, which is critical to manage supplemental benefits, health care coverage, and other aspects. We would like to delay the implementation date so ESD can build it into the IT system and view this data on an employee's account.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Alexandra Mather, Pierce Transit; Ali Schaafsma; Bob Battles, Association of Washington Business (AWB); Matt Miller, Puget Sound Energy; Joe Kendo, Washington State Labor Council, AFL-CIO.

OTHER: Caitlyn Jekel, WA State Employment Security Dept.

Persons Signed In To Testify But Not Testifying: No one.