

# SENATE BILL REPORT

## ESSB 5793

---

---

As Passed Senate, February 7, 2024

**Title:** An act relating to paid sick leave.

**Brief Description:** Concerning paid sick leave.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators Saldaña, Keiser, Kuderer, Lovelett, Nobles, Stanford, Valdez and Wilson, C.).

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/15/24, 1/22/24 [DPS, DNP].

**Floor Activity:** Passed Senate: 2/7/24, 28-21.

**Brief Summary of Engrossed First Substitute Bill**

- Allows an employee or transportation network company driver to use paid sick leave when their child's school or place of care is closed after the declaration of an emergency.
- Modifies the definition of family member for the purpose of using paid sick leave to include any individual who regularly resides in the employee's home or where the relationship creates an expectation the employee care for the person, and that individual depends on the employee for care, except it does not include an individual who simply resides in the same home with no expectation the employee care for the individual.
- Provides that a child also includes a child's spouse.
- Requires the Department of Labor and Industries to develop materials and conduct outreach to inform individuals and businesses about the new provisions of the act.

---

### SENATE COMMITTEE ON LABOR & COMMERCE

---

*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.*

**Majority Report:** That Substitute Senate Bill No. 5793 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

**Staff:** Susan Jones (786-7404)

**Background:** Paid Sick Leave. Every employer must provide each of its employees at least one hour of paid sick leave for every 40 hours worked as an employee. An employee is entitled to use accrued paid sick leave beginning on the 90th calendar day after the commencement of employment.

An employee may use paid sick leave:

- for an absence resulting from an employee's mental or physical illness, injury, or health condition; or to accommodate the employee's need for medical diagnosis, care, treatment, or preventive medical care;
- to allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, treatment, or preventive medical care;
- when the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason; and
- for absences that qualify for leave under the Domestic Violence Leave Act.

Family member means:

- a child, including a biological, adopted or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;
- a biological, adoptive, de facto or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
- a spouse or registered domestic partner;
- a grandparent;
- a grandchild; or
- a sibling.

Transportation Network Company Drivers. A transportation network company (TNC) must provide to each driver operating on its driver platform compensation for earned paid sick time. A driver shall accrue one hour of earned paid sick time for every 40 hours of passenger platform time worked. A driver is entitled to use accrued earned paid sick time upon recording 90 hours of passenger platform time on TNC's driver platform.

A driver is entitled to use earned paid sick time for similar reasons as an employee and during a deactivation or other status that prevents the driver from performing network services on TNC's platform, unless the deactivation or status is due to a verified allegation of sexual assault or physical assault perpetrated by the driver.

With respect to TNC drivers, family members are similar to those of an employee and means:

- a child, including a biological, adopted or foster child, stepchild, or a child to whom the driver stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;
- a biological, adoptive, de facto or foster parent, stepparent, or legal guardian of a driver or the driver's spouse or registered domestic partner, or a person who stood in loco parentis when the driver was a minor child;
- a spouse or registered domestic partner;
- a grandparent;
- a grandchild; or
- a sibling.

**Summary of Engrossed First Substitute Bill:** An employee or TNC driver may use paid sick leave when their child's school or place of care is closed after the declaration of an emergency by a local or state government or agency, or by the federal government.

The definition of family member is modified for purposes of using paid sick leave. A family member also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation the employee care for the person and that individual depends on the employee for care. Family member includes any individual who regularly resides in the employee's home, except it does not include an individual who simply resides in the same home with no expectation the employee care for the individual. A child also includes a child's spouse. Grandchild means a child of the employee's child. Grandparent means a parent of the employee's parent.

For purposes of TNC drivers, the definitions are similarly modified with reference to the driver, rather than the employee.

The Department of Labor and Industries must develop materials and conduct outreach to inform individuals and businesses of the new provisions of this act.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill takes effect on January 1, 2025.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The Legislature has recognized the definition of family is changing. Workers should be able to take care of their family and not lose money. This bill aligns the definition of family member with the Paid Family and Medical Leave Act. Despite the business community's for this change in PFML, the change was minimally used. This is a modest but meaningful modification to match PFML.

This allows people in nontraditional families to care for each other. Working parents rely on friends to help with care. This allows family to be the chosen family. This helps communities of color. Families need options to balance their responsibilities and many roles. Transgender individuals may not have contact with their families and people in their homes can help them. This makes sure people are not left alone when they need support. This does not give more paid time to employees.

We appreciate being able to use leave for extreme weather closures.

CON: Unlike PFML, paid sick leave is administered by the employers. Employers would have a hard time knowing about expectations of cares. Providing that they reside together provides clarity for employers. Paid sick leave is paid for by the employer. This would be costly.

We have concerns about the changes for weather and public emergencies. This is not what sick leave was created for. This puts stores that provide food and supplies at risk of closing for lack of workers.

OTHER: A delayed effective date and providing for agency outreach would be helpful if that is desired by the Legislature.

**Persons Testifying:** PRO: Senator Rebecca Saldaña, Prime Sponsor; Taylor Farley, Queer Power Alliance; Gabriela Quintana, Economic Opportunity Institute; Kristen Marsh, MomsRising; Denise Diskin, QLaw Foundation of Washington.

CON: Julia Gorton, Washington Hospitality Association; Robert (Bob) Battles, Association of Washington Business (AWB); Carolyn Logue, Washington Food Industry Association; Rose Gunderson, Washington Retail Association.

OTHER: Tammy Fellin, Department of Labor & Industries.

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