

House Bill 2460

Sponsored by Representatives HOLVEY, ROSENBAUM, SCHAUFLEER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Redefines "family leave" to exclude leave taken by employee who is unable to work because of disabling compensable injury under Workers' Compensation Law.

A BILL FOR AN ACT

1
2 Relating to Oregon family leave; creating new provisions; and amending ORS 659A.150 and 659A.162.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 659A.150 is amended to read:

5 659A.150. As used in ORS 659A.150 to 659A.186:

6 (1) "Covered employer" means an employer described in ORS 659A.153.

7 (2) "Eligible employee" means any employee of a covered employer other than those employees
8 exempted under the provisions of ORS 659A.156.

9 (3) "Family leave" means a leave of absence described in ORS 659A.159, **except that "family**
10 **leave" does not include leave taken by an eligible employee who is unable to work because**
11 **of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.**

12 (4) "Family member" means the spouse of an employee, the biological, adoptive or foster parent
13 or child of the employee, a parent-in-law of the employee or a person with whom the employee was
14 or is in a relationship of in loco parentis.

15 (5) "Health care provider" means:

16 (a) A person who is primarily responsible for providing health care to an eligible employee or
17 a family member of an eligible employee, who is performing within the scope of the person's pro-
18 fessional license or certificate and who is:

19 (A) A physician licensed to practice medicine under ORS 677.110, including a doctor of
20 osteopathy;

21 (B) A podiatrist licensed under ORS 677.825;

22 (C) A dentist licensed under ORS 679.090;

23 (D) A psychologist licensed under ORS 675.030;

24 (E) An optometrist licensed under ORS 683.070;

25 (F) A naturopath licensed under ORS 685.080;

26 (G) A registered nurse licensed under ORS 678.050;

27 (H) A nurse practitioner certified under ORS 678.375;

28 (I) A direct entry midwife licensed under ORS 687.420;

29 (J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse
30 midwife nurse practitioner;

31 (K) A clinical social worker licensed under ORS 675.530; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic
 2 physician provides treatment consisting of manual manipulation of the spine to correct a subluxation
 3 demonstrated to exist by X-rays.

4 (b) A person who is primarily responsible for the treatment of an eligible employee or a family
 5 member of an eligible employee solely through spiritual means, including but not limited to a
 6 Christian Science practitioner.

7 (6) "Serious health condition" means:

8 (a) An illness, injury, impairment or physical or mental condition that requires inpatient care
 9 in a hospital, hospice or residential medical care facility;

10 (b) An illness, disease or condition that in the medical judgment of the treating health care
 11 provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility
 12 of death in the near future, or requires constant care; or

13 (c) Any period of disability due to pregnancy, or period of absence for prenatal care.

14 **SECTION 2.** ORS 659A.162 is amended to read:

15 659A.162. (1) Except as specifically provided by ORS 659A.150 to 659A.186, an eligible employee
 16 is entitled to up to 12 weeks of family leave within any one-year period.

17 (2)(a) In addition to the 12 weeks of leave authorized by subsection (1) of this section, [a] **an**
 18 **eligible** female employee may take a total of 12 weeks of leave within any one-year period for an
 19 illness, injury or condition related to pregnancy or childbirth that disables the **eligible** employee
 20 from performing any available job duties offered by the employer.

21 (b) An **eligible** employee who takes 12 weeks of family leave within a one-year period for the
 22 purpose specified in ORS 659A.159 (1)(a) may take up to an additional 12 weeks of leave within the
 23 one-year period for the purpose specified in ORS 659A.159 (1)(d).

24 (3) When two family members work for the same covered employer, the **eligible** employees may
 25 not take concurrent family leave unless:

26 (a) One employee needs to care for the other employee who is suffering from a serious health
 27 condition; or

28 (b) One employee needs to care for a child who has a serious health condition while the other
 29 employee is also suffering a serious health condition.

30 (4) An **eligible** employee may take family leave for the purposes specified in ORS 659A.159 (1)(a)
 31 in two or more nonconsecutive periods of leave only with the approval of the employer.

32 (5) Leave need not be provided to an eligible employee by a covered employer for the purpose
 33 specified in ORS 659A.159 (1)(d) if another family member is available to care for the child.

34 **(6) A covered employer may not reduce the amount of family leave available to an eligible**
 35 **employee under this section by any period the employee is unable to work because of a dis-**
 36 **abling compensable injury.**

37 [(6)] (7) The Commissioner of the Bureau of Labor and Industries shall adopt rules governing
 38 when family leave for a serious health condition of an **eligible** employee or a family member of the
 39 **eligible** employee may be taken intermittently or by working a reduced workweek. Rules adopted
 40 by the commissioner under this subsection shall allow taking of family leave on an intermittent basis
 41 or by use of a reduced workweek to the extent permitted by federal law and to the extent that
 42 taking family leave on an intermittent basis or by use of a reduced workweek will not result in the
 43 loss of an **eligible** employee's exempt status under the federal Fair Labor Standards Act.

44 **SECTION 3. The amendments to ORS 659A.150 and 659A.162 by sections 1 and 2 of this**
 45 **2007 Act apply only to periods of family leave taken on or after the effective date of this 2007**

1 **Act.**

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