

Enrolled House Bill 2744

Sponsored by Representative ESQUIVEL; Representative G SMITH, Senators BATES, BONAMICI, DEVLIN, HASS, MONNES ANDERSON, MONROE, MORRISSETTE, ROSENBAUM, SCHRADER, WALKER (at the request of Stacy Bannerman)

CHAPTER

AN ACT

Relating to employee leave for family members of members of military; and declaring an emergency.
Whereas it is essential to provide support for the families of military personnel serving in military conflicts and to ensure that these families are able to spend time together after being notified of an impending call or order to active duty and before deployment and during leave from deployment of a member of the military; now, therefore,

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

SECTION 1. Sections 2 to 5 of this 2009 Act are added to and made a part of ORS chapter 659A.

SECTION 2. Sections 2 to 5 of this 2009 Act may be cited as the Oregon Military Family Leave Act.

SECTION 3. As used in sections 2 to 5 of this 2009 Act:

(1) Notwithstanding ORS 659A.001, "employee" means an individual who performs services for compensation for an employer for an average of at least 20 hours per week. "Employee" includes all individuals employed at any site owned or operated by an employer, but does not include independent contractors.

(2) Notwithstanding ORS 659A.001, "employer" means:

(a) A person, firm, corporation, partnership, legal representative or other business entity that engages in any business, industry, profession or activity in this state and that employs 25 or more persons in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which leave is taken under section 4 of this 2009 Act or the year immediately preceding the year in which the leave is to be taken;

(b) The state, and a department, agency, board or commission of the state; and

(c) A local government, including, but not limited to, a county, city, town, municipal corporation, independent public corporation or political subdivision of the state.

(3) "Period of military conflict" means a period of war:

(a) Declared by the United States Congress;

(b) Declared by executive order of the President of the United States; or

(c) In which a reserve component of the Armed Forces of the United States is ordered to active duty pursuant to Title 32 of the United States Code or section 12301 or 12302 of Title 10 of the United States Code.

SECTION 4. (1) During a period of military conflict, an employee who is a spouse of a member of the Armed Forces of the United States, the National Guard or the military re-

serve forces of the United States who has been notified of an impending call or order to active duty or who has been deployed is entitled to a total of 14 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

(2) An employee who takes leave authorized under this section is entitled to be restored to a position of employment and to the continuation of benefits as provided in ORS 659A.171.

(3) An employee who intends to take leave as authorized under this section must provide the employer with notice of the intention to take leave within five business days of receiving official notice of an impending call or order to active duty or of a leave from deployment.

(4) An employee who takes leave authorized under this section may elect to substitute any accrued leave to which the employee is entitled for any part of the leave provided under this section.

(5) Leave taken under this section shall be included in the total amount of leave authorized under ORS 659A.162.

(6) The Bureau of Labor and Industries may adopt rules necessary for the implementation and administration of sections 2 to 5 of this 2009 Act.

SECTION 5. It is an unlawful practice for an employer to:

(1) Deny military family leave to an employee who is entitled to such leave under sections 2 to 5 of this 2009 Act; or

(2) Retaliate or in any way discriminate against an individual with respect to hire or tenure or any other term or condition of employment because the individual has inquired about the provisions of sections 2 to 5 of this 2009 Act, submitted a request for military family leave or invoked any provision of sections 2 to 5 of this 2009 Act.

SECTION 6. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House April 29, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 3, 2009

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President of Senate

Received by Governor:

.....M.,....., 2009

Approved:

.....M.,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2009

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Secretary of State