

# Senate Bill 638

Sponsored by COMMITTEE ON COMMERCE AND WORKFORCE DEVELOPMENT

## 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**.

Requires granting of school activity leave to employees in same manner as provided for family leave. Requires granting of 35 hours of school activity leave within any one-year period. Requires employee to give notice of leave to employer.

## A BILL FOR AN ACT

1  
2 Relating to family leave; amending ORS 659A.156, 659A.159, 659A.162 and 659A.165.

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

4 **SECTION 1.** ORS 659A.156 is amended to read:

5 659A.156. (1) All employees of a covered employer are eligible to take leave for one of the pur-  
6 poses specified in ORS 659A.159 (1)(b) to [(d)] (e) except:

7 (a) An employee who was employed by the covered employer for fewer than 180 days imme-  
8 diately before the date on which the family leave would commence.

9 (b) An employee who worked an average of fewer than 25 hours per week for the covered em-  
10 ployer during the 180 days immediately preceding the date on which the family leave would com-  
11 mence.

12 (2) All employees of a covered employer are eligible to take leave for the purpose specified in  
13 ORS 659A.159 (1)(a) except an employee who was employed by the covered employer for fewer than  
14 180 days immediately before the date on which the family leave would commence.

15 **SECTION 2.** ORS 659A.159 is amended to read:

16 659A.159. (1) Family leave under ORS 659A.150 to 659A.186 may be taken by an eligible em-  
17 ployee for any of the following purposes:

18 (a) To care for an infant or newly adopted child under 18 years of age, or for a newly placed  
19 foster child under 18 years of age, or for an adopted or foster child older than 18 years of age if the  
20 child is incapable of self-care because of a mental or physical disability.

21 (b) To care for a family member with a serious health condition.

22 (c) To recover from or seek treatment for a serious health condition of the employee that ren-  
23 ders the employee unable to perform at least one of the essential functions of the employee's regular  
24 position.

25 (d) To care for a child of the employee who is suffering from an illness, injury or condition that  
26 is not a serious health condition but that requires home care.

27 (e) **To attend and participate in a school activity at the school attended by a child of the**  
28 **employee or a child in the care of the employee. As used in this paragraph, "school**  
29 **activity" means an activity sponsored or sanctioned by the school attended by a child en-**  
30 **rolled in the school in a grade from kindergarten through grade 12 regardless of whether the**  
31 **activity is on or off the school premises.**

**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 (2) Leave under subsection (1)(a) of this section must be completed within 12 months after birth  
 2 or placement of the child, and an eligible employee is not entitled to any period of family leave  
 3 under subsection (1)(a) of this section after the expiration of 12 months after birth or placement of  
 4 the child.

5 **SECTION 3.** ORS 659A.162 is amended to read:

6 659A.162. (1) Except as specifically provided by ORS 659A.150 to 659A.186, an eligible employee  
 7 is entitled to up to 12 weeks of family leave within any one-year period **for the purposes specified**  
 8 **in ORS 659A.159 (1)(a) to (d).**

9 (2)(a) In addition to the 12 weeks of leave authorized by subsection (1) of this section, an eligible  
 10 female employee may take a total of 12 weeks of leave within any one-year period for an illness,  
 11 injury or condition related to pregnancy or childbirth that disables the eligible employee from per-  
 12 forming any available job duties offered by the employer.

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

16 **(3) In addition to the periods of leave authorized by subsections (1) and (2) of this section,**  
 17 **an employee may take a total of 35 hours of leave within any one-year period for the purpose**  
 18 **specified in ORS 659A.159 (1)(e). An employee may not take more than five hours of school**  
 19 **activity leave in any one calendar month.**

20 [(3)] (4) When two family members work for the same covered employer, the eligible employees  
 21 may not take concurrent family leave unless:

22 (a) One employee needs to care for the other employee who is suffering from a serious health  
 23 condition; [or]

24 (b) One employee needs to care for a child who has a serious health condition while the other  
 25 employee is also suffering a serious health condition; or[.]

26 **(c) The presence of both employees is requested or required by the school in which a**  
 27 **child of the employees is enrolled or a child in the care of the employees is enrolled.**

28 [(4)] (5) An eligible employee may take family leave for the purposes specified in ORS 659A.159  
 29 (1)(a) in two or more nonconsecutive periods of leave only with the approval of the employer.

30 [(5)] (6) Leave need not be provided to an eligible employee by a covered employer for the pur-  
 31 pose specified in ORS 659A.159 (1)(d) if another family member is available to care for the child.

32 [(6)] (7) A covered employer may not reduce the amount of family leave available to an eligible  
 33 employee under this section by any period the employee is unable to work because of a disabling  
 34 compensable injury.

35 [(7)] (8) The Commissioner of the Bureau of Labor and Industries shall adopt rules governing  
 36 when family leave for a serious health condition of an eligible employee or a family member of the  
 37 eligible employee may be taken intermittently or by working a reduced workweek. Rules adopted  
 38 by the commissioner under this subsection shall allow taking of family leave on an intermittent basis  
 39 or by use of a reduced workweek to the extent permitted by federal law and to the extent that  
 40 taking family leave on an intermittent basis or by use of a reduced workweek will not result in the  
 41 loss of an eligible employee's exempt status under the federal Fair Labor Standards Act.

42 **SECTION 4.** ORS 659A.165 is amended to read:

43 659A.165. (1) Except as provided in subsection (2) of this section, a covered employer may re-  
 44 quire an eligible employee to give the employer written notice at least 30 days before commencing  
 45 family leave. The employer may require the employee to include an explanation of the need for the

1 leave in the notice.

2 (2) An eligible employee may commence taking family leave without prior notice **for the pur-**  
3 **poses specified in ORS 659A.159 (1)(a) to (d)** under the following circumstances:

4 (a) An unexpected serious health condition of an employee or family member of an employee;

5 (b) An unexpected illness, injury or condition of a child of the employee that requires home care;  
6 or

7 (c) A premature birth, unexpected adoption or unexpected foster placement.

8 (3) If an employee commences leave without prior notice under subsection (2) of this section, the  
9 employee must give oral notice to the employer within 24 hours of the commencement of the leave,  
10 and must provide the written notice required by subsection (1) of this section within three days after  
11 the employee returns to work. The oral notice required by this subsection may be given by any  
12 other person on behalf of the employee taking the leave.

13 **(4) An eligible employee must give the employer at least seven days' written notice before**  
14 **commencing school activity leave under ORS 659A.159 (1)(e), unless the employee is sum-**  
15 **moned by the school to attend to a child of the employee, or a child in the care of the em-**  
16 **ployee, in an emergency situation or under other circumstances in which the school gives**  
17 **the employee less than seven days' notice of the need for the employee's attendance.**

18 [(4)] (5) If the employee fails to give notice as required by subsections (1) and (3) of this section,  
19 the employer may reduce the period of family leave required by ORS 659A.162 (1) **and (2)** by three  
20 weeks, and the employee may be subject to disciplinary action under a uniformly applied policy or  
21 practice of the employer.

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