

House Bill 2905

Sponsored by Representative DOHERTY (Pre-session filed.)

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 family leave to employee for academic activities of employee's child in manner provided for other family leave. Requires granting 18 hours of family leave for academic activities within any one-year period. Requires employee to give notice of leave to employer. Creates exceptions.

A BILL FOR AN ACT

1
2 Relating to family leave for purposes of academic activities; amending ORS 659A.156, 659A.159,
3 659A.162, 659A.165, 659A.168 and 659A.174.

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

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

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

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

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

13 (2) All employees of a covered employer are eligible to take leave for the purpose specified in
14 ORS 659A.159 (1)(a) except an employee who was employed by the covered employer for fewer than
15 180 days immediately before the date on which the family leave would commence.

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

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

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

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

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

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

28 (e) **To attend and participate in an academic activity at the school in which a child of,**
29 **or a child in the care of, the employee is enrolled. As used in this paragraph, "academic ac-**
30 **tivity" means a conference or meeting with a school official or teacher related to:**

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 (A) Academic achievement;
- 2 (B) Special education services;
- 3 (C) Attendance;
- 4 (D) Dropout prevention;
- 5 (E) Truancy; or
- 6 (F) Disciplinary issues.

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

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

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

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

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

22 (3)(a) **In addition to the periods of leave authorized by subsections (1) and (2) of this**
 23 **section, an eligible employee may take a total of 18 hours of leave within any one-year period**
 24 **for the purpose of academic activities specified in ORS 659A.159 (1)(e). An employee may not**
 25 **take more than six hours of leave for academic activities in any one calendar month.**

26 (b) **An employee who works less than a full-time work schedule shall be eligible for a**
 27 **portion of the leave specified in paragraph (a) of this subsection based on the percentage of**
 28 **a full-time work schedule the employee works.**

29 [(3)] (4) When two family members work for the same covered employer, the eligible employees
 30 may not take concurrent family leave unless:

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

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

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

37 [(4)] (5) An eligible employee may take family leave for the purposes specified in ORS 659A.159
 38 (1)(a) in two or more nonconsecutive periods of leave only with the approval of the employer.

39 [(5)] (6) Leave need not be provided to an eligible employee by a covered employer for the pur-
 40 pose specified in ORS 659A.159 (1)(d) if another family member is available to care for the child.

41 [(6)] (7) A covered employer may not reduce the amount of family leave available to an eligible
 42 employee under this section by any period the employee is unable to work because of a disabling
 43 compensable injury.

44 [(7)] (8) The Commissioner of the Bureau of Labor and Industries shall adopt rules governing
 45 when family leave for a serious health condition of an eligible employee or a family member of the

1 eligible employee may be taken intermittently or by working a reduced workweek. Rules adopted
 2 by the commissioner under this subsection shall allow taking of family leave on an intermittent basis
 3 or by use of a reduced workweek to the extent permitted by federal law and to the extent that
 4 taking family leave on an intermittent basis or by use of a reduced workweek will not result in the
 5 loss of an eligible employee's exempt status under the federal Fair Labor Standards Act.

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

7 659A.165. (1) Except as provided in [*subsection (2)*] **subsections (2) and (4)** of this section, a
 8 covered employer may require an eligible employee to give the employer written notice at least 30
 9 days before commencing family leave. The employer may require the employee to include an expla-
 10 nation of the need for the leave in the notice.

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

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

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

15 or

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

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

22 (4)(a) **An eligible employee must give the employer at least seven days' written notice**
 23 **before commencing family leave for purposes of the academic activities specified in ORS**
 24 **659A.159 (1)(e), unless the employee is summoned by the school to attend to a child of, or a**
 25 **child in the care of, the employee in an emergency situation or under other circumstances**
 26 **in which the school gives the employee less than seven days' notice of the need for the**
 27 **employee's attendance.**

28 (b) **When scheduling academic activities for which an employee may take family leave,**
 29 **the employer and the school shall make a reasonable effort to schedule the academic activ-**
 30 **ities to accommodate the work schedule of the employee.**

31 [(4)] (5) If the employee fails to give notice as required by subsections (1) and (3) of this section,
 32 the employer may reduce the period of family leave required by ORS 659A.162 (1) **and (2)** by three
 33 weeks, and the employee may be subject to disciplinary action under a uniformly applied policy or
 34 practice of the employer.

35 **SECTION 5.** ORS 659A.168 is amended to read:

36 659A.168. (1) Except as provided in subsection (2) of this section, a covered employer may re-
 37 quire medical verification from a health care provider of the need for the leave if the leave is for
 38 a purpose described in ORS 659A.159 (1)(b) to (d). If an employee is required to give notice under
 39 ORS 659A.165 (1), the employer may require that medical verification be provided by the employee
 40 before the leave period commences. If the employee commences family leave without prior notice
 41 pursuant to ORS 659A.165 (2), the medical verification must be provided by the employee within 15
 42 days after the employer requests the medical verification. The employer may require an employee
 43 to obtain the opinion of a second health care provider designated by the employer, at the employer's
 44 expense. If the opinion of the second health care provider conflicts with the medical verification
 45 provided by the employee, the employer may require the two health care providers to designate a

1 third health care provider to provide an opinion at the employer's expense. The opinion of the third
2 health care provider shall be final and binding on the employer and employee. In addition to the
3 medical verifications provided for in this subsection, an employer may require subsequent medical
4 verification on a reasonable basis.

5 (2) A covered employer may require medical verification for leave taken for the purpose de-
6 scribed in ORS 659A.159 (1)(d) only after an employee has taken more than three days of leave under
7 ORS 659A.159 (1)(d) during any one-year period. Any medical verification required under this sub-
8 section must be paid for by the covered employer. An employer may not require an employee to
9 obtain the opinion of a second health care provider for the purpose of medical verification required
10 under this subsection.

11 (3) Subject to the approval of the health care provider, the employee taking family leave for a
12 serious health condition of the employee or a family member of the employee shall make a reason-
13 able effort to schedule medical treatment or supervision at times that will minimize disruption of the
14 employer's operations.

15 **(4) A covered employer may require that an eligible employee who takes family leave for**
16 **the purposes of academic activities specified in ORS 659A.159 (1)(e) provide written verifica-**
17 **tion from the school of the academic activity for which the leave was taken.**

18 **SECTION 6.** ORS 659A.174 is amended to read:

19 659A.174. (1) Except as provided in [*subsection (2)*] **subsections (2) and (4)** of this section, and
20 unless otherwise provided by the terms of an agreement between the eligible employee and the
21 covered employer, a collective bargaining agreement or an employer policy, family leave is not re-
22 quired to be granted with pay.

23 (2) An employee taking family leave is entitled to use any paid accrued sick leave or any paid
24 accrued vacation leave during the period of family leave, or to use any other paid leave that is of-
25 fered by the employer in lieu of vacation leave during the period of family leave.

26 (3) Subject to the terms of any agreement between the eligible employee and the covered em-
27 ployer or the terms of a collective bargaining agreement, the employer may determine the particular
28 order in which accrued leave is to be used in circumstances in which more than one type of accrued
29 leave is available to the employee.

30 **(4) An employer may require an employee to use paid accrued leave when taking family**
31 **leave for the academic activities specified in ORS 659A.159 (1)(e).**

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