

# Enrolled House Bill 2600

Sponsored by Representatives SMITH WARNER, GREENLICK; Representatives BARNHART, DOHERTY, FAGAN, GALLEGOS, KENY-GUYER, LININGER, LIVELY, NATHANSON, REARDON, WILLIAMSON, WITT, Senator DEMBROW (Presession filed.)

CHAPTER .....

AN ACT

Relating to provision of health insurance benefits during period of family leave; amending ORS 659A.171.

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

**SECTION 1.** ORS 659A.171 is amended to read:

659A.171. (1) After returning to work after taking family leave under the provisions of ORS 659A.150 to 659A.186, an eligible employee is entitled to be restored to the position of employment held by the employee when the leave commenced if that position still exists, without regard to whether the employer filled the position with a replacement worker during the period of family leave. If the position held by the employee at the time family leave commenced no longer exists, the employee is entitled to be restored to any available equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. If an equivalent position is not available at the job site of the employee's former position, the employee may be offered an equivalent position at a job site located within 20 miles of the job site of the employee's former position.

(2) Except for employee benefits used during the period of leave, the taking of family leave under ORS 659A.150 to 659A.186 shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) This section does not entitle any employee to:

(a) Any accrual of seniority or employment benefits during a period of family leave; or

(b) Any right, benefit or position of employment other than the rights, benefits and position that the employee would have been entitled to had the employee not taken the family leave.

(4)(a) Before restoring an employee to a position under subsection (1) of this section, an employer may require that the employee receive certification from the employee's health care provider that the employee is able to resume work. Certification under this subsection may only be required pursuant to a uniformly applied practice or policy of the employer.

(b) This subsection does not affect the ability of an employer to require an employee during a period of family leave to report periodically to the employer on the employee's status and on the employee's intention to return to work.

(5)(a) **Except as provided in paragraph (b) of this subsection,** benefits are not required to continue to accrue during a **period of** family leave unless continuation or accrual is required under an agreement of the employer and the employee, a collective bargaining agreement or an employer policy.

**(b) If the employee is provided group health insurance, the employee is entitled to the continuation of group health insurance coverage during the period of family leave on the same terms as if the employee had continued to work. If family member coverage is provided to the employee, family member coverage must be maintained during the period of family leave. The employee must continue to make any regular contributions to the cost of the health insurance premiums.**

(c) Notwithstanding ORS 652.610 (3) and except as provided in paragraph (b) of this subsection, if the employer is required or elects to pay any part of the costs of providing [health,] disability, life or other insurance coverage for an employee during the period of family leave that should have been paid by the employee, the employer may deduct from the employee's pay such amounts upon the employee's return to work until the amount the employer advanced toward the payments is paid. In no event may the total amount deducted for insurance under the provisions of this subsection exceed 10 percent of the employee's gross pay each pay period.

(6) Notwithstanding ORS 652.610 (3), if the employer pays any part of the costs of health, disability, life or other insurance coverage for an employee under the provisions of subsection (5) of this section, and the employee does not return to employment with the employer after taking family leave, the employer may deduct amounts paid by the employer from any amounts owed by the employer to the employee, or may seek to recover those amounts by any other legal means, unless the employee fails to return to work because of:

- (a) A continuation, reoccurrence or onset of a serious health condition that would entitle the employee to leave for one of the purposes specified by ORS 659A.159 (1)(b) or (c); or
- (b) Other circumstances beyond the control of the employee.

**Passed by House March 20, 2015**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 28, 2015**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2015

**Approved:**

.....M.,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State