

DRAFT

SUMMARY

Digest: Makes changes to laws related to paid and unpaid family and medical leave. The Act takes effect when the Governor signs it. (Flesch Readability Score: 68.7).

Directs the Employment Department to collaborate with the Bureau of Labor and Industries to identify statutory changes that are needed to require the department and the bureau to perform certain duties. Requires the Employment Department to make certain findings regarding benefits that are paid to certain employees under the paid family and medical leave insurance program and report to the interim committees of the Legislative Assembly no later than September 15, 2024.

Makes changes to the statutory provisions governing paid and unpaid job-protected leave entitlements. Makes technical changes and conforming amendments.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to leave laws concerning time off from work; creating new provisions; amending ORS 653.436, 657B.010, 657B.020, 657B.025, 657B.030, 657B.050, 659A.150, 659A.156, 659A.159, 659A.162, 659A.165, 659A.168, 659A.171, 659A.177, 659A.183 and 659A.186; and declaring an emergency.

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

ADMINISTRATION AND REPORTING

SECTION 1. Section 2 of this 2024 Act is added to and made a part of ORS chapter 657B.

SECTION 2. (1) The Employment Department shall collaborate with the Bureau of Labor and Industries to identify any statutory changes

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 that are necessary to reflect the following:

2 (a) That the Employment Department shall be responsible for any
3 administrative functions, including providing technical assistance and
4 conducting public outreach, related to the rights of employees and
5 responsibilities of employers with respect to protected leave provided
6 under the provisions of ORS chapters 657B and 659A.

7 (b) That the Bureau of Labor and Industries shall be responsible for
8 the investigation of complaints of discrimination or retaliation with
9 respect to protected leave provided under the provisions of ORS chap-
10 ters 657B and 659A.

11 (2) In addition to the responsibilities under subsection (1) of this
12 section, the Employment Department shall determine to what extent
13 benefits are paid to seasonal employees and persons employed through
14 hiring halls.

15 (3) The Director of the Employment Department shall report the
16 department's findings under subsections (1) and (2) of this section,
17 including any recommendations for legislation, to an interim com-
18 mittee of the Legislative Assembly related to labor and business no
19 later than September 15, 2024.

20

21 **TECHNICAL CHANGES**

22

23 **SECTION 3.** Section 4 of this 2024 Act is added to and made a part
24 of ORS chapter 657B.

25 **SECTION 4.** (1) A health care provider that receives a request from
26 a covered individual to provide medical verification required by the
27 Director of the Employment Department for purposes of deciding
28 whether to allow or deny a claim for benefits:

29 (a) Shall provide the medical verification to the covered individual
30 within 14 days of receiving the request; and

31 (b) Except as provided in subsection (2) of this section, may not

1 **require the covered individual to pay the costs of completing any**
2 **medical verification forms or any other costs of furnishing the verifi-**
3 **cation.**

4 **(2) Nothing in this section shall prevent a health care provider from**
5 **seeking reimbursement from a covered individual's health insurance**
6 **provider for the costs of providing the medical verification described**
7 **in subsection (1) of this section.**

8 **SECTION 5.** ORS 653.436 is amended to read:

9 653.436. (1)(a) An employer shall provide an employee with a work
10 schedule in writing at least 14 calendar days before the first day of the work
11 schedule.

12 **(b) Paragraph (a) of this subsection does not apply when an em-**
13 **ployee first returns to work after taking a period of family leave,**
14 **medical leave or safe leave pursuant to ORS chapter 657B.**

15 (2) The employer shall post the written work schedule in a conspicuous
16 and accessible location, in English and in the language the employer typi-
17 cally uses to communicate with the employees.

18 (3) The employer shall provide a written work schedule that runs through
19 the last date of the posted work schedule in effect at the time of delivery to:

20 (a) A new employee on or before the employee's first day of work; or

21 (b) An existing employee on the employee's first day of work after a leave
22 of absence.

23 (4) The written work schedule shall include all work shifts and on-call
24 shifts for the work period.

25 (5) If the employer requests changes to the written work schedule after
26 the advance notice required in this section:

27 (a) The employer shall provide the employee with timely notice of the
28 change by in-person conversation, telephone call, electronic mail, text mes-
29 sage or other accessible electronic or written format; and

30 (b) The employee may decline any work shifts not included in the
31 employee's written work schedule.

1 (6) At any time after the advance notice of written work schedule re-
2 quired in this section, an employee may request in writing that the employer
3 add the employee to one or more work shifts or on-call work shifts. Any
4 changes to the employee's written work schedule resulting from such
5 employee-requested work schedule changes are not subject to the advance
6 notice requirements of this section.

7 **SECTION 6.** ORS 657B.010 is amended to read:

8 657B.010. As used in this chapter:

9 (1) "Alternate base year" means the last four completed calendar quarters
10 preceding the benefit year.

11 (2) "Average weekly wage" means the amount calculated by the Employ-
12 ment Department as the state average weekly covered wage under ORS
13 657.150 (4)(e) as determined not more than once per year.

14 (3) "Base year" means the first four of the last five completed calendar
15 quarters preceding the benefit year.

16 (4) "Benefits" means family and medical leave insurance benefits.

17 (5)(a) "Benefit year" means, except as provided in paragraph (b) of this
18 subsection, a period of 52 consecutive weeks beginning on the Sunday im-
19 mediately preceding the date on which family leave, medical leave or safe
20 leave commences.

21 (b) "Benefit year" means, in the event that the 52-week period described
22 in paragraph (a) of this subsection would result in an overlap of any quarter
23 of the base year of a previously filed valid claim, a period of 53 consecutive
24 weeks beginning on the Sunday immediately preceding the date on which
25 family leave, medical leave or safe leave commences.

26 (6) "Child" means:

27 (a) A biological child, adopted child, stepchild or foster child of a covered
28 individual or of the covered individual's spouse or domestic partner;

29 (b) A person who is or was a legal ward of a covered individual or of the
30 covered individual's spouse or domestic partner; or

31 (c) A person who is or was in a relationship of in loco parentis with a

1 covered individual or with the covered individual's spouse or domestic part-
2 ner.

3 (7) "Claimant" means an individual who has submitted an application or
4 established a claim for benefits.

5 (8) "Contribution" or "contributions" means the money payments made
6 by any of the following under ORS 657B.150:

7 (a) An employer;

8 (b) An employee;

9 (c) A self-employed individual;

10 (d) A tribal government; or

11 (e) An employee of a tribal government.

12 (9) "Covered individual" means any one of the following who qualifies
13 under ORS 657B.015 to receive family and medical leave insurance benefits:

14 (a) An eligible employee;

15 (b) A self-employed individual; or

16 (c) An employee of a tribal government.

17 (10) "Domestic partner" means an individual joined in a domestic part-
18 nership.

19 (11) "Domestic partnership" has the meaning given that term in ORS
20 106.310.

21 (12) "Eligible employee" means:

22 (a)(A) An employee who has earned at least \$1,000 in wages during the
23 base year; or

24 (B) If an employee has not earned at least \$1,000 in wages during the base
25 year, an employee who has earned at least \$1,000 in wages during the alter-
26 nate base year; and

27 (b) An employee to whom paid family and medical leave insurance bene-
28 fits may be available under ORS 657B.015.

29 (13) "Eligible employee's average weekly wage" means an amount calcu-
30 lated by the Director of the Employment Department by dividing the total
31 wages earned by an eligible employee during the base year by the number

1 of weeks in the base year.

2 (14)(a) "Employee" means:

3 (A) An individual performing services for an employer for remuneration
4 or under any contract of hire, written or oral, express or implied.

5 (B) A home care worker as defined in ORS 410.600.

6 (b) "Employee" does not include:

7 (A) An independent contractor as defined in ORS 670.600.

8 (B) A participant in a work training program administered under a state
9 or federal assistance program.

10 (C) A participant in a work-study program that provides students in sec-
11 ondary or postsecondary educational institutions with employment opportu-
12 nities for financial assistance or vocational training.

13 (D) A railroad worker exempted under the federal Railroad Unemployment
14 Insurance Act.

15 (E) A volunteer.

16 (F) A judge as defined in ORS 260.005.

17 (G) A member of the Legislative Assembly.

18 (H) A holder of public office as defined in ORS 260.005.

19 (15)(a) "Employer" means any person that employs one or more employees
20 working anywhere in this state or any agent or employee of such person to
21 whom the duties of the person under this chapter have been delegated.

22 (b) "Employer" includes:

23 (A) A political subdivision of this state or any county, city, district, au-
24 thority or public corporation, or any instrumentality of a county, city, dis-
25 trict, authority or public corporation, organized and existing under law or
26 charter;

27 (B) An individual;

28 (C) Any type of organization, corporation, partnership, limited liability
29 company, association, trust, estate, joint stock company or insurance com-
30 pany;

31 (D) Any successor in interest to an entity described in subparagraph (C)

1 of this paragraph;

2 (E) A trustee, trustee in bankruptcy or receiver; or

3 (F) A trustee or legal representative of a deceased person.

4 (c) “Employer” does not include the federal government or a [*tribal gov-*
5 *ernment*] **federally recognized Oregon Indian tribe.**

6 (16) “Employment agency” has the meaning given that term in ORS
7 658.005.

8 (17) “Family and medical leave insurance benefits” means the wage re-
9 placement benefits that are available to a covered individual under ORS
10 657B.050 or under the terms of an employer plan approved under ORS
11 657B.210, for family leave, medical leave or safe leave.

12 (18)(a) “Family leave” means leave from work taken by a covered indi-
13 vidual:

14 (A) To care for and bond with a child during the first year after the
15 child’s birth or during the first year after the placement of the child through
16 foster care or adoption; or

17 (B) To care for a family member with a serious health condition.

18 (b) “Family leave” does not mean:

19 (A) Leave described in ORS 659A.159 [(1)(d)] **(1)(a)**;

20 (B) Leave described in ORS 659A.159 [(1)(e)] **(1)(b)**; or

21 (C) Leave authorized under ORS 659A.093.

22 (19) “Family member” means:

23 (a) The spouse of a covered individual;

24 (b) A child of a covered individual or the child’s spouse or domestic
25 partner;

26 (c) A parent of a covered individual or the parent’s spouse or domestic
27 partner;

28 (d) A sibling or stepsibling of a covered individual or the sibling’s or
29 stepsibling’s spouse or domestic partner;

30 (e) A grandparent of a covered individual or the grandparent’s spouse or
31 domestic partner;

1 (f) A grandchild of a covered individual or the grandchild's spouse or
2 domestic partner;

3 (g) The domestic partner of a covered individual; or

4 (h) Any individual related by blood or affinity whose close association
5 with a covered individual is the equivalent of a family relationship.

6 (20) "Medical leave" means leave from work taken by a covered individual
7 that is made necessary by the individual's own serious health condition.

8 (21) "Parent" means:

9 (a) A biological parent, adoptive parent, stepparent or foster parent of a
10 covered individual;

11 (b) A person who was a foster parent of a covered individual when the
12 covered individual was a minor;

13 (c) A person designated as the legal guardian of a covered individual at
14 the time the covered individual was a minor or required a legal guardian;

15 (d) A person with whom a covered individual was or is in a relationship
16 of in loco parentis; or

17 (e) A parent of a covered individual's spouse or domestic partner who
18 meets a description under paragraphs (a) to (d) of this subsection.

19 (22) "Safe leave" means leave taken for any purpose described in ORS
20 659A.272.

21 (23) "Self-employed individual" means:

22 (a) An individual who has self-employment income as defined in section
23 1402(b) of the Internal Revenue Code as amended and in effect on December
24 31, 2022; or

25 (b) An independent contractor as defined in ORS 670.600.

26 (24) "Serious health condition" [*has the meaning given that term in ORS*
27 *659A.150.*] **means:**

28 **(a) An illness, injury, impairment or physical or mental condition**
29 **that requires inpatient care in a hospital, hospice or residential med-**
30 **ical care facility;**

31 **(b) An illness, disease or condition that in the medical judgment**

1 **of the treating health care provider poses an imminent danger of**
2 **death, is terminal in prognosis with a reasonable possibility of death**
3 **in the near future, or requires constant care;**

4 (c) **Any period of disability due to pregnancy, or period of absence**
5 **for prenatal care; or**

6 (d) **Any period of absence for the donation of a body part, organ or**
7 **tissue, including preoperative or diagnostic services, surgery, post-**
8 **operative treatment and recovery.**

9 (25) “Third party administrator” means a third party that enters into an
10 agreement with the Director of the Employment Department to implement
11 and administer the paid family and medical leave program established under
12 this chapter.

13 (26) “Tribal government” has the meaning given that term in ORS
14 181A.940.

15 (27)(a) “Wages” has the meaning given that term in ORS 657.105.

16 (b) “Wages” does not mean contribution amounts paid to the Paid Family
17 and Medical Leave Insurance Fund by an employer on behalf of an employee
18 under ORS 657B.150 (5).

19 **SECTION 7.** ORS 657B.030 is amended to read:

20 657B.030. (1) Family and medical leave insurance benefits are in addition
21 to any paid sick time under ORS 653.606, vacation leave or other paid leave
22 earned by an employee.

23 (2) *[An employer may permit an employee to use all or a portion of paid*
24 *sick time, vacation leave or any other paid leave earned by the employee in*
25 *addition to]* **An employee is entitled to use any accrued paid sick leave,**
26 **accrued paid vacation leave or any other paid leave that is offered by**
27 **the employer in addition to** receiving paid family and medical leave in-
28 surance benefits during a period of leave taken for family leave, medical
29 leave or safe leave.

30 (3) **Subject to the terms of any agreement between the employee**
31 **and the employer or the terms of a collective bargaining agreement,**

1 **the employer may determine the particular order in which accrued**
2 **leave is to be used when more than one type of accrued leave is**
3 **available to the covered individual.**

4 [(3)] (4) In any week in which an employee is eligible to receive **wage**
5 **replacement** workers' compensation **benefits under ORS chapter 656** or
6 unemployment benefits under ORS chapter [656 or] 657, the employee is dis-
7 qualified from receiving family and medical leave insurance benefits.

8 **SECTION 8.** ORS 657B.050 is amended to read:

9 657B.050. (1) The Director of the Employment Department shall set the
10 weekly benefit amount of family and medical leave insurance benefits that
11 a covered individual qualifies for as follows:

12 (a) If the eligible employee's average weekly wage is equal to or less than
13 65 percent of the average weekly wage, the employee's weekly benefit amount
14 shall be 100 percent of the employee's average weekly wage.

15 (b) If the eligible employee's average weekly wage is greater than 65
16 percent of the average weekly wage, the employee's weekly benefit amount
17 is the sum of:

18 (A) 65 percent of the average weekly wage; and

19 (B) 50 percent of the employee's average weekly wage that is greater than
20 65 percent of the average weekly wage.

21 (2) Notwithstanding subsection (1) of this section, the director shall es-
22 tablish:

23 (a) A maximum weekly benefit amount of 120 percent of the average
24 weekly wage.

25 (b) A minimum weekly benefit amount of five percent of the average
26 weekly wage.

27 (3) The director shall determine, based on the contribution amounts made
28 by a self-employed individual, a tribal government or the employees of a
29 tribal government under ORS 657B.150, the amount of benefits payable to a
30 self-employed individual or to an employee of a tribal government.

31 (4) Benefits are payable only to the extent that moneys are available in

1 the Paid Family and Medical Leave Insurance Fund for that purpose. The
2 state, any political subdivision of the state and any state agency are not li-
3 able for any amount in excess of this limit.

4 **(5) Benefits payable under this section are exempt from**
5 **garnishment except for:**

6 **(a) Child or spousal support garnishments; and**

7 **(b) Restitution for crime victims.**

8

9

ALIGNMENT

10

11 **SECTION 9.** ORS 657B.020 is amended to read:

12 657B.020. (1) A covered individual may qualify for up to 12 weeks of
13 family and medical leave insurance benefits per benefit year for leave taken
14 for any of the following purposes, in any combination:

15 (a) Family leave;

16 (b) Medical leave; or

17 (c) Safe leave.

18 *[(2) Notwithstanding ORS 657B.025 and except as provided under sub-*
19 *section (3) of this section, a covered individual who has taken any amount of*
20 *paid leave available under subsection (1) of this section may take a total of 16*
21 *weeks of leave in the benefit year in any combination of the paid leave avail-*
22 *able under subsection (1) of this section, not to exceed 12 weeks, and unpaid*
23 *leave under ORS 659A.159 for which the covered individual is eligible under*
24 *ORS 659A.156. The leave may be taken for any purpose for which leave is al-*
25 *lowable under the respective leave programs.]*

26 *[(3)]* **(2)** In addition to the leave available under *[subsections (1) and (2)]*
27 **subsection (1)** of this section, a covered individual may qualify for up to two
28 additional weeks of benefits for limitations related to pregnancy, childbirth
29 or a related medical condition, including but not limited to lactation, for a
30 total amount of leave under this subsection and *[subsections (1) and (2)]*
31 **subsection (1)** of this section, not to exceed *[18]* **14** weeks per benefit year.

1 **SECTION 10.** ORS 659A.159 is amended to read:

2 659A.159. (1) Family leave under ORS 659A.150 to 659A.186 may be taken
3 by an eligible employee for any of the following purposes:

4 *[(a) To care for an infant or newly adopted child under 18 years of age, or*
5 *for a newly placed foster child under 18 years of age, or for an adopted or*
6 *foster child older than 18 years of age if the child is incapable of self-care*
7 *because of a mental or physical disability.]*

8 *[(b) To care for a family member with a serious health condition.]*

9 *[(c) To recover from or seek treatment for a serious health condition of the*
10 *employee that renders the employee unable to perform at least one of the es-*
11 *sential functions of the employee's regular position.]*

12 *[(d)] (a)* To care for a child of the employee who is suffering from an
13 illness, injury or condition that *[is not a serious health condition but that]*
14 requires home care or who requires home care due to the closure of the
15 child's school or child care provider as a result of a public health emergency.

16 *[(e)] (b)* To deal with the death of a family member by:

17 (A) Attending the funeral or alternative to a funeral of the family mem-
18 ber;

19 (B) Making arrangements necessitated by the death of the family member;

20 or

21 (C) Grieving the death of the family member.

22 *[(2)(a) Leave under subsection (1)(a) of this section must be completed*
23 *within 12 months after birth or placement of the child, and an eligible em-*
24 *ployee is not entitled to any period of family leave under subsection (1)(a) of*
25 *this section after the expiration of 12 months after birth or placement of the*
26 *child.]*

27 *[(b)] (2)* Leave under subsection *[(1)(e)] (1)(b)* of this section must be
28 completed within 60 days of the date on which the eligible employee receives
29 notice of the death of a family member.

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

31 659A.162. (1) Except as specifically provided by ORS *[657B.020 and]*

1 659A.150 to 659A.186, an eligible employee is entitled to up to a total of 12
2 weeks of family leave within any one-year period.

3 (2)(a) Except as provided by paragraph (b) of this subsection, an eligible
4 employee is entitled to a total of two weeks of family leave for the purposes
5 described in ORS 659A.159 [(1)(e)] **(1)(b)**.

6 (b) An eligible employee is entitled to the period of leave described in
7 paragraph (a) of this subsection upon the death of each family member of the
8 employee within any one-year period, except that leave taken as provided by
9 this subsection may not exceed [*the total period of family leave authorized*
10 *by subsection (1) of this section*] **a total of four weeks within any one-year**
11 **period.**

12 (c) A covered employer may not require an eligible employee to take
13 multiple periods of leave described in ORS 659A.159 [(1)(e)] **(1)(b)** concur-
14 rently if more than one family member of the employee dies during the one-
15 year period.

16 [(d) *All leave taken for the purposes described in ORS 659A.159 (1)(e) shall*
17 *be counted toward the total period of family leave authorized by subsection (1)*
18 *of this section.*]

19 (3)[(a)] In addition to the 12 weeks of family leave authorized by sub-
20 section (1) of this section, an eligible employee may take a total of 12 weeks
21 of leave within any one-year period for an illness, injury or condition related
22 to the eligible employee's own pregnancy or childbirth that disables the eli-
23 gible employee from performing any available job duties offered by the cov-
24 ered employer.

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

29 (4) When two or more family members work for the same covered em-
30 ployer, the eligible employees may not take concurrent family leave unless:

31 [(a) *One employee needs to care for another employee who is a family*

1 *member and who is suffering from a serious health condition;]*

2 [(b)] (a) One employee needs to care for a child [*who has a serious health*
3 *condition*] **for a purpose described in ORS 659A.159 (1)(a)** while another
4 employee [*who is a family member is also suffering from a serious health*
5 *condition*] **is taking leave under subsection (3) of this section;** or

6 [(c)] (b) The employees are taking leave described in ORS 659A.159
7 [(1)(e)] (1)(b).

8 [(5) *An eligible employee may take family leave for the purpose specified in*
9 *ORS 659A.159 (1)(a) in two or more nonconsecutive periods of leave only with*
10 *the approval of the employer.*]

11 [(6) *Leave need not be provided to an eligible employee by a covered em-*
12 *ployer for the purpose specified in ORS 659A.159 (1)(d) if another family*
13 *member is available to care for the child.*]

14 [(7)] (5) A covered employer may not reduce the amount of family leave
15 available to an eligible employee under this section by any period the em-
16 ployee is unable to work because of a disabling compensable injury.

17 [(8)(a)] (6) The Commissioner of the Bureau of Labor and Industries shall
18 adopt rules governing when family leave [*for a serious health condition of an*
19 *eligible employee or a family member of the eligible employee*] may be taken
20 intermittently or by working a reduced workweek. Rules adopted by the
21 commissioner under this paragraph shall allow taking of family leave on an
22 intermittent basis or by use of a reduced workweek to the extent permitted
23 by federal law and to the extent that taking family leave on an intermittent
24 basis or by use of a reduced workweek does not result in the loss of an eli-
25 gible employee's exempt status under the federal Fair Labor Standards Act.

26 [(b) *The commissioner shall adopt rules governing when family leave for*
27 *the purposes described in ORS 659A.159 (1)(e) may be taken to the extent per-*
28 *mitted by federal law and to the extent that taking family leave on an inter-*
29 *mittent basis does not result in the loss of an eligible employee's exempt status*
30 *under the federal Fair Labor Standards Act.*]

31 **SECTION 12.** ORS 659A.165 is amended to read:

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

5 [(2) *An eligible employee may commence taking family leave without prior*
6 *notice under the following circumstances:*]

7 [(a) *An unexpected serious health condition of an employee or family*
8 *member of an employee;*]

9 [(b) *An unexpected illness, injury or condition of a child of the employee*
10 *that requires home care;*]

11 [(c) *A premature birth, unexpected adoption or unexpected foster placement;*
12 *or*]

13 [(d) *The death of a family member.*]

14 [(3)] (1) [*If an employee commences leave without prior notice under sub-*
15 *section (2) of this section, the*] **An eligible** employee must give oral notice to
16 the employer within 24 hours of the commencement of [*the*] leave **under ORS**
17 **659A.150 to 659A.186**, and must provide [*the*] written notice [*required by*
18 *subsection (1) of this section*] within three days after the employee returns to
19 work. The oral notice required by this subsection may be given by any other
20 person on behalf of the employee taking the leave. **The employer may re-**
21 **quire the eligible employee to include an explanation of the need for**
22 **leave in the written notice.**

23 [(4)] (2) Except as provided in this subsection, if the employee fails to give
24 notice as required by [*subsections (1) and (3) of*] **subsection (1) of** this sec-
25 tion, the employer may reduce the total period of family leave authorized by
26 ORS 659A.162 by three weeks, and the employee may be subject to discipli-
27 nary action under a uniformly applied policy or practice of the employer. A
28 reduction of family leave under this subsection may not limit leave described
29 in ORS 659A.159 [(1)(e)] (1)(b).

30 **SECTION 13.** ORS 659A.168 is amended to read:

31 659A.168. (1) Except as provided in subsection (2) of this section, a cov-

1 ered employer may require medical verification from a health care provider
2 of the need for the leave if the leave is for a purpose described in ORS
3 659A.159 [(1)(b) to (d)] **(1)(a)** other than to care for a child who requires
4 home care due to the closure of the child’s school or child care provider as
5 a result of a public health emergency. *[If an employee is required to give no-*
6 *tice under ORS 659A.165 (1), the employer may require that medical verifica-*
7 *tion be provided by the employee before the leave period commences. If the*
8 *employee commences family leave without prior notice pursuant to ORS*
9 *659A.165 (2),]* The medical verification must be provided by the employee
10 within 15 days after the employer requests the medical verification. The
11 employer may require an employee to obtain the opinion of a second health
12 care provider designated by the employer, at the employer’s expense. If the
13 opinion of the second health care provider conflicts with the medical verifi-
14 cation provided by the employee, the employer may require the two health
15 care providers to designate a third health care provider to provide an opinion
16 at the employer’s expense. The opinion of the third health care provider shall
17 be final and binding on the employer and employee. In addition to the med-
18 ical verifications provided for in this subsection, an employer may require
19 subsequent medical verification on a reasonable basis.

20 (2) A covered employer may require medical verification for leave taken
21 for the purpose described in ORS 659A.159 [(1)(d)] **(1)(a)**, other than to care
22 for a child who requires home care due to the closure of the child’s school
23 or child care provider as a result of a public health emergency, only after
24 an employee has taken more than three days of leave under ORS 659A.159
25 [(1)(d)] **(1)(a)** during any one-year period. Any medical verification required
26 under this subsection must be paid for by the covered employer. An employer
27 may not require an employee to obtain the opinion of a second health care
28 provider for the purpose of medical verification required under this sub-
29 section.

30 (3) A covered employer may request verification for the need for leave for
31 the purpose in ORS 659A.159 [(1)(d)] **(1)(a)** to care for a child who requires

1 home care due to the closure of the child's school or child care provider as
2 a result of a public health emergency. A request for verification may include
3 a request for:

4 (a) The name of the child requiring home care;

5 (b) The name of the school or child care provider that is subject to clo-
6 sure;

7 (c) A statement from the employee that no other family member of the
8 child is willing and able to care for the child; and

9 (d) A statement that special circumstances exist that require the employee
10 to provide home care for the child during the day, if the child is older than
11 14 years of age.

12 *[(4) Subject to the approval of the health care provider, the employee taking*
13 *family leave for a serious health condition of the employee or a family member*
14 *of the employee shall make a reasonable effort to schedule medical treatment*
15 *or supervision at times that will minimize disruption of the employer's oper-*
16 *ations.]*

17 **SECTION 14.** ORS 659A.183 is amended to read:

18 **659A.183. (1) Except as provided under subsection (2) of this section,**
19 **it is an unlawful practice for a covered employer to:**

20 *[(1)]* **(a)** Deny family leave to which an eligible employee is entitled under
21 ORS 659A.150 to 659A.186; or

22 *[(2)]* **(b)** Retaliate or in any way discriminate against an individual with
23 respect to hire or tenure or any other term or condition of employment be-
24 cause the individual has inquired about the provisions of ORS 659A.150 to
25 659A.186, submitted a request for family leave or invoked any provision of
26 ORS 659A.150 to 659A.186.

27 **(2) It is not an unlawful practice for a covered employer to deny**
28 **family leave to which an eligible employee is entitled under ORS**
29 **659A.150 to 659A.186 if:**

30 **(a) The employee meets the eligibility requirements to take leave**
31 **under the federal Family and Medical Leave Act of 1993;**

1 (b) The purpose for which the employee seeks to take family leave
2 under ORS 659A.150 to 659A.186 is also a qualifying purpose under the
3 federal Family and Medical Leave Act of 1993; and

4 (c) The employee refuses to take leave under the federal Family and
5 Medical Leave Act of 1993 contrary to the concurrency requirements
6 under ORS 659A.186 (2).

7
8 **CONFORMING AMENDMENTS**

9
10 **SECTION 15.** ORS 657B.025 is amended to read:

11 657B.025. Any family leave or medical leave taken under this chapter
12 must be taken concurrently with any leave taken by an eligible employee
13 [*under ORS 659A.150 to 659A.186 or*] under the federal Family and Medical
14 Leave Act of 1993 (P.L. 103-3) for the same purposes.

15 **SECTION 16.** ORS 659A.150 is amended to read:

16 659A.150. As used in ORS 659A.150 to 659A.186:

17 (1) “Covered employer” means an employer described in ORS 659A.153.

18 (2) “Eligible employee” means any employee of a covered employer other
19 than those employees exempted under the provisions of ORS 659A.156.

20 (3) “Family leave” means a leave of absence described in ORS 659A.159
21 **and 659A.162**, except that “family leave” does not include leave taken by an
22 eligible employee who is unable to work because of a disabling compensable
23 injury, as defined in ORS 656.005, under ORS chapter 656.

24 (4) “Family member” means:

25 (a) The spouse of [*a covered individual*] **an eligible employee**;

26 (b) A child of [*a covered individual*] **an eligible employee** or the child’s
27 spouse or domestic partner;

28 (c) A parent of [*a covered individual*] **an eligible employee** or the
29 parent’s spouse or domestic partner;

30 (d) A sibling or stepsibling of [*a covered individual*] **an eligible employee**
31 or the sibling’s or stepsibling’s spouse or domestic partner;

1 (e) A grandparent of [*a covered individual*] **an eligible employee** or the
2 grandparent's spouse or domestic partner;

3 (f) A grandchild of [*a covered individual*] **an eligible employee** or the
4 grandchild's spouse or domestic partner;

5 (g) The domestic partner of [*a covered individual*] **an eligible employee**;
6 or

7 (h) Any individual related by blood or affinity whose close association
8 with [*a covered individual*] **an eligible employee** is the equivalent of a
9 family relationship.

10 (5) "Health care provider" means:

11 (a) A person who is primarily responsible for providing health care to an
12 eligible employee or a family member of an eligible employee, who is per-
13 forming within the scope of the person's professional license or certificate
14 and who is:

15 (A) A physician licensed under ORS chapter 677;

16 (B) A physician assistant licensed under ORS 677.505 to 677.525;

17 (C) A dentist licensed under ORS 679.090;

18 (D) A psychologist licensed under ORS 675.030;

19 (E) An optometrist licensed under ORS 683.070;

20 (F) A naturopath licensed under ORS 685.080;

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

22 (H) A nurse practitioner licensed under ORS 678.375;

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

24 (J) A licensed registered nurse licensed by the Oregon State Board of
25 Nursing as a nurse practitioner specializing in nurse midwifery;

26 (K) A regulated social worker authorized to practice regulated social
27 work under ORS 675.510 to 675.600; or

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

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

4 (6) “Public health emergency” means:

5 (a) A public health emergency declared under ORS 433.441.

6 (b) An emergency declared under ORS 401.165 if related to a public health
7 emergency as defined in ORS 433.442.

8 [(7) “*Serious health condition*” means:]

9 [(a) *An illness, injury, impairment or physical or mental condition that*
10 *requires inpatient care in a hospital, hospice or residential medical care facil-*
11 *ity;*]

12 [(b) *An illness, disease or condition that in the medical judgment of the*
13 *treating health care provider poses an imminent danger of death, is terminal*
14 *in prognosis with a reasonable possibility of death in the near future, or re-*
15 *quires constant care;*]

16 [(c) *Any period of disability due to pregnancy, or period of absence for*
17 *prenatal care; or*]

18 [(d) *Any period of absence for the donation of a body part, organ or tissue,*
19 *including preoperative or diagnostic services, surgery, post-operative treatment*
20 *and recovery.*]

21 **SECTION 17.** ORS 659A.156 is amended to read:

22 659A.156. (1) All employees of a covered employer are eligible to take
23 leave for one of the purposes specified in ORS 659A.159 [(1)(b) to (e)] **(1)(a)**
24 **or (b)** except:

25 (a) An employee who was employed by the covered employer for fewer
26 than 180 days immediately before the date on which the family leave would
27 commence.

28 (b) An employee who worked an average of fewer than 25 hours per week
29 for the covered employer during the 180 days immediately preceding the date
30 on which the family leave would commence.

31 [(2) *All employees of a covered employer are eligible to take leave for the*

1 *purpose specified in ORS 659A.159 (1)(a) except an employee who was em-*
2 *ployed by the covered employer for fewer than 180 days immediately before the*
3 *date on which the family leave would commence.]*

4 [(3)] **(2)** Notwithstanding [subsections (1) and (2)] **subsection (1)** of this
5 section, all employees of a covered employer are eligible to take leave for
6 one of the purposes specified in ORS 659A.159 [(1)(a) to (e)] **(1)(a) or (b)**
7 during a period of time covered by a public health emergency except:

8 (a) An employee who worked for the covered employer for fewer than 30
9 days immediately before the date on which the family leave would commence;
10 or

11 (b) An employee who worked for the covered employer for an average of
12 fewer than 25 hours per week in the 30 days immediately before the date on
13 which the family leave would commence.

14 [(4)(a)] **(3)(a)** Notwithstanding [subsections (1) and (2)] **subsection (1)** of
15 this section, an employee of a covered employer is eligible to take leave for
16 one of the purposes specified in ORS 659A.159 [(1)(a) to (e)] **(1)(a) or (b)** if
17 the employee:

18 (A)(i) Separates from employment with the covered employer, irrespective
19 of any reason;

20 (ii) Is eligible to take leave under subsection (1) [or (2)] of this section
21 at the time the employee separates; and

22 (iii) Is reemployed by the covered employer within 180 days of separation
23 from employment; or

24 (B)(i) Is eligible to take leave under subsection (1) [or (2)] of this section
25 at the beginning of a temporary cessation of scheduled hours of 180 days or
26 less; and

27 (ii) Returns to work at the end of the temporary cessation of scheduled
28 hours of 180 days or less.

29 (b) Any family leave taken by the employee within any one-year period
30 continues to count against the length of time of family leave the employee
31 is entitled under ORS 659A.162.

1 (c) The amount of time that an employee is deemed to have worked for
2 a covered employer prior to a break in service due to a separation from em-
3 ployment or a temporary cessation of scheduled hours shall be restored to
4 the employee when the employee is reemployed by the employer within 180
5 days of separation from employment or when the employee returns to work
6 at the end of the temporary cessation of scheduled hours of 180 days or less.

7 **SECTION 18.** ORS 659A.171 is amended to read:

8 659A.171. (1) After returning to work after taking family leave under the
9 provisions of ORS 659A.150 to 659A.186, an eligible employee is entitled to
10 be restored to the position of employment held by the employee when the
11 leave commenced if that position still exists, without regard to whether the
12 employer filled the position with a replacement worker during the period of
13 family leave. If the position held by the employee at the time family leave
14 commenced no longer exists, the employee is entitled to be restored to any
15 available equivalent position with equivalent employment benefits, pay and
16 other terms and conditions of employment. If an equivalent position is not
17 available at the job site of the employee's former position, the employer shall
18 offer the employee an equivalent position at a job site located within 50
19 miles of the job site of the employee's former position, if such a position is
20 available. If equivalent positions are available at multiple job sites, the em-
21 ployer shall first offer the employee the position at the job site that is
22 nearest to the job site of the employee's former position.

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

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

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

30 (b) Any right, benefit or position of employment other than the rights,
31 benefits and position that the employee would have been entitled to had the

1 employee not taken the family leave.

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

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

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

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

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

31 (6) Notwithstanding ORS 652.610 (3), if the employer pays any part of the

1 costs of health, disability, life or other insurance coverage for an employee
2 under the provisions of subsection (5) of this section, and the employee does
3 not return to employment with the employer after taking family leave, the
4 employer may deduct amounts paid by the employer from any amounts owed
5 by the employer to the employee, or may seek to recover those amounts by
6 any other legal means, unless the employee fails to return to work because
7 of[.]

8 *[(a) A continuation, reoccurrence or onset of a serious health condition that
9 would entitle the employee to leave for one of the purposes specified by ORS
10 659A.159 (1)(b) or (c); or]*

11 *[(b) Other]* circumstances beyond the control of the employee.

12 **SECTION 19.** ORS 659A.177 is amended to read:

13 659A.177. *[(1) Notwithstanding any other provision of ORS 659A.150 to
14 659A.186, if a teacher requests leave for one of the purposes specified in ORS
15 659A.159 (1)(b) or (c), the need for the leave is foreseeable, and the employee
16 will be on leave for more than 20 percent of the total number of working days
17 in the period during which the leave would extend, the employer of the teacher
18 may require that the employee elect one of the two following options:]*

19 *[(a) The employee may elect to take leave for a period or periods of a par-
20 ticular duration, not to exceed the duration of the anticipated medical treat-
21 ment; or]*

22 *[(b) The employee may elect to transfer temporarily to an available alter-
23 native position that better accommodates recurring periods of leave than the
24 regular position of the employee. The teacher must be qualified for the alter-
25 native position, and the position must have pay and benefits that are equivalent
26 to the pay and benefits of the employee's regular position.]*

27 *[(2) Notwithstanding any other provision of ORS 659A.150 to 659A.186, if
28 a teacher commences a period of family leave for the purpose specified in ORS
29 659A.159 (1)(c) more than five weeks before the end of an academic term, the
30 employer of the teacher may require that the employee continue on family leave
31 until the end of the term if:]*

1 [(a) *The leave is of at least three weeks' duration; and*]

2 [(b) *The employee's return to employment would occur during the three-week*
3 *period before the end of the term.*]

4 [(3) *Notwithstanding any other provision of ORS 659A.150 to 659A.186, if*
5 *a teacher commences a period of family leave for one of the purposes specified*
6 *in ORS 659A.159 (1)(a) or (b) during the five weeks before the end of an aca-*
7 *demic term, the employer of the teacher may require that the employee continue*
8 *on family leave until the end of the term if:*]

9 [(a) *The leave is of at least two weeks' duration; and*]

10 [(b) *The employee's return to employment would occur during the two-week*
11 *period before the end of the term.*]

12 [(4)] (1) Notwithstanding any other provision of ORS 659A.150 to
13 659A.186, if a teacher commences a period of family leave for [*one of the*
14 *purposes*] **the purpose** specified in ORS 659A.159 [(1)(a), (b) or (e)] (1)(b)
15 during the three-week period before the end of the term, and the duration
16 of the leave is greater than five working days, the employer of the teacher
17 may require that the employee continue on family leave until the end of the
18 term.

19 [(5)] (2) The provisions of this section apply only to an employee who is
20 employed principally in an instructional capacity by a public kindergarten,
21 elementary school, secondary school or education service district.

22 **SECTION 20.** ORS 659A.186 is amended to read:

23 659A.186. (1) ORS 659A.150 to 659A.186 do not limit any right of an em-
24 ployee to any leave that is similar to the leave described in ORS 659A.159
25 (1) and to which the employee may be entitled under any agreement between
26 the employer and the employee, collective bargaining agreement or employer
27 policy.

28 (2) ORS 659A.150 to 659A.186 shall be construed to the extent possible in
29 a manner that is consistent with any similar provisions of the federal Family
30 and Medical Leave Act of 1993. If family leave taken under ORS 659A.150 to
31 659A.186 qualifies as protected leave pursuant to the federal Family and

1 Medical Leave Act of 1993 (P.L. 103-3) [*or qualifies as family leave or medical*
2 *leave taken pursuant to ORS chapter 657B*], family leave taken under ORS
3 659A.150 to 659A.186 must be taken concurrently with, and not in addition
4 to, any leave taken under the federal Family and Medical Leave Act of 1993
5 (P.L. 103-3) and under ORS chapter 657B.

6

7

MISCELLANEOUS

8

9 **SECTION 21. The unit captions used in this 2024 Act are provided**
10 **only for the convenience of the reader and do not become part of the**
11 **statutory law of this state or express any legislative intent in the**
12 **enactment of this 2024 Act.**

13

14

EMERGENCY CLAUSE

15

16 **SECTION 22. This 2024 Act being necessary for the immediate**
17 **preservation of the public peace, health and safety, an emergency is**
18 **declared to exist, and this 2024 Act takes effect on its passage.**

19
