

# House Bill 2924

Sponsored by Representative NELSON; Representatives BYNUM, PHAM K, REYNOLDS, Senators FREDERICK, JAMA, WOODS (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**.

Expands allowable uses of sick leave provisions to include leave for employee's mental health and for care of mental health needs of employee's family member.

Requires Commissioner of Bureau of Labor and Industries to develop informational materials and training opportunities on the relationship between mental and physical health and the benefits of mental health leave.

Permits Commissioner of Bureau of Labor and Industries to enter into contracts with mental health professionals to investigate retaliation complaints involving absences for mental health. Requires commissioner to adopt rules concerning retaliation for absences related to mental health.

## A BILL FOR AN ACT

1  
2 Relating to sick leave for mental health; creating new provisions; and amending ORS 653.616,  
3 653.626, 653.651 and 653.656.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 653.601 to**  
6 **653.661.**

7 **SECTION 2. The Commissioner of the Bureau of Labor and Industries shall develop and**  
8 **offer informational materials and training opportunities for employers and employees to in-**  
9 **crease awareness about the relationship between mental and physical health and the benefits**  
10 **of taking leave from work to address mental health needs.**

11 **SECTION 3. ORS 653.616 is amended to read:**

12 653.616. An employee may use sick time earned under ORS 653.606:

13 (1) For an employee's **mental health**, mental or physical illness, injury or health condition, need  
14 for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition  
15 or need for preventive medical care.

16 (2) For care of a family member with a mental or physical illness, injury or health condition,  
17 care of a family member who needs medical diagnosis, care, or treatment of a mental or physical  
18 illness, injury or health condition or care of a family member who needs preventive medical care.

19 (3) Notwithstanding ORS 659A.153, for any other purpose specified in ORS 659A.159.

20 (4) For a purpose specified in ORS 659A.272, notwithstanding ORS 659A.270 (1).

21 **(5) For care of the mental health needs of the employee's family member, including the**  
22 **domestic partner of the employee.**

23 **[(5)] (6) To donate accrued sick time to another employee if the other employee uses the donated**  
24 **sick time for a purpose specified in this section and the employer has a policy that allows an em-**  
25 **ployee to donate sick time to a coworker for a purpose specified in this section.**

26 **[(6)] (7) In the event of a public health emergency. For purposes of this subsection, a public**  
27 **health emergency includes, but is not limited 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) Closure of the employee’s place of business, or the school or place of care of the employee’s  
2 child, by order of a public official due to a public health emergency;

3 (b) A determination by a lawful public health authority or by a health care provider that the  
4 presence of the employee or the family member of the employee in the community would jeopardize  
5 the health of others, such that the employee must provide self care or care for the family member;  
6 or

7 (c) The exclusion of the employee from the workplace under any law or rule that requires the  
8 employer to exclude the employee from the workplace for health reasons.

9 **SECTION 4.** ORS 653.626 is amended to read:

10 653.626. (1)(a) If an employee takes more than three consecutive scheduled workdays of sick time  
11 for a purpose described in ORS 653.616 (1) to (4) **other than for mental health**, an employer may  
12 require the employee to provide verification from a health care provider of the need for the sick  
13 time, or certification of the need for leave for purposes of ORS 659A.272 as provided in ORS  
14 659A.280.

15 (b) If the need for sick time is foreseeable and is projected to last more than three scheduled  
16 workdays and an employee is required to provide notice under ORS 653.621, the employer may re-  
17 quire that verification or certification be provided before the sick time commences or as soon as  
18 otherwise practicable.

19 (c) If the employee commences sick time without providing prior notice required by the employer  
20 under ORS 653.621:

21 (A) Medical verification shall be provided to the employer within 15 calendar days after the  
22 employer requests the verification; or

23 (B) Certification provided as specified in ORS 659A.280 shall be provided to the employer within  
24 a reasonable time after the employee receives the request for certification.

25 (2) The employer shall pay any reasonable costs for providing medical verification or certifica-  
26 tion required under this section, including lost wages, that are not paid under a health benefit plan  
27 in which the employee is enrolled.

28 (3)(a) An employer may not require that the verification or certification required under this  
29 section explain the nature of the illness or details related to **mental health or to** the domestic vi-  
30 olence, sexual assault, harassment, or stalking that necessitates the use of sick time.

31 (b) If an employer suspects that an employee is abusing sick time, including engaging in a pat-  
32 tern of abuse, the employer may require verification from a health care provider of the need of the  
33 employee to use sick time, regardless of whether the employee has used sick time for more than  
34 three consecutive days. As used in this paragraph, “pattern of abuse” includes, but is not limited to,  
35 repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days or pay-  
36 days.

37 (4) As used in this section, “health care provider” has the meaning given that term in ORS  
38 659A.150.

39 **SECTION 5.** ORS 653.651 is amended to read:

40 653.651. (1) An employee asserting a violation of ORS 653.641 (2) or (3) may file a complaint with  
41 the Commissioner of the Bureau of Labor and Industries under ORS 659A.820 or a civil action as  
42 provided in ORS 659A.885.

43 (2) The commissioner has the same enforcement powers with respect to the rights established  
44 under ORS 653.601 to 653.661 as are established in ORS chapters 652 and 653.

45 **(3) The commissioner may enter into contracts with mental health professionals to in-**

1 **investigate complaints alleging retaliation for an absence covered under ORS 653.601 to 653.661**  
2 **that relates to mental health.**

3 **SECTION 6.** ORS 653.656 is amended to read:

4 653.656. The Commissioner of the Bureau of Labor and Industries:

5 (1) Shall enforce the provisions of ORS 653.601 to 653.661; [*and*]

6 **(2) Shall adopt rules concerning retaliation for absences related to mental health that**  
7 **are covered under ORS 653.601 to 653.661; and**

8 [(2)] (3) May adopt rules necessary for the implementation and enforcement of ORS 653.601 to  
9 653.661.

10 **SECTION 7.** **In addition to and not in lieu of any other appropriation, there is appropri-**  
11 **ated to the Bureau of Labor and Industries, for the biennium beginning July 1, 2023, out of**  
12 **the General Fund, the amount of \$\_\_\_\_\_, which may be expended for carrying out the**  
13 **provisions of section 2 of this 2023 Act and for carrying out the amendments to ORS 653.651**  
14 **and 653.656 by sections 5 and 6 of this 2023 Act.**