

# Senate Bill 1515

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## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

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 that are necessary to reflect the following:

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

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

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

(3) The Director of the Employment Department shall report the department's findings under subsections (1) and (2) of this section, including any recommendations for legislation, to an interim committee of the Legislative Assembly related to labor and business no later

**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 than September 15, 2024.

2  
3 **TECHNICAL CHANGES**  
4

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

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

9 (a) Shall provide the medical verification to the covered individual within 14 days of re-  
10 ceiving the request; and

11 (b) Except as provided in subsection (2) of this section, may not require the covered in-  
12 dividual to pay the costs of completing any medical verification forms or any other costs of  
13 furnishing the verification.

14 (2) Nothing in this section shall prevent a health care provider from seeking reimburse-  
15 ment from a covered individual's health insurance provider for the costs of providing the  
16 medical verification described in subsection (1) of this section.

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

18 653.436. (1)(a) An employer shall provide an employee with a work schedule in writing at least  
19 14 calendar days before the first day of the work schedule.

20 (b) Paragraph (a) of this subsection does not apply when an employee first returns to  
21 work after taking a period of family leave, medical leave or safe leave pursuant to ORS  
22 chapter 657B.

23 (2) The employer shall post the written work schedule in a conspicuous and accessible location,  
24 in English and in the language the employer typically uses to communicate with the employees.

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

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

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

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

30 (5) If the employer requests changes to the written work schedule after the advance notice re-  
31 quired in this section:

32 (a) The employer shall provide the employee with timely notice of the change by in-person con-  
33 versation, telephone call, electronic mail, text message or other accessible electronic or written  
34 format; and

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

37 (6) At any time after the advance notice of written work schedule required in this section, an  
38 employee may request in writing that the employer add the employee to one or more work shifts  
39 or on-call work shifts. Any changes to the employee's written work schedule resulting from such  
40 employee-requested work schedule changes are not subject to the advance notice requirements of  
41 this section.

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

43 657B.010. As used in this chapter:

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

1 (2) "Average weekly wage" means the amount calculated by the Employment Department as the  
 2 state average weekly covered wage under ORS 657.150 (4)(e) as determined not more than once per  
 3 year.

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

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

7 (5)(a) "Benefit year" means, except as provided in paragraph (b) of this subsection, a period of  
 8 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family  
 9 leave, medical leave or safe leave commences.

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

14 (6) "Child" means:

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

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

19 (c) A person who is or was in a relationship of in loco parentis with a covered individual or  
 20 with the covered individual's spouse or domestic partner.

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

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

25 (a) An employer;

26 (b) An employee;

27 (c) A self-employed individual;

28 (d) A tribal government; or

29 (e) An employee of a tribal government.

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

32 (a) An eligible employee;

33 (b) A self-employed individual; or

34 (c) An employee of a tribal government.

35 (10) "Domestic partner" means an individual joined in a domestic partnership.

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

37 (12) "Eligible employee" means:

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

39 (B) If an employee has not earned at least \$1,000 in wages during the base year, an employee  
 40 who has earned at least \$1,000 in wages during the alternate base year; and

41 (b) An employee to whom paid family and medical leave insurance benefits may be available  
 42 under ORS 657B.015.

43 (13) "Eligible employee's average weekly wage" means an amount calculated by the Director of  
 44 the Employment Department by dividing the total wages earned by an eligible employee during the  
 45 base year by the number of weeks in the base year.

- 1 (14)(a) “Employee” means:
- 2 (A) An individual performing services for an employer for remuneration or under any contract
- 3 of hire, written or oral, express or implied.
- 4 (B) A home care worker as defined in ORS 410.600.
- 5 (b) “Employee” does not include:
- 6 (A) An independent contractor as defined in ORS 670.600.
- 7 (B) A participant in a work training program administered under a state or federal assistance
- 8 program.
- 9 (C) A participant in a work-study program that provides students in secondary or postsecondary
- 10 educational institutions with employment opportunities for financial assistance or vocational train-
- 11 ing.
- 12 (D) A railroad worker exempted under the federal Railroad Unemployment Insurance Act.
- 13 (E) A volunteer.
- 14 (F) A judge as defined in ORS 260.005.
- 15 (G) A member of the Legislative Assembly.
- 16 (H) A holder of public office as defined in ORS 260.005.
- 17 (15)(a) “Employer” means any person that employs one or more employees working anywhere in
- 18 this state or any agent or employee of such person to whom the duties of the person under this
- 19 chapter have been delegated.
- 20 (b) “Employer” includes:
- 21 (A) A political subdivision of this state or any county, city, district, authority or public corpo-
- 22 ration, or any instrumentality of a county, city, district, authority or public corporation, organized
- 23 and existing under law or charter;
- 24 (B) An individual;
- 25 (C) Any type of organization, corporation, partnership, limited liability company, association,
- 26 trust, estate, joint stock company or insurance company;
- 27 (D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;
- 28 (E) A trustee, trustee in bankruptcy or receiver; or
- 29 (F) A trustee or legal representative of a deceased person.
- 30 (c) “Employer” does not include the federal government or a *[tribal government]* **federally re-**
- 31 **cognized Oregon Indian tribe.**
- 32 (16) “Employment agency” has the meaning given that term in ORS 658.005.
- 33 (17) “Family and medical leave insurance benefits” means the wage replacement benefits that
- 34 are available to a covered individual under ORS 657B.050 or under the terms of an employer plan
- 35 approved under ORS 657B.210, for family leave, medical leave or safe leave.
- 36 (18)(a) “Family leave” means leave from work taken by a covered individual:
- 37 (A) To care for and bond with a child during the first year after the child’s birth or during the
- 38 first year after the placement of the child through foster care or adoption; or
- 39 (B) To care for a family member with a serious health condition.
- 40 (b) “Family leave” does not mean:
- 41 (A) Leave described in ORS 659A.159 [(1)(d)] **(1)(a)**;
- 42 (B) Leave described in ORS 659A.159 [(1)(e)] **(1)(b)**; or
- 43 (C) Leave authorized under ORS 659A.093.
- 44 (19) “Family member” means:
- 45 (a) The spouse of a covered individual;

- 1 (b) A child of a covered individual or the child’s spouse or domestic partner;
- 2 (c) A parent of a covered individual or the parent’s spouse or domestic partner;
- 3 (d) A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or
- 4 domestic partner;
- 5 (e) A grandparent of a covered individual or the grandparent’s spouse or domestic partner;
- 6 (f) A grandchild of a covered individual or the grandchild’s spouse or domestic partner;
- 7 (g) The domestic partner of a covered individual; or
- 8 (h) Any individual related by blood or affinity whose close association with a covered individual
- 9 is the equivalent of a family relationship.

10 (20) “Medical leave” means leave from work taken by a covered individual that is made neces-  
 11 sary by the individual’s own serious health condition.

12 (21) “Parent” means:

- 13 (a) A biological parent, adoptive parent, stepparent or foster parent of a covered individual;
- 14 (b) A person who was a foster parent of a covered individual when the covered individual was
- 15 a minor;
- 16 (c) A person designated as the legal guardian of a covered individual at the time the covered
- 17 individual was a minor or required a legal guardian;
- 18 (d) A person with whom a covered individual was or is in a relationship of in loco parentis; or
- 19 (e) A parent of a covered individual’s spouse or domestic partner who meets a description under
- 20 paragraphs (a) to (d) of this subsection.

21 (22) “Safe leave” means leave taken for any purpose described in ORS 659A.272.

22 (23) “Self-employed individual” means:

- 23 (a) An individual who has self-employment income as defined in section 1402(b) of the Internal
- 24 Revenue Code as amended and in effect on December 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 659A.150.]* **means:**

- 27 **(a) An illness, injury, impairment or physical or mental condition that requires inpatient**
- 28 **care in a hospital, hospice or residential medical care facility;**
- 29 **(b) An illness, disease or condition that in the medical judgment of the treating health**
- 30 **care provider poses an imminent danger of death, is terminal in prognosis with a reasonable**
- 31 **possibility of death in the near future, or requires constant care;**
- 32 **(c) Any period of disability due to pregnancy, or period of absence for prenatal care; or**
- 33 **(d) Any period of absence for the donation of a body part, organ or tissue, including**
- 34 **preoperative or diagnostic services, surgery, post-operative treatment and recovery.**

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

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

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

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

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

43 657B.030. (1) Family and medical leave insurance benefits are in addition to any paid sick time  
 44 under ORS 653.606, vacation leave or other paid leave earned by an employee.

45 (2) *[An employer may permit an employee to use all or a portion of paid sick time, vacation leave*

1 *or any other paid leave earned by the employee in addition to* **An employee is entitled to use any**  
 2 **accrued paid sick leave, accrued paid vacation leave or any other paid leave that is offered**  
 3 **by the employer in addition to** receiving paid family and medical leave insurance benefits during  
 4 a period of leave taken for family leave, medical leave or safe leave.

5 **(3) Subject to the terms of any agreement between the employee and the employer or the**  
 6 **terms of a collective bargaining agreement, the employer may determine the particular order**  
 7 **in which accrued leave is to be used when more than one type of accrued leave is available**  
 8 **to the covered individual.**

9 [(3)] (4) In any week in which an employee is eligible to receive **wage replacement** workers'  
 10 compensation **benefits under ORS chapter 656** or unemployment benefits under ORS chapter [656  
 11 or] 657, the employee is disqualified from receiving family and medical leave insurance benefits.

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

13 657B.050. (1) The Director of the Employment Department shall set the weekly benefit amount  
 14 of family and medical leave insurance benefits that a covered individual qualifies for as follows:

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

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

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

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

23 (2) Notwithstanding subsection (1) of this section, the director shall establish:

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

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

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

29 (4) Benefits are payable only to the extent that moneys are available in the Paid Family and  
 30 Medical Leave Insurance Fund for that purpose. The state, any political subdivision of the state and  
 31 any state agency are not liable for any amount in excess of this limit.

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

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

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

35  
 36 **ALIGNMENT**

37  
 38 **SECTION 9.** ORS 657B.020 is amended to read:

39 657B.020. (1) A covered individual may qualify for up to 12 weeks of family and medical leave  
 40 insurance benefits per benefit year for leave taken for any of the following purposes, in any combi-  
 41 nation:

42 (a) Family leave;

43 (b) Medical leave; or

44 (c) Safe leave.

45 [(2) Notwithstanding ORS 657B.025 and except as provided under subsection (3) of this section, a

1 covered individual who has taken any amount of paid leave available under subsection (1) of this sec-  
 2 tion may take a total of 16 weeks of leave in the benefit year in any combination of the paid leave  
 3 available under subsection (1) of this section, not to exceed 12 weeks, and unpaid leave under ORS  
 4 659A.159 for which the covered individual is eligible under ORS 659A.156. The leave may be taken for  
 5 any purpose for which leave is allowable under the respective leave programs.]

6 [(3)] (2) In addition to the leave available under [subsections (1) and (2)] **subsection (1)** of this  
 7 section, a covered individual may qualify for up to two additional weeks of benefits for limitations  
 8 related to pregnancy, childbirth or a related medical condition, including but not limited to  
 9 lactation, for a total amount of leave under this subsection and [subsections (1) and (2)] **subsection**  
 10 (1) of this section, not to exceed [18] **14** weeks per benefit year.

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

12 659A.159. (1) Family leave under ORS 659A.150 to 659A.186 may be taken by an eligible em-  
 13 ployee for any of the following purposes:

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

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

18 [(c) To recover from or seek treatment for a serious health condition of the employee that renders  
 19 the employee unable to perform at least one of the essential functions of the employee's regular  
 20 position.]

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

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

25 (A) Attending the funeral or alternative to a funeral of the family member;

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

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

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

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

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

35 659A.162. (1) Except as specifically provided by ORS [657B.020 and] 659A.150 to 659A.186, an  
 36 eligible employee is entitled to up to a total of 12 weeks of family leave within any one-year period.

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

39 (b) An eligible employee is entitled to the period of leave described in paragraph (a) of this  
 40 subsection upon the death of each family member of the employee within any one-year period, except  
 41 that leave taken as provided by this subsection may not exceed [the total period of family leave au-  
 42 thorized by subsection (1) of this section] **a total of four weeks within any one-year period.**

43 (c) A covered employer may not require an eligible employee to take multiple periods of leave  
 44 described in ORS 659A.159 [(1)(e)] (1)(b) concurrently if more than one family member of the em-  
 45 ployee dies during the one-year period.

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

3        (3)(a) In addition to the 12 weeks of family leave authorized by subsection (1) of this section,  
 4 an eligible employee may take a total of 12 weeks of leave within any one-year period for an illness,  
 5 injury or condition related to the eligible employee's own pregnancy or childbirth that disables the  
 6 eligible employee from performing any available job duties offered by the covered employer.

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

10        (4) When two or more family members work for the same covered employer, the eligible em-  
 11 ployees may not take concurrent family leave unless:

12        *[(a) One employee needs to care for another employee who is a family member and who is suffering*  
 13 *from a serious health condition;]*

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

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

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

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

22        [(7)] (5) A covered employer may not reduce the amount of family leave available to an eligible  
 23 employee under this section by any period the employee is unable to work because of a disabling  
 24 compensable injury.

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

32        *[(b) The commissioner shall adopt rules governing when family leave for the purposes described in*  
 33 *ORS 659A.159 (1)(e) may be taken to the extent permitted by federal law and to the extent that taking*  
 34 *family leave on an intermittent basis does not result in the loss of an eligible employee's exempt status*  
 35 *under the federal Fair Labor Standards Act.]*

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

37        659A.165. *[(1) Except as provided in subsection (2) of this section, a covered employer may require*  
 38 *an eligible employee to give the employer written notice at least 30 days before commencing family*  
 39 *leave. The employer may require the employee to include an explanation of the need for the leave in the*  
 40 *notice.]*

41        *[(2) An eligible employee may commence taking family leave without prior notice under the fol-*  
 42 *lowing circumstances:]*

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

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

1       [(c) A premature birth, unexpected adoption or unexpected foster placement; or]

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

3       [(3)] (1) [If an employee commences leave without prior notice under subsection (2) of this section,  
4 the] **An eligible** employee must give oral notice to the employer within 24 hours of the commence-  
5 ment of [the] leave **under ORS 659A.150 to 659A.186**, and must provide [the] written notice [required  
6 by subsection (1) of this section] within three days after the employee returns to work. The oral no-  
7 tice required by this subsection may be given by any other person on behalf of the employee taking  
8 the leave. **The employer may require the eligible employee to include an explanation of the**  
9 **need for leave in the written notice.**

10       [(4)] (2) Except as provided in this subsection, if the employee fails to give notice as required  
11 by [subsections (1) and (3) of] **subsection (1) of** this section, the employer may reduce the total pe-  
12 riod of family leave authorized by ORS 659A.162 by three weeks, and the employee may be subject  
13 to disciplinary action under a uniformly applied policy or practice of the employer. A reduction of  
14 family leave under this subsection may not limit leave described in ORS 659A.159 [(1)(e)] (1)(b).

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

16       659A.168. (1) Except as provided in subsection (2) of this section, a covered employer may re-  
17 quire medical verification from a health care provider of the need for the leave if the leave is for  
18 a purpose described in ORS 659A.159 [(1)(b) to (d)] (1)(a) other than to care for a child who requires  
19 home care due to the closure of the child's school or child care provider as a result of a public  
20 health emergency. [If an employee is required to give notice under ORS 659A.165 (1), the employer  
21 may require that medical verification be provided by the employee before the leave period commences.  
22 If the employee commences family leave without prior notice pursuant to ORS 659A.165 (2),] The  
23 medical verification must be provided by the employee within 15 days after the employer requests  
24 the medical verification. The employer may require an employee to obtain the opinion of a second  
25 health care provider designated by the employer, at the employer's expense. If the opinion of the  
26 second health care provider conflicts with the medical verification provided by the employee, the  
27 employer may require the two health care providers to designate a third health care provider to  
28 provide an opinion at the employer's expense. The opinion of the third health care provider shall  
29 be final and binding on the employer and employee. In addition to the medical verifications provided  
30 for in this subsection, an employer may require subsequent medical verification on a reasonable  
31 basis.

32       (2) A covered employer may require medical verification for leave taken for the purpose de-  
33 scribed in ORS 659A.159 [(1)(d)] (1)(a), other than to care for a child who requires home care due  
34 to the closure of the child's school or child care provider as a result of a public health emergency,  
35 only after an employee has taken more than three days of leave under ORS 659A.159 [(1)(d)] (1)(a)  
36 during any one-year period. Any medical verification required under this subsection must be paid for  
37 by the covered employer. An employer may not require an employee to obtain the opinion of a sec-  
38 ond health care provider for the purpose of medical verification required under this subsection.

39       (3) A covered employer may request verification for the need for leave for the purpose in ORS  
40 659A.159 [(1)(d)] (1)(a) to care for a child who requires home care due to the closure of the child's  
41 school or child care provider as a result of a public health emergency. A request for verification  
42 may include a request for:

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

44       (b) The name of the school or child care provider that is subject to closure;

45       (c) A statement from the employee that no other family member of the child is willing and able

1 to care for the child; and

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

4 [(4) *Subject to the approval of the health care provider, the employee taking family leave for a se-*  
 5 *rious health condition of the employee or a family member of the employee shall make a reasonable*  
 6 *effort to schedule medical treatment or supervision at times that will minimize disruption of the*  
 7 *employer’s operations.*]

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

9 659A.183. (1) **Except as provided under subsection (2) of this section,** it is an unlawful  
 10 practice for a covered employer to:

11 [(1)] (a) Deny family leave to which an eligible employee is entitled under ORS 659A.150 to  
 12 659A.186; or

13 [(2)] (b) Retaliate or in any way discriminate against an individual with respect to hire or tenure  
 14 or any other term or condition of employment because the individual has inquired about the pro-  
 15 visions of ORS 659A.150 to 659A.186, submitted a request for family leave or invoked any provision  
 16 of ORS 659A.150 to 659A.186.

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

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

21 (b) **The purpose for which the employee seeks to take family leave under ORS 659A.150**  
 22 **to 659A.186 is also a qualifying purpose under the federal Family and Medical Leave Act of**  
 23 **1993; and**

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

26  
 27 **CONFORMING AMENDMENTS**

28  
 29 **SECTION 15.** ORS 657B.025 is amended to read:

30 657B.025. Any family leave or medical leave taken under this chapter must be taken concur-  
 31 rently with any leave taken by an eligible employee [*under ORS 659A.150 to 659A.186 or*] under the  
 32 federal Family and Medical Leave Act of 1993 (P.L. 103-3) for the same purposes.

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

34 659A.150. As used in ORS 659A.150 to 659A.186:

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

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

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

41 (4) “Family member” means:

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

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

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

1 partner;

2 (d) A sibling or stepsibling of [*a covered individual*] **an eligible employee** or the sibling's or  
3 stepsibling's spouse or domestic partner;

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

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

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

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

11 (5) "Health care provider" means:

12 (a) A person who is primarily responsible for providing health care to an eligible employee or  
13 a family member of an eligible employee, who is performing within the scope of the person's pro-  
14 fessional license or certificate 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 Nursing as a nurse prac-  
25 titioner specializing in nurse midwifery;

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

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

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

34 (6) "Public health emergency" means:

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

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

38 [(7) "*Serious health condition*" means:]

39 [(a) *An illness, injury, impairment or physical or mental condition that requires inpatient care in*  
40 *a hospital, hospice or residential medical care facility;*]

41 [(b) *An illness, disease or condition that in the medical judgment of the treating health care pro-*  
42 *vider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death*  
43 *in the near future, or requires constant care;*]

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

45 [(d) *Any period of absence for the donation of a body part, organ or tissue, including preoperative*

1 *or diagnostic services, surgery, post-operative treatment and recovery.]*

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

3 659A.156. (1) All employees of a covered employer are eligible to take leave for one of the pur-  
4 poses specified in ORS 659A.159 [(1)(b) to (e)] **(1)(a) or (b)** except:

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

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

10 [(2) All employees of a covered employer are eligible to take leave for the purpose specified in ORS  
11 659A.159 (1)(a) except an employee who was employed by the covered employer for fewer than 180 days  
12 immediately before the date on which the family leave would commence.]

13 [(3) **(2)** Notwithstanding [subsections (1) and (2)] **subsection (1)** of this section, all employees  
14 of a covered employer are eligible to take leave for one of the purposes specified in ORS 659A.159  
15 [(1)(a) to (e)] **(1)(a) or (b)** during a period of time covered by a public health emergency except:

16 (a) An employee who worked for the covered employer for fewer than 30 days immediately be-  
17 fore the date on which the family leave would commence; or

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

20 [(4)(a) **(3)(a)** Notwithstanding [subsections (1) and (2)] **subsection (1)** of this section, an em-  
21 ployee of a covered employer is eligible to take leave for one of the purposes specified in ORS  
22 659A.159 [(1)(a) to (e)] **(1)(a) or (b)** if the employee:

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

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

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

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

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

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

32 (c) The amount of time that an employee is deemed to have worked for a covered employer prior  
33 to a break in service due to a separation from employment or a temporary cessation of scheduled  
34 hours shall be restored to the employee when the employee is reemployed by the employer within  
35 180 days of separation from employment or when the employee returns to work at the end of the  
36 temporary cessation of scheduled hours of 180 days or less.

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

38 659A.171. (1) After returning to work after taking family leave under the provisions of ORS  
39 659A.150 to 659A.186, an eligible employee is entitled to be restored to the position of employment  
40 held by the employee when the leave commenced if that position still exists, without regard to  
41 whether the employer filled the position with a replacement worker during the period of family  
42 leave. If the position held by the employee at the time family leave commenced no longer exists, the  
43 employee is entitled to be restored to any available equivalent position with equivalent employment  
44 benefits, pay and other terms and conditions of employment. If an equivalent position is not avail-  
45 able at the job site of the employee's former position, the employer shall offer the employee an

1 equivalent position at a job site located within 50 miles of the job site of the employee's former  
 2 position, if such a position is available. If equivalent positions are available at multiple job sites, the  
 3 employer shall first offer the employee the position at the job site that is nearest to the job site of  
 4 the employee's former position.

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

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

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

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

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

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

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

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

28 (c) Notwithstanding ORS 652.610 (3) and except as provided in paragraph (b) of this subsection,  
 29 if the employer is required or elects to pay any part of the costs of providing disability, life or other  
 30 insurance coverage for an employee during the period of family leave that should have been paid  
 31 by the employee, the employer may deduct from the employee's pay such amounts upon the  
 32 employee's return to work until the amount the employer advanced toward the payments is paid. In  
 33 no event may the total amount deducted for insurance under the provisions of this subsection exceed  
 34 10 percent of the employee's gross pay each pay period.

35 (6) Notwithstanding ORS 652.610 (3), if the employer pays any part of the costs of health, disa-  
 36 bility, life or other insurance coverage for an employee under the provisions of subsection (5) of this  
 37 section, and the employee does not return to employment with the employer after taking family  
 38 leave, the employer may deduct amounts paid by the employer from any amounts owed by the em-  
 39 ployer to the employee, or may seek to recover those amounts by any other legal means, unless the  
 40 employee fails to return to work because of[.]

41 [(a) A continuation, reoccurrence or onset of a serious health condition that would entitle the em-  
 42 ployee to leave for one of the purposes specified by ORS 659A.159 (1)(b) or (c); or]

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

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

45 659A.177. [(1) Notwithstanding any other provision of ORS 659A.150 to 659A.186, if a teacher re-

1 *quests leave for one of the purposes specified in ORS 659A.159 (1)(b) or (c), the need for the leave is*  
 2 *foreseeable, and the employee will be on leave for more than 20 percent of the total number of working*  
 3 *days in the period during which the leave would extend, the employer of the teacher may require that*  
 4 *the employee elect one of the two following options:]*

5 *[(a) The employee may elect to take leave for a period or periods of a particular duration, not to*  
 6 *exceed the duration of the anticipated medical treatment; or]*

7 *[(b) The employee may elect to transfer temporarily to an available alternative position that better*  
 8 *accommodates recurring periods of leave than the regular position of the employee. The teacher must*  
 9 *be qualified for the alternative position, and the position must have pay and benefits that are equivalent*  
 10 *to the pay and benefits of the employee's regular position.]*

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

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

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

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

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

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

25 *[(4) (1) Notwithstanding any other provision of ORS 659A.150 to 659A.186, if a teacher com-*  
 26 *mences a period of family leave for [one of the purposes] **the purpose** specified in ORS 659A.159*  
 27 *[(1)(a), (b) or (e)] **(1)(b)** during the three-week period before the end of the term, and the duration*  
 28 *of the leave is greater than five working days, the employer of the teacher may require that the*  
 29 *employee continue on family leave until the end of the term.*

30 *[(5) (2) The provisions of this section apply only to an employee who is employed principally*  
 31 *in an instructional capacity by a public kindergarten, elementary school, secondary school or edu-*  
 32 *cation service district.*

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

34 659A.186. (1) ORS 659A.150 to 659A.186 do not limit any right of an employee to any leave that  
 35 is similar to the leave described in ORS 659A.159 (1) and to which the employee may be entitled  
 36 under any agreement between the employer and the employee, collective bargaining agreement or  
 37 employer policy.

38 (2) ORS 659A.150 to 659A.186 shall be construed to the extent possible in a manner that is  
 39 consistent with any similar provisions of the federal Family and Medical Leave Act of 1993. If family  
 40 leave taken under ORS 659A.150 to 659A.186 qualifies as protected leave pursuant to the federal  
 41 Family and Medical Leave Act of 1993 (P.L. 103-3) [*or qualifies as family leave or medical leave taken*  
 42 *pursuant to ORS chapter 657B*], family leave taken under ORS 659A.150 to 659A.186 must be taken  
 43 concurrently with, and not in addition to, any leave taken under the federal Family and Medical  
 44 Leave Act of 1993 (P.L. 103-3) and under ORS chapter 657B.

MISCELLANEOUS

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

EMERGENCY CLAUSE

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

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