

CHAPTER 20

AN ACT

SB 1515

Relating to leave laws concerning time off from work; creating new provisions; amending ORS 653.455, 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 and 659A.186; and declaring an emergency.

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

ADMINISTRATION AND REPORTING

SECTION 1. (1) No later than September 15, 2024, the Director of the Employment Department shall report to an interim committee of the Legislative Assembly related to labor and business information on:

(a) The payment of benefits under ORS chapter 657B to seasonal employees and persons employed through hiring halls; and

(b) The consideration of implementing programmatic changes to the paid family and medical leave program established under ORS chapter 657B.

(2) No later than September 15, 2024, the Bureau of Labor and Industries and the Employment Department shall jointly report to an interim committee of the Legislative Assembly related to labor and business on the apportionment of duties between the Bureau of Labor and Industries and the Employment Department regarding the protected leave provisions of ORS chapters 657B and 659A, including:

(a) The current roles and responsibilities of the agencies with respect to:

(A) Administration, rulemaking, education and enforcement of the protected leave provisions; and

(B) Other aspects of the protected leave provisions, including issues concerning discrimination, retaliation and job protection;

(b) Possible future roles and responsibilities of the agencies with respect to the topics described under paragraph (a) of this subsection; and

(c) Any statutory changes that are necessary to clarify the roles and responsibilities of the agencies to enable the agencies to provide the best support to employees and employers regarding protected leave.

TECHNICAL CHANGES

SECTION 2. ORS 653.455 is amended to read: 653.455. (1) As used in this section:

(a) "Group communication" means communication to all eligible employees, either written or oral.

(b) "Ticketed event" means a sporting, entertainment, civic, charitable or other event that requires a ticket for admission. The ticket may be electronic, physical or a name on a list held by the event organizer.

(2) An employer shall provide the following compensation to an employee for each employer-requested change that occurs to the employee's written work schedule without the advance notice required in ORS 653.436:

(a) One hour of pay at the employee's regular rate of pay, in addition to wages earned, when the employer:

(A) Adds more than 30 minutes of work to the employee's work shift;

(B) Changes the date or start or end time of the employee's work shift with no loss of hours; or

(C) Schedules the employee for an additional work shift or on-call shift.

(b) One-half times the employee's regular rate of pay per hour for each scheduled hour that the employee does not work when the employer:

(A) Subtracts hours from the employee's work shift before or after the employee reports for duty;

(B) Changes the date or start or end time of the employee's work shift, resulting in a loss of work shift hours;

(C) Cancels the employee's work shift; or

(D) Does not ask the employee to perform work when the employee is scheduled for an on-call shift.

(3) The requirements for additional compensation in this section do not apply when:

(a) An employer changes the start or end time of an employee's work shift by 30 minutes or less;

(b) An employee mutually agrees with another employee to employee-initiated work shift swaps or coverage. The employer may require that work shift swaps or coverage under this paragraph be preapproved by the employer. The employer may assist employees in finding such arrangements, provided that any employer assistance must be limited to helping an employee identify other employees who may be available to provide work shift swaps or coverage and may not include the employer arranging the work shift swap or coverage;

(c) An employer requests changes to the employee's written work schedule, including adding or subtracting hours, and the employee documents the request in writing;

(d) An employer makes changes to an employee's written work schedule at the employee's request under ORS 653.436 (6);

(e) An employer subtracts hours from an employee's work schedule for disciplinary reasons for just cause, provided the employer documents the incident leading to the employee's discipline in writing;

(f) An employee's work shift or on-call shift cannot begin or continue due to threats to employees or property or due to the recommendation of a public official;

(g) Operations cannot begin or continue because public utilities fail to supply electricity, water or gas

or there is a failure in the public utilities or sewer system;

(h) Operations cannot begin or continue due to a natural disaster or a similar cause not within the employer's control, including when the natural disaster or similar cause physically affects the work site;

(i) Operations hours change or are substantially altered because a ticketed event is canceled, rescheduled or changes in duration due to circumstances that are outside the employer's control and that occur after the employer provides the written work schedule under ORS 653.436;

(j) An employer requests that an employee on a voluntary standby list work additional hours as described in ORS 653.432 and the employee consents to work the additional hours; [or]

(k)(A) An employer requests that an employee work additional hours to address unanticipated customer needs or unexpected employee absence;

(B) The employee consents in writing to work the additional hours;

(C) If the employer maintains a voluntary standby list described in ORS 653.432, the employer has contacted all of the employees listed on the voluntary standby list and requires additional employee coverage; and

(D)(i) If the employee is working a work shift at the time the employer makes the request, the employer makes the request either individually or as part of a group communication; or

(ii) If the employee is not working a work shift at the time the employer makes the request, the employer makes the request through a group communication[.]; or

(L) An employer is provided with less than 14 days' notice before the first day of the work schedule of the need for leave under ORS chapter 657B or 659A, or of the return from the use of leave under ORS chapter 657B or 659A, and the employer makes a change to the schedule of an employee who was temporarily assigned to specific shifts to cover for an employee on leave under ORS chapter 657B or 659A.

SECTION 3. ORS 657B.010 is amended to read: 657B.010. As used in this chapter:

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

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

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

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

(5)(a) "Benefit year" means, except as provided in paragraph (b) of this subsection, a period of 52 consecutive weeks beginning on the Sunday imme-

diately preceding the date on which family leave, medical leave or safe leave commences.

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

(6) "Child" means:

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

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

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

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

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

(a) An employer;

(b) An employee;

(c) A self-employed individual;

(d) A tribal government; or

(e) An employee of a tribal government.

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

(a) An eligible employee;

(b) A self-employed individual; or

(c) An employee of a tribal government.

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

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

(12) "Eligible employee" means:

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

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

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

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

(14)(a) "Employee" means:

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

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

(b) "Employee" does not include:

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

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

(C) A participant in a work-study program that provides students in secondary or postsecondary educational institutions with employment opportunities for financial assistance or vocational training.

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

(E) A volunteer.

(F) A judge as defined in ORS 260.005.

(G) A member of the Legislative Assembly.

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

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

(b) “Employer” includes:

(A) A political subdivision of this state or any county, city, district, authority or public corporation, or any instrumentality of a county, city, district, authority or public corporation, organized and existing under law or charter;

(B) An individual;

(C) Any type of organization, corporation, partnership, limited liability company, association, trust, estate, joint stock company or insurance company;

(D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;

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

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

(c) “Employer” does not include the federal government or a tribal government.

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

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

(18)(a) “Family leave” means leave from work taken by a covered individual:

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

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

(b) “Family leave” does not mean:

(A) Leave described in ORS 659A.159 [(1)(d)]
(1)(a) except for leave to care for a child who requires home care due to an illness, injury or condition that is a serious health condition;

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

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

(19) “Family member” means:

(a) The spouse of a covered individual;

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

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

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

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

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

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

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

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

(21) “Parent” means:

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

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

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

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

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

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

(23) “Self-employed individual” means:

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

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

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

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

(b) An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care;

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

(d) Any period of absence for the donation of a body part, organ or tissue, including preoperative or diagnostic services, surgery, postoperative treatment and recovery.

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

(26) “Tribal government” *[has the meaning given that term in ORS 181A.940.]* **means:**

(a) A tribal government as defined in ORS 181A.940; or

(b) A federally recognized Indian tribe.

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

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

SECTION 4. ORS 657B.010, as amended by section 3 of this 2024 Act, is amended to read:

657B.010. As used in this chapter:

(1) “Alternate base year” means the last four completed calendar quarters preceding the benefit year.

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

(3) “Base year” means the first four of the last five completed calendar quarters preceding the benefit year.

(4) “Benefits” means family and medical leave insurance benefits.

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

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

(6) “Child” means:

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

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

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

(7) “Claimant” means an individual who has submitted an application or established a claim for benefits.

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

(a) An employer;

(b) An employee;

(c) A self-employed individual;

(d) A tribal government; or

(e) An employee of a tribal government.

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

(a) An eligible employee;

(b) A self-employed individual; or

(c) An employee of a tribal government.

(10) “Domestic partner” means an individual joined in a domestic partnership.

(11) “Domestic partnership” has the meaning given that term in ORS 106.310.

(12) “Eligible employee” means:

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

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

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

(13) “Eligible employee’s average weekly wage” means an amount calculated by the Director of the Employment Department by dividing the total wages earned by an eligible employee during the base year by the number of weeks in the base year.

(14)(a) “Employee” means:

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

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

(b) “Employee” does not include:

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

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

(C) A participant in a work-study program that provides students in secondary or postsecondary educational institutions with employment opportunities for financial assistance or vocational training.

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

(E) A volunteer.

(F) A judge as defined in ORS 260.005.

(G) A member of the Legislative Assembly.

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

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

(b) “Employer” includes:

(A) A political subdivision of this state or any county, city, district, authority or public corporation, or any instrumentality of a county, city, district, authority or public corporation, organized and existing under law or charter;

(B) An individual;

(C) Any type of organization, corporation, partnership, limited liability company, association, trust, estate, joint stock company or insurance company;

(D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;

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

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

(c) "Employer" does not include the federal government or a tribal government.

(16) "Employment agency" has the meaning given that term in ORS 658.005.

(17) "Family and medical leave insurance benefits" means the wage replacement benefits that are available to a covered individual under ORS 657B.050 or under the terms of an employer plan approved under ORS 657B.210, for family leave, medical leave or safe leave.

(18)(a) "Family leave" means leave from work taken by a covered individual:

(A) To care for and bond with a child during the first year after the child's birth or during the first year after the placement of the child through foster care or adoption; [or]

(B) To effectuate the legal process required for placement of a foster child or the adoption of a child; or

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

(b) "Family leave" does not mean:

(A) Leave described in ORS 659A.159 (1)(a) except for leave to care for a child who requires home care due to an illness, injury or condition that is a serious health condition;

(B) Leave described in ORS 659A.159 (1)(b); or

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

(19) "Family member" means:

(a) The spouse of a covered individual;

(b) A child or the child's spouse or domestic partner;

(c) A parent or the parent's spouse or domestic partner;

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

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

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

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

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

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

(21) "Parent" means:

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

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

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

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

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

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

(23) "Self-employed individual" means:

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

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

(24) "Serious health condition" means:

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

(b) An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care;

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

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

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

(26) "Tribal government" means:

(a) A tribal government as defined in ORS 181A.940; or

(b) A federally recognized Indian tribe.

(27)(a) "Wages" has the meaning given that term in ORS 657.105.

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

SECTION 5. ORS 657B.030 is amended to read:

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

(2)(a) *[An employer may permit an employee to use all or a portion of paid sick time, vacation leave or any other paid leave earned by the employee in addition to]* **Except as otherwise provided in paragraph (b) of this subsection, an employee is entitled to use any accrued paid sick leave, accrued paid vacation leave or any other paid**

leave that is offered by the employer in addition to receiving paid family and medical leave insurance benefits during a period of leave taken for family leave, medical leave or safe leave to the extent that the total combined amount of accrued paid leave and benefits received by the employee does not exceed an amount equal to the employee's full wage replacement during the period of family leave, medical leave or safe leave.

(b) An employer may permit an employee to use accrued paid leave in addition to receiving paid family and medical leave insurance benefits such that the total combined amounts received by the employee may exceed the employee's full wage replacement amount as described in paragraph (a) of this subsection.

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

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

SECTION 6. ORS 657B.050 is amended to read:

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

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

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

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

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

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

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

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

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

(4) Benefits are payable only to the extent that moneys are available in the Paid Family and Medical Leave Insurance Fund for that purpose. The

state, any political subdivision of the state and any state agency are not liable for any amount in excess of this limit.

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

(a) Child or spousal support garnishments; and

(b) Restitution for crime victims.

ALIGNMENT (Statutory Changes)

SECTION 7. ORS 657B.020 is amended to read:

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

(a) Family leave;

(b) Medical leave; or

(c) Safe leave.

[(2) Notwithstanding ORS 657B.025 and except as provided under subsection (3) of this section, a covered individual who has taken any amount of paid leave available under subsection (1) of this section may take a total of 16 weeks of leave in the benefit year in any combination of the paid leave available under subsection (1) of this section, not to exceed 12 weeks, and unpaid leave under ORS 659A.159 for which the covered individual is eligible under ORS 659A.156. The leave may be taken for any purpose for which leave is allowable under the respective leave programs.]

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

SECTION 8. ORS 659A.159 is amended to read:

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

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

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

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

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

closure of the child's school or child care provider as a result of a public health emergency.

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

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

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

(C) Grieving the death of the family member.

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

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

SECTION 9. ORS 659A.162 is amended to read:

659A.162. (1)(a) Except as specifically provided by ORS [657B.020 and] 659A.150 to 659A.186, an eligible employee is entitled to up to a total of 12 weeks of family leave **for a purpose described in ORS 659A.159** within any one-year period.

(b) **Leave taken under ORS 659A.150 to 659A.186 is in addition to, and may not be taken concurrently with, any leave taken pursuant to ORS chapter 657B.**

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

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

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

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

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

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

riod for the purpose specified in ORS 659A.159 (1)(d).]

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

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

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

[(c)] (b) [The employees are] **One or more of the employees is taking leave described in ORS 659A.159 [(1)(e)] (1)(b).**

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

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

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

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

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

SECTION 10. ORS 659A.165 is amended to read:

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

(2) An eligible employee may commence taking family leave without prior notice under the following circumstances:

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

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

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

[(d)] (b) The death of a family member[.]; or

(c) The leave is for the purpose described under ORS 659A.162 (3).

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

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

SECTION 11. ORS 659A.168 is amended to read:

659A.168. (1) Except as provided in subsection (2) of this section, a covered employer may require medical verification from a health care provider of the need for the leave if the leave is for a purpose described in ORS 659A.159 [(1)(b) to (d)] **(1)(a)** other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency, **or if the leave is for the purpose described in ORS 659A.162 (3).** If an employee is required to give notice under ORS 659A.165 (1), the employer may require that medical verification be provided by the employee before the leave period commences. If the employee commences family leave without prior notice pursuant to ORS 659A.165 (2), the medical verification must be provided by the employee within 15 days after the employer requests the medical verification. *[The employer may require an employee to obtain the opinion of a second health care provider designated by the employer, at the employer's expense. If the opinion of the second health care provider conflicts with the medical verification provided by the employee, the employer may require the two health care providers to designate a third health care provider to provide an opinion at the employer's expense. The opinion of the third health care provider shall be final and binding on the employer and employee. In addition to the medical verifications provided for in this subsection, an employer may require subsequent medical verification on a reasonable basis.]*

(2) A covered employer may require medical verification for leave taken for the purpose described

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

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

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

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

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

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

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

(Temporary Provisions)

SECTION 12. Section 13 of this 2024 Act is added to and made a part of ORS 659A.150 to 659A.186.

SECTION 13. (1) In addition to the 12 weeks of family leave authorized by ORS 659A.162 (1), an eligible employee is entitled to a total of two weeks of leave to effectuate the legal process required for placement of a foster child or the adoption of a child.

(2) Notwithstanding ORS 659A.165 (1), an eligible employee shall provide oral notice to the covered employer within 24 hours of the commencement of leave under this section, and must provide written notice to the employer within three days after the employee returns to work.

CONFORMING AMENDMENTS

SECTION 14. ORS 657B.025 is amended to read: 657B.025. Any family leave or medical leave

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

SECTION 15. ORS 659A.150 is amended to read: 659A.150. As used in ORS 659A.150 to 659A.186:

(1) "Covered employer" means an employer described in ORS 659A.153.

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

(3) "Family leave" means a leave of absence described in ORS *[659A.159]* **659A.150 to 659A.186**, except that "family leave" does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.

(4) "Family member" means:

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

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

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

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

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

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

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

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

(5) "Health care provider" means:

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

(A) A physician licensed under ORS chapter 677;

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

(C) A dentist licensed under ORS 679.090;

(D) A psychologist licensed under ORS 675.030;

(E) An optometrist licensed under ORS 683.070;

(F) A naturopath licensed under ORS 685.080;

(G) A registered nurse licensed under ORS 678.050;

(H) A nurse practitioner licensed under ORS 678.375;

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

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

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

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

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

(6) "Public health emergency" means:

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

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

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

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

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

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

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

SECTION 16. ORS 659A.156 is amended to read:

659A.156. (1) All employees of a covered employer are eligible to take leave for *[one]* **any** of the purposes specified in ORS *[659A.159 (1)(b) to (e)]* **659A.150 to 659A.186** except:

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

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

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

[(3)] (2) Notwithstanding *[subsections (1) and (2)]* **subsection (1)** of this section, all employees of a covered employer are eligible to take leave for *[one]* **any** of the purposes specified in ORS *[659A.159 (1)(a) to (e)]* **659A.150 to 659A.186** during a period of time covered by a public health emergency except:

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

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

[(4)(a)] **(3)(a)** Notwithstanding [subsections (1) and (2)] **subsection (1)** of this section, an employee of a covered employer is eligible to take leave for [one] **any** of the purposes specified in ORS [659A.159 (1)(a) to (e)] **659A.150 to 659A.186** if the employee:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

other legal means, unless the employee fails to return to work because of[.]

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

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

SECTION 18. ORS 659A.177 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

SECTION 19. ORS 659A.186 is amended to read:

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

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

MISCELLANEOUS

SECTION 20. 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.

REPEALS

SECTION 21. (1) Section 1 of this 2024 Act is repealed on December 31, 2025.

(2) Section 13 of this 2024 Act is repealed on January 1, 2025.

OPERATIVE DATES

SECTION 22. (1) Sections 12 and 13 of this 2024 Act and the amendments to ORS 653.455, 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 and 659A.186 by sections 2, 3, 5 to 11 and 14 to 19 of this 2024 Act become operative on July 1, 2024.

(2) The amendments to ORS 657B.010 by section 4 of this 2024 Act become operative on January 1, 2025.

(3) Notwithstanding the operative date specified in subsection (1) of this section, the Bureau of Labor and Industries and the Employment Department may take any action before the operative date specified in subsection (1) of this

EFFECTIVE DATE

section that is necessary for the bureau and the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the bureau and the department by sections 12 and 13 and the amendments to ORS 653.455, 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 and 659A.186 by sections 2, 3, 5 to 11 and 14 to 19 of this 2024 Act.

SECTION 23. 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.

Approved by the Governor March 20, 2024

Filed in the office of Secretary of State March 20, 2024

Effective date March 20, 2024
