

HB 1059 -- MISSOURI EARNED FAMILY AND MEDICAL LEAVE ACT

SPONSOR: Kelly (141)

This bill establishes the "Missouri Earned Family and Medical Leave Act." The program established by this bill provides up to eight weeks of wage replacement benefits per year to an employee who takes time off for family or medical leave. The term "family or medical leave" is defined to include leave to bond with a minor child after birth or adoption, due to the employee's serious health condition, to care for a family member with a serious health condition, and to assume any familial responsibility because a spouse, child, or parent is on or called to active duty. The Department of Labor and Industrial Relations shall administer and implement the program.

An employee shall file a claim for benefits under the program within 41 days of the first compensable day of leave, unless extended for good cause. An employee is not eligible for benefits on any day he or she is eligible for unemployment compensation or workers' compensation benefits. Any leave taken shall be concurrent with leave the employee is entitled to under the federal Family and Medical Leave Act.

The bill specifies information the employee must provide to establish eligibility for leave, including medical evidence of the serious health condition of the employee or family member. Employee's shall make reasonable efforts to provide at least 30 days' notice of the need for leave to the employer. An employer shall maintain health insurance during any period an employee takes leave.

An employee may appeal the department's decision of eligibility for benefits. An administrative law judge shall conduct a hearing on the appeal in accordance with Chapter 536, RSMo. A determination of the amount of benefits shall not be the subject of an appeal, but shall be subject to a request for redetermination by the department. A redetermination of benefits, or the allowance or denial of benefits, may be made by the department under certain specific conditions.

It shall be unlawful to discharge or discriminate against an employee because the employee claimed or received benefits under the program. Any person who violates the provisions of this section shall be liable to the affected employee for actual damages and an additional amount as liquidated damages. The affected employee may also seek equitable relief including reinstatement. The court may also require reasonable attorney's fees to be paid by the defendant. The department may also bring an action seeking

relief on behalf of an employee. Any action brought under this section shall be filed not later than three years from the date of the alleged violation.

The department shall develop an outreach program to inform employees of the benefits available under this program. Within three years, the state auditor shall submit to the General Assembly a report containing specified information about the program.

The bill creates the "Missouri Earned Family and Medical Leave Fund" in the state treasury. The state treasurer shall be the custodian of the fund. The fund shall be a dedicated fund with its moneys used solely by the Department of Labor and Industrial Relations to distribute the Missouri Earned Family and Medical Leave Act program benefits. Beginning January 1, 2019, employees shall contribute to the fund .25% of their average weekly pay. Program benefits may be reduced if there are insufficient resources in the fund. No employee shall receive benefits from the fund until January 1, 2020. Amounts contributed to the fund may be deducted from the individual's adjusted gross income.

The bill contains a referendum clause and will not become effective unless approved by a majority of the qualified voters.

This bill is similar to HB 659, SB 69 (2017), HB 2536, HB 2806 (2016), and HB 1161 (2015).