



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 06/26/2024

Department: Human Resources

Title: Marion County Protected Leave Policy #305 Updates

Management Update/Work Session Date: 6/4/2024 Audio/Visual aids

Time Required: 10 minutes Contact: Leslie Martin Phone: 503-373-4422

Requested Action: Approve updates to Policy #305, bringing us in alignment with statutory changes effective July 1, 2024. Approve updates to Procedure #305-A.

Issue, Description & Background: Oregon Legislature passed SB1515 amending the Oregon Family Leave Act (OFLA) and Paid Leave Oregon (PLO), effective July 1, 2024. These changes impact our current policy, therefore we are proposing updates to align with the statutory changes, and have made minor housekeeping updates to the procedure.

Financial Impacts: None

Impacts to Department & External Agencies: None

List of attachments: 1. Board Order, 2. Policy 305 (final), 3. Policy 305 (redline), 4. Procedure 305-A (final), 5. Procedure 305-A (redline), 6. SB1515 Text

Presenter: Leslie Martin, HR Leave Administrator

Department Head Signature: 



ADMINISTRATIVE POLICIES

SECTION:	Human Resources	POLICY #:	305
TITLE:	Protected Leave	PROCEDURE #:	305-A
		ORDER #:	21-029
DEPT:	Human Resources	PROGRAM:	Benefits
ADOPTED:	09/02	REVIEWED:	
		REVISED:	7/24

PURPOSE: The purpose of this policy is to define the provisions and processes for eligible employees to take protected leave for qualifying medical and family circumstances. This policy is intended to comply with the federal and state laws regulating the leaves of absence.

AUTHORITY: The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035, 203.111 and 203.230.

The Marion County Board of Commissioners expresses the governing body’s official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. Policy statements serve to provide rules for public officials on the conduct of county business.

Marion County Administrative Policies and Procedures outline the methods through which the Board of Commissioners takes formal action on administrative policy. They are the official record of county administrative policy.

APPLICABILITY: All county employees.

GENERAL POLICY: Marion County provides protected leave for qualifying employees in the form of family, medical, domestic violence, and military leave in conformance with the following programs: Family and Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), Oregon Victims of Certain Crimes Leave Act (OVCCCLA), Oregon Military Family Leave Act (OMFLA), Paid Leave Oregon (PLO) and The Uniformed Services Employment and Reemployment Rights Act of 1994

SUBJECT: PROTECTED LEAVE

DEFINITIONS:

Bereavement Leave: Leave for the death of a family member in order to attend the funeral or alternative to a funeral of a family member; make arrangements necessitated by the death of a family member; or, for the process of grieving the loss of the family member.

Crime Victim: A person who has suffered financial, social, psychological, or physical harm as a result of a crime covered by OVCCA as defined in OAR 839-009-0340(4).

Exigency Leave (National Guard or Reserves):

1. For a short-notice deployment, meaning a call or order that is given no more than seven calendar days before deployment (the employee can take up to seven days beginning on the date of notification);
2. For military events and related activities, such as official military-sponsored ceremonies and family support and assistance programs sponsored by the military and related to the family member's call to duty;
3. For urgent (as opposed to recurring and routine) child-care and school activities, such as arranging for child care;
4. For financial and legal tasks, such as making or updating legal arrangements to deal with the family member's active duty;
5. For counseling for the employee or his/her minor child that is not already covered by the FMLA;
6. To spend time with the covered service member on rest and recuperation breaks during deployment, for up to five days per break;
7. For post-deployment activities such as arrival ceremonies and reintegration briefings or to address issues from the service member's death while on active duty; or,
8. For other purposes arising out of the call to duty, as agreed on by the employee and employer.

Family Member:

1. FMLA defines family members to include the employee's:
 - Spouse: The husband or wife of the employee. As defined in 29 CFR § 825.102, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a State that recognizes such marriages; or (2) if entered into outside of any State, is valid in the place where entered into and could have entered into in at least one State.
 - Parent: A biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a minor.
 - Child: A biological, adopted, or foster child; a legal ward; or a child of a person standing in loco parentis, under the age of 18, or older if incapable of self-care because of mental or physical disability.

SUBJECT: PROTECTED LEAVE

2. OFLA defines family members in ORS 659A.150(4) to include the employee's:

- Spouse;
- Child or the child's spouse or domestic partner;
- Parent or the parent's spouse or domestic partner;
- Sibling or stepsibling or the sibling's or stepsibling's spouse or domestic partner;
- Grandparent or the grandparent's spouse or domestic partner;
- Grandchild or the grandchild's spouse or domestic partner;
- Domestic partner; or
- Any individual related by blood or affinity whose close association with an employee is the equivalent of a family relationship.

Parental Leave: Leave taken upon the birth of a child, or placement of a child with the employee for adoption or foster care, and to bond with their child within the first 12 months beginning on the date of the birth or placement. Parental leave may be taken in a continuous block, or intermittently.

Pregnancy Disability: FMLA and OFLA cover a variety of absences related to pregnancy, childbirth incapacity and routine prenatal visits to healthcare providers.

Public Health Emergency: A "public health emergency" means (i) a public health emergency declared under ORS 433.441 or (ii) an emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

Serious Health Condition: Illness, injury, impairment or other physical or mental condition that requires inpatient care, hospice, continuous treatment by a health care provider involving a period of incapacity, regular absence of more than 3 consecutive calendar days or a chronic, long-term condition; absence to receive treatments including recovery period. Serious health condition leave can be continuous, intermittent or require a reduced schedule.

Serious Injury or Illness in the Line of Duty: FMLA defines serious injury or illness that must have occurred or been aggravated while in the military; and the veteran must be undergoing medical treatment, recuperation, or therapy for the serious injury or illness that occurred any time during the five years preceding the date of treatment. Leave can be designated for spouse, parent, child, or next of kin of current military personnel or veteran.

1. Service in the Uniformed Services: The performance of duty on a voluntary or involuntary basis in a uniformed service.
2. Uniformed Services: Consists of Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service; and any other category of persons designated by the President in time of war or emergency.

Sick Child Leave: OFLA allows leave taken to care for an employee's child under the age of 18 (or an adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104 (1)(a), (3), and (4) suffering from an illness, injury, or condition that requires home care. It includes leave to care for an employee's child whose school or childcare provider has been closed in conjunction with a statewide public health emergency declared by a public health official. Sick child leave is not for routine medical or dental

SUBJECT: PROTECTED LEAVE

appointments.

Week: For purposes of protected leave, a week is the employee's normal workweek schedule. Marion County will count family medical leave from the first day of absence under the qualifying purpose.

Year: A period of 52 consecutive weeks beginning on the Sunday immediately preceding the first date of absence taken under protected leave.

POLICY GUIDELINES:

1. RESPONSIBILITIES

1.1. Federal and State Laws:

1.1.1. Family Medical Leave Act (FMLA): A federal law that provides unpaid protected leave (up to 12 weeks) for serious health conditions of employees and their family members, the birth, adoption, or foster care placement of a child, and leave time for pregnant employees to seek prenatal and postnatal care.

1.1.2. Oregon Family Medical Leave Act (OFLA): A state law that provides unpaid protected leave for the homecare of the employee's child (both serious and non-serious health conditions), as well as during school and childcare closures for declared public health emergencies, bereavement leave, and pregnancy disability. OFLA may allow more than 12 weeks per year under certain conditions.

1.1.3. Victims of Certain Crimes Leave Act (OVCCLA): This act is an extension of the OFLA and provides leave for an employee who is the victim of domestic violence, harassment, sexual assault, or stalking; or is the parent or guardian of a minor child or dependent who is the victim of domestic violence, sexual assault, or stalking. Leave may be used to seek legal or law enforcement assistance, to seek remedies to ensure health and safety, to seek medical treatment for injuries or to recover from injuries, to obtain counseling, to seek other domestic violence services, to relocate or secure existing housing, or to attend criminal proceedings related to these circumstances.

1.1.4. Oregon Military Family Leave Act (OMFLA): This act is an extension of OFLA and provides up to 14 calendar days of leave per deployment for a spouse or domestic partner of a member of the Armed Forces of the United States, the National Guard, or the military reserve forces.

1.1.5. Paid Leave Oregon (PLO) is a paid leave program, administered by Oregon Employment Department, allowing up to 12 weeks of paid leave per benefit year (up to 14 weeks for pregnancy related medical leave). In accordance with ORS 657B.150, all employers and eligible employees shall contribute to the Paid Family and Medical Leave Insurance Fund established by ORS 657B.430.

1.1.5.1. The total rate may not exceed the amount set by the laws governing PLO.

1.1.5.2. Employer contributions shall be paid in an amount that is equal to 40

SUBJECT: PROTECTED LEAVE

percent of the total rate determined by the Oregon Employment Department Director.

1.1.5.3. An employer shall deduct employee contributions from the wages of each employee in an amount that is equal to 60 percent of the total rate determined by the Oregon Employment Department Director.

1.1.6. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects civilian job rights and benefits for veterans and members of reserve components.

1.2. Qualifying Purposes for Leave:

1.2.1. Marion County designates leave based on qualifying conditions. Employees who qualify may be designated for protected leave in the following situations:

1.2.1.1. When the employees' own serious health condition prevents them from performing the essential functions of their job.

1.2.1.2. The birth of a child or adoption of a child under the age of 18 (including the legal placement of a foster child under the age of 18).

1.2.1.3. Parental leave within 12 months of the event.

1.2.1.4. To care for a family member with a serious health condition as defined by protected leave statutes.

1.2.1.5. To provide home care for a child under the age of 18 with a non-serious health condition.

1.2.1.6. Bereavement Leave.

1.2.1.7. To care for a spouse, parent, child, or next of kin who is a covered service member or veteran. The covered service member or veteran must have a serious injury or illness incurred or aggravated while on active duty (leave must begin within five (5) years of the veteran leaving military service).

1.2.1.8. For an exigency leave related to a spouse, child, or parent of a covered service member who is on active duty, called to active duty, and during leave from deployment.

1.2.1.9. To seek legal assistance, medical treatment, counseling, or to relocate or secure an existing residence when the employee is a victim of a crime covered by OVCCLA; or the parent or guardian of a minor child or dependent who is the victim of a crime covered by OVCCLA.

1.2.1.10. To attend a criminal proceeding as a victim of a crime covered by OVCCLA; or the parent or guardian of a minor child or dependent who is the victim of a crime covered by OVCCLA.

1.2.1.11. In accordance with USERRA, leave for uniformed service.

1.2.1.12. Marion County does not designate PLO claims, for more information about PLO claims contact the Oregon Employment Department.

1.2.1.13. From July 1, 2024, through January 1, 2025, OFLA will also provide up to two additional weeks of leave to facilitate the legal processes required for placement of a foster child or adoption.

SUBJECT: PROTECTED LEAVE

1.3. Eligible Employees:

1.3.1. Eligible employees under the Oregon Family Leave Act (OFLA) are:

1.3.1.1. Any employee who meets the qualifying purposes for leave and the following criteria:

1.3.1.1.1. Have been employed by Marion County for at least 180 days before the first day of the protected leave; and has worked an average of 25 or more hours per week for Marion County preceding the date on which leave would commence.

1.3.1.1.1.1 Employees who separate from employment with Marion County and are reemployed by Marion County within 180 days of separation are immediately eligible to take OFLA leave if they were eligible for OFLA leave at the time of their separation. 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.

1.3.1.1.1.2 Employees who separate from employment with Marion County and are reemployed by Marion County within 180 days of separation and were not eligible for OFLA leave at the time of their separation will receive credit for the time worked prior to their break in service for the purpose of establishing eligibility.

1.3.1.1.2. For leave related to a spouse being called to active duty, the employee must have worked an average of 20 or more hours per week for Marion County.

1.3.1.1.3. Employees who are victims of or at risk of domestic violence, sexual assault, or stalking, regardless of how long he or she has worked for Marion County and regardless of how many hours per week the employee works.

1.3.1.2. During a public health emergency, employees who have completed 30 days of employment and have worked an average of at least 25 hours a week for the 30 days immediately before the date on which the family leave would commence are eligible to apply for leave for any of the qualifying reasons specified in ORS 659A.159(1)(a) to (e).

1.3.2. Eligible Employees under FMLA have been employed by Marion County for a total of at least 12 months (does not need to be consecutive) and have worked at least 1,250 hours during the 12- month period immediately preceding the family medical leave.

1.3.3. As described in ORS 657B.060(7), Employees who qualify for PLO through the Oregon Employment Department must be employed with Marion County for 90 days preceding their leave in order for the leave to be protected leave.

SUBJECT: PROTECTED LEAVE

- 1.4. Request for Protected Leave:
 - 1.4.1. Request and notifications for leave should be made in accordance with Protected Leave Procedures 305-A.
 - 1.4.2. Anticipated situations:
 - 1.4.2.1. In situations where the need for protected leave is known, employees are expected to give 30 days' advanced notice to take protected leave.
 - 1.4.2.2. If the anticipated leave is known less than 30 days in advance, employees must give notice as soon as practicable.
 - 1.4.2.3. Upon notice, the county will provide the employee with a Protected Leave Request Form. All employees are required to complete a Protected Leave Request Form and submit the completed certification prior to the commencement of protected leave.
 - 1.4.2.4. An employee who intends to take leave to attend a criminal proceeding must give reasonable notice of the impending leave once the employee has received official notice of the proceeding.
 - 1.4.2.5. An employee who intends to take domestic violence-related leave must give reasonable notice of the impending leave unless giving advance notice is not feasible (see Section 1.4.3).
 - 1.4.2.6. Unless giving notice is impossible or precluded by military necessity, an employee who intends to take military-related leave must give notice within five business days of receiving official notice of an impending call or order to active duty, or of a leave from deployment.
 - 1.4.2.7. PLO requires employees to give 30 days' notice for anticipated situations.
 - 1.4.2.7.1 Employees who do not provide 30 days' notice may have their first weekly PLO benefit reduced by the Employment Department.
 - 1.4.3. Unanticipated Situations:
 - 1.4.3.1. In an unanticipated or emergency situation in which there is no opportunity to give notice, employees must notify their supervisor verbally within two working days of the emergency situation. The required paperwork must be completed and returned as soon as is practicable. Notice may be provided by a family member or other individual when an employee is unable to provide notice.
 - 1.4.3.2. PLO requires employees to give verbal notice to their employer within 24 hours of starting unanticipated leave, and to provide written notice within three days.
 - 1.4.3.2.1. Employees who do not provide verbal notice within 24 hours of starting unanticipated leave, and fail to provide written notice within three days may have their first weekly PLO benefit reduced by the Employment Department.
- 1.5. Certification/Designation:
 - 1.5.1. Certification of Need: A certification of the need for protected leave may be required. This requirement is specific to leaves under county-administered protected leave programs. For information on PLO certification requirements, please contact Oregon Employment Department for guidance.
 - 1.5.1.1. In the event of a serious health condition of an employee or that of a family member, certification must be provided by a medical

SUBJECT: PROTECTED LEAVE

professional on the applicable certification form within 15 calendar days of the request for family medical leave. Failure to provide required medical certification may delay the start of family medical leave or may cause the denial of family medical leave. The employee may be required to furnish the county with periodic recertification as frequently as every 30 days.

- 1.5.1.2. In the event of a request for parental leave to care for a newly adopted child or a newly placed foster child, the employee may be required to provide verification from the agency representative regarding the adoption or placement of the child.
- 1.5.1.3. In the event of a request for domestic violence-related leave, the employee may be required to certify that he/she qualifies for leave and that the leave is to be taken for an authorized purpose.
- 1.5.1.4. In the event of a request for leave to attend criminal proceedings, the employee may be required to provide copies of the notice of the scheduled proceedings.

1.6. Intermittent or Reduced Schedule:

- 1.6.1. When medically necessary, protected leave may be taken on an intermittent or reduced schedule. Details of the proposed schedule must be verified by the certifying medical professional on the applicable certification form.
- 1.6.2. Employees who have received a designation of intermittent protected leave must comply with the sick leave notification policy in effect in his or her division or department. Failure to do so may result in disciplinary action.

1.7. Employer Designations:

- 1.7.1. Marion County will designate leaves of absence as covered under FMLA and OFLA, even when not requested by the employee, if the employee is eligible and the reason for the absence is a qualifying purpose under one or both of the laws.
- 1.7.2. Marion County does not approve claims for paid leave via PLO. Oregon Employment Department handles all PLO claim reviews.

1.8. Concurrent Designations:

- 1.8.1. When the qualifying purpose of leave is covered under more than one protected leave program, the leave will be designated concurrently toward the time allowed under each applicable law.
- 1.8.2. Leaves potentially covered under workers' compensation will be provisionally designated under FMLA if the absence is for a qualifying purpose under the applicable laws. If a workers' compensation claim is found to be compensable, the designation will be withdrawn, and the leave taken will not count toward the employee's available leave under FMLA.
- 1.8.3. Leave taken under OFLA cannot be taken concurrently with leave under PLO, and vice versa.

1.9. General Provisions:

1.9.1. Use of Accrued Leave:

- 1.9.1.1. While on FMLA/OFLA leave for a personal serious health condition (including pregnancy disability leave), employees must use sick leave first, then vacation, and then may use other forms of leave prior to leave without pay.
- 1.9.1.2. While on FMLA/OFLA leave for the serious health condition of a

SUBJECT: PROTECTED LEAVE

family member or for parental leave, employees may choose to use other forms of paid leave prior to using sick leave. All leave accruals must be exhausted prior to leave without pay.

- 1.9.1.3. Employees on FMLA/OFLA leave, for other than intermittent leave, may elect in writing at the onset of their leave to retain up to 40 hours of sick leave. Employees with leave accruals are not eligible for donated leave.
- 1.9.1.4. While on domestic violence leave, employees may choose to use other forms of paid leave prior to using sick leave. All leave accruals must be exhausted prior to leave without pay.
- 1.9.1.5. While on USERRA leave, employees may choose to use sick or vacation accruals prior to leave without pay.
- 1.9.1.6. For OFLA designations made during a public health emergency, if an employee has less than six months of service, they may not have access to accruals other than sick leave and should refer to Marion County Personnel Rules or their Collective Bargaining Agreement for more information.
- 1.9.1.7. If an employee has a designation under FMLA or OFLA, along with an approved claim through either Paid Leave Oregon or Marion County's voluntary short term disability benefit, they may elect to supplement their claim benefit with their personal accruals to bring them up to 100% of their gross wage. Gross wage is based on the employee's step within the Marion County Pay Plan. Statutorily required and elective deductions, including but not limited to taxes, insurance premiums, retirement deferrals, union dues, and other payroll deductions, will be withheld from paychecks resulting from accrual augmentation.
 - 1.9.1.7.1. If an employee elects to augment while receiving Paid Leave Oregon benefits, they must provide the HR Leave Administrator with a copy of the Report of Wages and Potential Benefit Amount letter they receive from Paid Leave Oregon, or the Oregon Employment Department, which shows their potential benefit amount.
 - 1.9.1.7.2. Employees with less than six months of service will only be able to augment their Paid Leave Oregon or short-term disability benefit with sick leave accruals, in accordance with Marion County Personnel Rules.
 - 1.9.1.7.3. Employees utilizing Marion County's voluntary short term disability benefit cannot supplement with sick leave accruals, in accordance with the disability benefit contract.

1.9.2. Health Care Benefits During Leave:

- 1.9.2.1. The employee is required to pay their regular contribution toward premiums.
- 1.9.2.2. While the employee is on an absence covered by FMLA,

SUBJECT: PROTECTED LEAVE

OFLA or PLO Marion County will continue health care coverage at the same rate as an active employee.

- 1.9.2.3. USERRA: For USERRA leave lasting 31 days or longer, if an employee is in a Stability Period under the Affordable Care Act, health coverage will continue through the end of the Stability Period.

1.10. Medical Release:

- 1.10.1. Prior to or upon returning from family medical leave taken for a personal health condition, the employee is required to provide a medical release to return to work, indicating that they are able to return to work and if there are any restrictions.

1.11. Reinstatement:

- 1.11.1. Employees returning from protected leave will be reinstated to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, unless their former positions have been eliminated for business reasons.
- 1.11.2. Employees who have worked for Marion County for at least 90 consecutive calendar days prior to an approved leave under PLO are entitled to the same restoration rights listed in 1.11.1.

- 1.12. All qualified protected leave must be reported on an employee's time sheet regardless if the leave is paid or unpaid.

- 1.13. FMLA and OFLA are not voluntary; it is mandatory when the employee and condition qualifies for protected leave.

- 1.14. PLO is voluntary and employees must contact the Oregon Employment Department to file a claim for paid leave, or to get help with their claim.

- 1.15. Employees applying for PLO must also contact the Marion County HR Leave Administrator to file for FMLA, as they are separate programs.

- 1.16. Exempt employees may be required to utilize accrued leave for intermittent protected leave, dependent on the type of leave designated; and they are required to record all hours taken as protected leave on their time sheet.

- 1.17. Failure to complete and submit required documentation or submitting insufficient documentation may result in denial of protected leave status.

- 1.18. Employees are responsible for the accuracy of the information they provide. Misrepresentation of the information provided could be subject to disciplinary action in accordance with Marion County Personnel Rules or Collective Bargaining Agreements.

2. EXCEPTIONS

There are no exceptions to this policy.

3. IMPLEMENTATION

Marion County Human Resources is responsible for implementing this policy.

Implementation includes training, advice, and assistance to management staff on the county's obligations under state and federal laws.

SUBJECT: PROTECTED LEAVE

4. PERIODIC REVIEW

ADOPTED 09/02

REVISED 11/09

04/12

01/14

12/17

09/20

03/21

02/22

08/23

7/24



ADMINISTRATIVE POLICIES

SECTION:	Human Resources	POLICY #:	305
TITLE:	Protected Leave	PROCEDURE #:	305-A
		ORDER #:	21-029
DEPT:	Human Resources	PROGRAM:	Benefits
ADOPTED:	09/02	REVIEWED:	REVISED: 8/23/24

PURPOSE: The purpose of this policy is to define the provisions and processes for eligible employees to take protected leave for qualifying medical and family circumstances. This policy is intended to comply with the federal and state laws regulating the leaves of absence.

AUTHORITY: The Marion County Board of Commissioners may establish rules and regulations in reference to managing the interest and business of the county under ORS 203.010, 203.035, 203.111 and 203.230.

The Marion County Board of Commissioners expresses the governing body’s official, organizational position on fundamental issues or specific repetitive situations through formally adopted, written policy statements. Policy statements serve to provide rules for public officials on the conduct of county business.

Marion County Administrative Policies and Procedures outline the methods through which the Board of Commissioners takes formal action on administrative policy. They are the official record of county administrative policy.

APPLICABILITY: All county employees.

GENERAL POLICY: Marion County provides protected leave for qualifying employees in the form of family, medical, domestic violence, and military leave in conformance with the following programs: Family and Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), Oregon Victims of Certain Crimes Leave Act (OVCCCLA), Oregon Military Family Leave Act (OMFLA), Paid Leave Oregon (PLO) and The Uniformed Services Employment and Reemployment Rights Act of 1994

SUBJECT: PROTECTED LEAVE

DEFINITIONS:

Bereavement Leave: Leave for the death of a family member in order to attend the funeral or alternative to a funeral of a family member; make arrangements necessitated by the death of a family member; or, for the process of grieving the loss of the family member.

Crime Victim: A person who has suffered financial, social, psychological, or physical harm as a result of a crime covered by OVCCA as defined in OAR 839-009-0340(4).

Exigency Leave (National Guard or Reserves):

1. For a short-notice deployment, meaning a call or order that is given no more than seven calendar days before deployment (the employee can take up to seven days beginning on the date of notification);
2. For military events and related activities, such as official military-sponsored ceremonies and family support and assistance programs sponsored by the military and related to the family member's call to duty;
3. For urgent (as opposed to recurring and routine) child-care and school activities, such as arranging for child care;
4. For financial and legal tasks, such as making or updating legal arrangements to deal with the family member's active duty;
5. For counseling for the employee or his/her minor child that is not already covered by the FMLA;
6. To spend time with the covered service member on rest and recuperation breaks during deployment, for up to five days per break;
7. For post-deployment activities such as arrival ceremonies and reintegration briefings or to address issues from the service member's death while on active duty; or,
8. For other purposes arising out of the call to duty, as agreed on by the employee and employer.

Family Member:

1. FMLA defines family members to include the employee's:
 - Spouse: The husband or wife of the employee. As defined in 29 CFR § 825.102, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the State in which the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a State that recognizes such marriages; or (2) if entered into outside of any State, is valid in the place where entered into and could have entered into in at least one State.
 - Parent: A biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a minor.
 - Child: A biological, adopted or foster child; a legal ward; or a child of a person standing in loco parentis, under the age of 18, or older if incapable of self-care because of mental or physical disability.
2. OFLA defines family members in ORS 659A.150(4) to include the employee's:

SUBJECT: PROTECTED LEAVE

- Spouse;
- Child or the child's spouse or domestic partner;
- Parent of the parent's spouse or domestic partner;
- Sibling or stepsibling or the sibling's or stepsibling's spouse or domestic partner;
- Grandparent or the grandparent's spouse or domestic partner;
- Grandchild or the grandchild's spouse or domestic partner;
- Domestic partner; or
- Any individual related by blood or affinity whose close association with an employee is the equivalent of a family relationship.

Parental Leave: ~~Leave taken upon the birth of a child, or placement of a child with the employee for adoption or foster care, and to bond with their child within the first 12 months beginning on the date of the birth or placement. OFLA provides leave during the year following the birth, of a child, adoption, foster placement of a child under 18 or a child 18 or older if incapable of self-care due to a mental or physical disability.~~ Parental leave may be taken in a continuous block, or intermittently.

Pregnancy Disability: FMLA and OFLA cover a variety of absences related to pregnancy ~~or~~ childbirth incapacity and routine prenatal visits to healthcare providers.

Public Health Emergency: A "public health emergency" means (i) a public health emergency declared under ORS 433.441 or (ii) an emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

Serious Health Condition: Illness, injury, impairment or other physical or mental condition that requires inpatient care, hospice, continuous treatment by a health care provider involving a period of incapacity, regular absence of more than 3 consecutive calendar days or a chronic, long term condition; absence to receive treatments including recovery period. ~~A~~ Serious health condition leave can be continuous, intermittent or require a reduced schedule.

Serious Injury or Illness in the Line of Duty: FMLA defines serious injury or illness that must have occurred or been aggravated while in the military; and, the veteran must be undergoing medical treatment, recuperation, or therapy for the serious injury or illness that occurred any time during the five years preceding the date of treatment. Leave can be designated for spouse, parent, child, or next of kin of current military personnel or veteran.

1. Service in the Uniformed Services: The performance of duty on a voluntary or involuntary basis in a uniformed service.
2. Uniformed Services: Consists of Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service; and any other category of persons designated by the President in time of war or emergency.

Sick Child Leave: OFLA allows ~~time off to any eligible employee whose child requires home-care for an illness or injury that is not a serious health condition.~~ leave taken to care for an employee's child under the age of 18 (or an adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104 (1)(a), (3), and (4) suffering

SUBJECT: PROTECTED LEAVE

from an illness, injury, or condition that requires home care. It includes leave to care for an employee's child whose school or childcare provider has been closed in conjunction with a statewide public health emergency declared by a public health official. Sick child leave is not for routine medical or dental appointments, ~~or due to lack of childcare or school closure unless due to a declared public health emergency.~~

Week: For purposes of protected leave, a week is the employee's normal workweek schedule. Marion County will count family medical leave from the first day of absence under the qualifying purpose.

Year: A period of 52 consecutive weeks beginning on the Sunday immediately preceding the first date of absence taken under protected leave. ~~For the purposes of protected leave, the 12-month period begins on the first day an employee begins protected leave. Marion County will count family medical leave from the first day of absence under the qualifying purpose.~~

POLICY GUIDELINES:

1. RESPONSIBILITIES

1.1. Federal and State Laws:

- 1.1.1. Family Medical Leave Act (FMLA): A federal law that provides unpaid protected leave (up to 12 weeks ~~or 480 hours~~) for serious health conditions of employees and their family members, the birth, adoption or foster care placement of a child, and leave time for pregnant employees to seek prenatal and postnatal care.
- 1.1.2. Oregon Family Medical Leave Act (OFLA): A state law that provides unpaid protected leave for the homecare of the employee's child (both serious and non-serious health conditions), as well as during school and childcare closures for declared public health emergencies, ~~serious health conditions of employees and their family members, the birth, adoption or foster care placement of a child,~~ bereavement leave, and ~~leave time for pregnant employees to seek prenatal and postnatal care~~ pregnancy disability. ~~The Oregon law is more comprehensive, allowing OFLA may allow~~ more than 12 weeks ~~or 480 hours~~ per year under certain conditions.
- 1.1.3. Victims of Certain Crimes Leave Act (OVCCLA): This act is an extension of the OFLA and provides leave for an employee who is the victim of domestic violence, harassment, sexual assault, or stalking; or is the parent or guardian of a minor child or dependent who is the victim of domestic violence, sexual assault, or stalking. Leave may be used to seek legal or law enforcement assistance, to seek remedies to ensure health and safety, to seek medical treatment for injuries or to recover from injuries, to obtain counseling, to seek other domestic violence services, to relocate or secure existing housing, or to attend criminal proceedings related to these circumstances.
- 1.1.4. Oregon Military Family Leave Act (OMFLA): This act is an extension of OFLA and provides up to 14 calendar days of leave per deployment for a spouse or ~~same-sex~~ domestic partner of a member of the Armed Forces of the United States, the National Guard, or the military reserve forces.

SUBJECT: PROTECTED LEAVE

1.1.5. Paid Leave Oregon (PLO) is a paid leave program, administered by Oregon Employment Department, allowing up to 12 weeks of paid leave per benefit year (up to 14 weeks for pregnancy related medical leave). In accordance with ORS 657B.150, all employers and eligible employees shall contribute to the Paid Family and Medical Leave Insurance Fund established by ORS 657B.430.

1.1.5.1. The total rate may not exceed the amount set by the laws governing PLO.

1.1.5.2. Employer contributions shall be paid in an amount that is equal to 40 percent of the total rate determined by the Oregon Employment Department Director.

1.1.5.3. An employer shall deduct employee contributions from the wages of each employee in an amount that is equal to 60 percent of the total rate determined by the Oregon Employment Department Director.

1.1.6. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects civilian job rights and benefits for veterans and members of reserve components.

1.2. Qualifying Purposes for Leave:

1.2.1. Marion County designates leave based on qualifying conditions. Employees who qualify may be designated for protected leave in the following situations:

1.2.1.1. When the employees' own serious health condition prevents them from performing the essential functions of their job.

1.2.1.2. The birth of a child or adoption of a child under the age of 18 (including the legal placement of a foster child under the age of 18).

1.2.1.3. Parental leave within 12 months of the event.

1.2.1.4. To care for a family member with a serious health condition as defined by ~~OFLA or FMLA~~ protected leave statutes.

1.2.1.5. To provide home care for a child under the age of 18 with a non-serious health condition ~~(OFLA Sick Child Leave)~~.

1.2.1.6. Bereavement Leave, ~~(OFLA Only)~~

1.2.1.7. To care for a spouse, parent, child, or next of kin who is a covered service member or veteran. The covered service member or veteran must have a serious injury or illness incurred or aggravated while on active duty (leave must begin within five (5) years of the veteran leaving military service).

1.2.1.8. For an exigency leave related to a spouse, child, or parent of a covered service member who is on active duty, called to active duty, and during leave from deployment.

1.2.1.9. To seek legal assistance, medical treatment, counseling, or to relocate or secure an existing residence when the employee is a victim of a crime covered by OVCCLA; or the parent or guardian of a minor child or dependent who is the victim of a crime covered by OVCCLA.

1.2.1.10. To attend a criminal proceeding as a victim of a crime covered by OVCCLA; or the parent or guardian of a minor child or dependent

SUBJECT: PROTECTED LEAVE

who is the victim of a crime covered by OVCCCLA.

1.2.1.11. In accordance with USERRA, leave for uniformed service.

~~1.2.1.12.~~

~~1.2.1.12.~~ Marion County does not designate PLO claims, for more information about PLO claims contact the Oregon Employment Department.

~~1.2.1.13. From July 1, 2024 through January 1, 2025, OFLA will also provide up to two additional weeks of leave to facilitate the legal processes required for placement of a foster child or adoption.~~

1.3. Eligible Employees:

1.3.1. Eligible employees under the Oregon Family Leave Act (OFLA) are:

1.3.1.1. ~~Full-time or part-time employees~~ Any employee who meets the qualifying purposes for leave and the following criteria:

1.3.1.1.1. Have been employed by Marion County for at least 180 days ~~(26 weeks) or more~~ before the first day of the protected leave; and, ~~have~~ has worked an average of 25 or more hours per week for Marion County ~~as of the day before the request for leave is made.~~ preceding the date on which leave would commence. This average will be calculated over the 180 days preceding the request for leave.

1.3.1.1.1.1 Employees who separate from employment with Marion County and are reemployed by Marion County within 180 days of separation are immediately eligible to take OFLA leave if they were eligible for OFLA leave at the time of their separation. 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.

1.3.1.1.1.2 Employees who separate from employment with Marion County and are reemployed by Marion County within 180 days of separation and were not eligible for OFLA leave at the time of their separation will receive credit for the time worked prior to their break in service for the purpose of establishing eligibility.

~~1.3.1.1.2. For the purpose of taking leave in the event of the birth or adoption of a child, or the legal placement of a foster child, an employee does not need to meet the hours requirement.~~

~~1.3.1.1.3.~~ 1.3.1.1.2. For leave related to a spouse being called to active duty, the employee must have worked an average of 20 or more hours per week for Marion County.

~~1.3.1.1.4.~~ 1.3.1.1.3. Employees who are victims of or at risk of domestic violence, sexual assault, or stalking, regardless of how long he or she has worked for

SUBJECT: PROTECTED LEAVE

Marion County and regardless of how many hours per week the employee works.

- 1.3.1.2. During a public health emergency, employees who have completed 30 days of employment and have worked an average of at least 25 hours a week for the 30 days immediately before the date on which the family leave would commence are eligible to apply for leave for any of the qualifying reasons specified in ORS 659A.159(1)(a) to (e).
- 1.3.2. Eligible Employees under FMLA have been employed by Marion County for a total of at least 12 months (does not need to be consecutive) and have worked at least 1,250 hours during the 12- month period immediately preceding the family medical leave.
- 1.3.3. As described in ORS 657B.060(7), Employees who qualify for PLO through the Oregon Employment Department must be employed with Marion County for 90 days preceding their leave in order for the leave to be protected leave.
- 1.4. Request for Protected Leave:
 - 1.4.1. Request and notifications for leave should be made in accordance with Protected Leave Procedures 305-A.
 - 1.4.2. Anticipated situations:
 - 1.4.2.1. In situations where the need for protected leave is known, employees are expected to give 30 days' advanced notice to take protected leave.
 - 1.4.2.2. If the anticipated leave is known less than 30 days in advance, employees must give notice as soon as practicable.
 - 1.4.2.3. Upon notice, the county will provide the employee with a Protected Leave Request Form. All employees are required to complete a Protected Leave Request Form and submit the completed certification prior to the commencement of protected leave.
 - 1.4.2.4. An employee who intends to take leave to attend a criminal proceeding must give reasonable notice of the impending leave once the employee has received official notice of the proceeding.
 - 1.4.2.5. An employee who intends to take domestic violence-related leave must give reasonable notice of the impending leave unless giving advance notice is not feasible (see Section 1.4.3).
 - 1.4.2.6. Unless giving notice is impossible or precluded by military necessity, an employee who intends to take military-related leave must give notice within five business days of receiving official notice of an impending call or order to active duty, or of a leave from deployment.
 - 1.4.2.7. PLO requires employees to give 30 days' notice for anticipated situations.
 - 1.4.2.7.1 Employees who do not provide 30 days' notice may have their first weekly PLO benefit reduced by the Employment Department.
 - 1.4.3. Unanticipated Situations:
 - 1.4.3.1. In an unanticipated or emergency situation in which there is no opportunity to give notice, employees must notify their supervisor verbally within two working days of the emergency situation. The required paperwork must be completed and returned as soon as is practicable. Notice may be provided by a family member or other

SUBJECT: PROTECTED LEAVE

individual when an employee is unable to provide notice.

1.4.3.2. PLO requires employees to give verbal notice to their employer within 24 hours of starting unanticipated leave, and to provide written notice within three days.

1.4.3.2.1. Employees who do not provide verbal notice within 24 hours of starting unanticipated leave, and fail to provide written notice within three days may have their first weekly PLO benefit reduced by the Employment Department.

1.5. Certification/Designation:

1.5.1. Certification of Need: A certification of the need for protected leave may be required. This requirement is specific to leaves under county-administered protected leave programs. For information on PLO certification requirements, please contact Oregon Employment Department for guidance.

1.5.1.1. In the event of a serious health condition of an employee or that of a family member, certification must be provided by a medical professional on the applicable certification form within 15 calendar days of the request for family medical leave. Failure to provide required medical certification may delay the start of family medical leave or may cause the denial of family medical leave. The employee may be required to furnish the county with periodic recertification as frequently as every 30 days.

1.5.1.2. In the event of a request for parental leave to care for a newly adopted child or a newly placed foster child, the employee may be required to provide verification from the agency representative regarding the adoption or placement of the child.

1.5.1.3. In the event of a request for domestic violence-related leave, the employee may be required to certify that he/she qualifies for leave and that the leave is to be taken for an authorized purpose.

1.5.1.4. In the event of a request for leave to attend criminal proceedings, the employee may be required to provide copies of the notice of the scheduled proceedings.

1.6. Intermittent or Reduced Schedule:

1.6.1. When medically necessary, protected leave may be taken on an intermittent or reduced schedule. Details of the proposed schedule must be verified by the certifying medical professional on the applicable certification form.

1.6.2. Employees who have received a designation of intermittent protected leave must comply with the sick leave notification policy in effect in his or her division or department. Failure to do so may result in disciplinary action.

~~1.6.3. Intermittent leave or a reduced schedule is not allowed upon the birth or adoption of a child, except to accommodate the required legal process leading to the adoption of a child or the placement of a foster child.~~

1.7. Employer Designations:

1.7.1. Marion County will designate leaves of absence as covered under FMLA and OFLA, even when not requested by the employee, if the employee is eligible and the reason for the absence is a qualifying purpose under one or both of the laws.

1.7.2. Marion County does not approve claims for paid leave via PLO. Oregon Employment Department handles all PLO claim reviews.

SUBJECT: PROTECTED LEAVE

1.8. Concurrent Designations:

1.8.1. When the qualifying purpose of ~~the~~ leave is covered under ~~FMLA, OFLA and PLO~~ more than one protected leave program, the leave will be designated concurrently toward the time allowed under each applicable law.

1.8.2. Leaves potentially covered under workers' compensation will be provisionally designated under ~~both~~ FMLA ~~and~~ OFLA if the absence is for a qualifying purpose under the applicable laws. If a workers' compensation claim is found to be compensable, the designation will be withdrawn, and the leave taken will not count toward the employee's available leave under FMLA ~~or~~ OFLA.

1.8.2.1.8.3. Leave taken under OFLA cannot be taken concurrently with leave under PLO, and vice versa.

1.9. General Provisions:

1.9.1. Use of Accrued Leave:

1.9.1.1. While on FMLA/OFLA leave for a personal serious health condition (including pregnancy disability leave), employees must use sick leave first, then vacation, and then may use other forms of leave prior to leave without pay.

1.9.1.2. While on FMLA/OFLA leave for the serious health condition of a family member or for parental leave ~~(not to be confused with pregnancy disability)~~, employees may choose to use other forms of paid leave prior to using sick leave. All leave accruals must be exhausted prior to leave without pay.

1.9.1.3. Employees on FMLA/OFLA leave, for other than intermittent leave, may elect in writing at the onset of their leave to retain up to 40 hours of sick leave. Employees with leave accruals are not eligible for donated leave.

1.9.1.4. While on domestic violence leave, employees may choose to use other forms of paid leave prior to using sick leave. All leave accruals must be exhausted prior to leave without pay.

1.9.1.5. While on USERRA leave, employees may choose to use sick or vacation accruals prior to leave without pay.

1.9.1.6. For OFLA designations made during a public health emergency, if an employee has less than six months of service, they may not have access to accruals other than sick leave and should refer to Marion County Personnel Rules or their Collective Bargaining Agreement for more information.

1.9.1.7. If an employee has a designation under FMLA or OFLA, along with an approved claim through either Paid Leave Oregon or Marion County's voluntary short term disability benefit, they may elect to supplement their claim benefit with their personal accruals to bring them up to 100% of their ~~net-gross~~ Net Gross wage is based on the employee's step within the Marion County Pay Plan ~~and the employee's Full-Time Equivalent (FTE), minus statutorily required and elective deductions.~~ includes including but ~~are~~ not limited to taxes, insurance premiums, retirement deferrals, union dues, and other payroll deductions, will be withheld from paychecks resulting from accrual augmentation.

SUBJECT: PROTECTED LEAVE

- 1.9.1.7.1. If an employee elects to augment while receiving Paid Leave Oregon benefits, they must provide the HR Leave Administrator with a copy of the Report of Wages and Potential Benefit Amount approval letter they receive from Paid Leave Oregon, or the Oregon Employment Department, which shows their potential benefit amount.
 - 1.9.1.7.2. Employees with less than six-months of service will only be able to augment their Paid Leave Oregon or short term disability benefit with sick leave accruals, ~~and personal holidays~~, in accordance with Marion County Personnel Rules.
 - 1.9.1.7.3. Employees utilizing Marion County's voluntary short term disability benefit cannot supplement with sick leave accruals, in accordance with the disability benefit contract.
- 1.9.2. Health Care Benefits During Leave:
- 1.9.2.1. The employee is required to pay their regular contribution toward premiums.
 - 1.9.2.2. While the employee is on an absence covered by FMLA, OFLA or PLO Marion County will continue health care coverage at the same rate as an active employee.
 - 1.9.2.3. USERRA: For USERRA leave lasting 31 days or longer, if an employee is in a Stability Period under the Affordable Care Act, health coverage will continue through the end of the Stability Period.
- 1.10. Medical Release:
- 1.10.1. Prior to or upon returning from family medical leave taken for a personal health condition, the employee is required to provide a medical release to return to work, indicating that they are able to return to work and if there are any restrictions.
- 1.11. Reinstatement:
- 1.11.1. Employees returning from protected leave will be reinstated to the same or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment; unless their former positions have been eliminated for business reasons.
 - 1.11.2. Employees who have worked for Marion County for at least 90 consecutive calendar days prior to an approved leave under PLO are entitled to the same restoration rights listed in 1.11.1.
- 1.12. All qualified protected leave must be reported on an employee's time sheet regardless if the leave is paid or unpaid.
- 1.13. FMLA and OFLA are not voluntary; it is mandatory when the employee and condition qualifies for protected leave.
- 1.14. PLO is voluntary and employees must contact the Oregon Employment Department to file a claim for paid leave, or to get help with their claim.
- 1.15. Employees applying for PLO must also contact the Marion County HR Leave

SUBJECT: PROTECTED LEAVE

Administrator to file for FMLA ~~and OFLA~~, as they are separate programs.

- 1.16. Exempt employees may be required to utilize accrued leave for intermittent protected leave, dependent on the type of leave designated; and they are required to record all hours taken as protected leave on their time sheet.
- 1.17. Failure to complete and submit required documentation or submitting insufficient documentation may result in denial of protected leave status.
- 1.18. Employees are responsible for the accuracy of the information they provide. Misrepresentation of the information provided could be subject to disciplinary action in accordance with Marion County Personnel Rules or Collective Bargaining Agreements.

2. EXCEPTIONS

There are no exceptions to this policy.

3. IMPLEMENTATION

Marion County Human Resources is responsible for implementing this policy. Implementation includes training, advice, and assistance to management staff on the county's obligations under state and federal laws.

4. PERIODIC REVIEW

ADOPTED 09/02

REVISED 11/09

04/12

01/14

12/17

09/20

03/21

02/22

08/23

7/24



ADMINISTRATIVE PROCEDURES

TITLE: Protected Leave	PROCEDURE #: 305-A
DEPT: Human Resources	PROGRAM: Benefits
EFFECTIVE: 11/05	REVIEWED: REVISED: 7/24

OBJECTIVE: To establish procedures for administering the county’s protected leave program.

REFERENCE: Policy # 305

POLICY STATEMENT: Marion County provides protected leave for qualifying employees in the form of family, medical, domestic violence, and military leave in conformance with the Family and Medical Leave Act (FMLA), Oregon Family Medical Leave Act (OFLA), Oregon Victims of Certain Crimes Leave Act (OVCCCLA), Oregon Military Family Leave Act (OMFLA), Paid Leave Oregon (PLO) and The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

APPLICABILITY: All county employees.

PROCEDURES:

1. These procedures cover most situations for which Marion County designates protected leave. For assistance regarding specific situations or to access leave related forms, contact Marion County Human Resources.
2. Marion County does not designate or approve claims for Paid Leave Oregon.
3. Marion County designates protected leaves based on qualifying conditions, regardless of whether the employee has leave accruals to cover the absence or whether the employee requests protected leave.
4. Initiating Protected Leave:
 - 4.1. Any foreseen or unforeseen absence may signify a situation that qualifies an employee under the protected leave policy. Policy 305, Section 1.2 outlines qualifying conditions for protected leave status.
 - 4.2. Initiation of protected leave status eligibility may be requested by:
 - 4.2.1. Human Resources;
 - 4.2.2. Employee involved in the absence(s), or employee’s designee; or
 - 4.2.3. Department representative or supervisor where employee is assigned.

5. Determining Protected Leave Eligibility:

- 5.1. The leave administrator will provide a packet to the employee within five working days of request for eligibility determination or circumstance.
- 5.2. The forms included will be based on the circumstances for which eligibility is being determined.
- 5.3. Components of an employee packet for determining protected leave eligibility may include some of, but is not limited to, the following:
 - 5.3.1. Cover letter explaining the employee's rights and responsibilities
 - 5.3.2. Notice of rights and responsibilities
 - 5.3.3. Administrative Policy 305
 - 5.3.4. Protected Leave Request Form with HIPAA Release
 - 5.3.5. Certification of Health Care Provider, Kaiser ROI Form or Certification of Exigency Form
 - 5.3.6. Sick Leave Retention Request Form
 - 5.3.7. Medical Release to Return to Work Form
 - 5.3.8. PLO Compensation Acknowledgement Form
 - 5.3.9. STD Compensation Acknowledgement Form

6. Submission of Documentation:

- 6.1. If medical certification, or other supporting documentation, has been requested the employee is required to complete and return documentation to the leave administrator within 15 calendar days of the date of the letter included in the packet.
- 6.2. Employees who are receiving Paid Leave Oregon benefits are required to turn in a PLO Compensation Acknowledgement Form to the HR Leave Administrator. This form is used to accept or decline supplementing your PLO benefit with your personal accruals.
 - 6.2.1. Employees who have applied for Paid Leave Oregon benefits and wish to supplement with their personal accruals, must provide a copy of the "Report of Wages and Potential Benefit Amount" letter they receive from Paid Leave Oregon which shows their benefit amount to the HR Leave Administrator.
- 6.3. Employees who are receiving Marion County sponsored short-term disability (STD) benefits are required to turn in a STD Compensation Acknowledgement Form to the HR Leave Administrator. This form is used to accept or decline supplementing your STD benefit with your personal accruals.
- 6.4. In the event of a personal medical injury in which the employee would be unable to complete the necessary forms, the employee's designee may complete the forms.
- 6.5. Upon receiving and reviewing the required and completed documents, the leave administrator will proceed with their review.

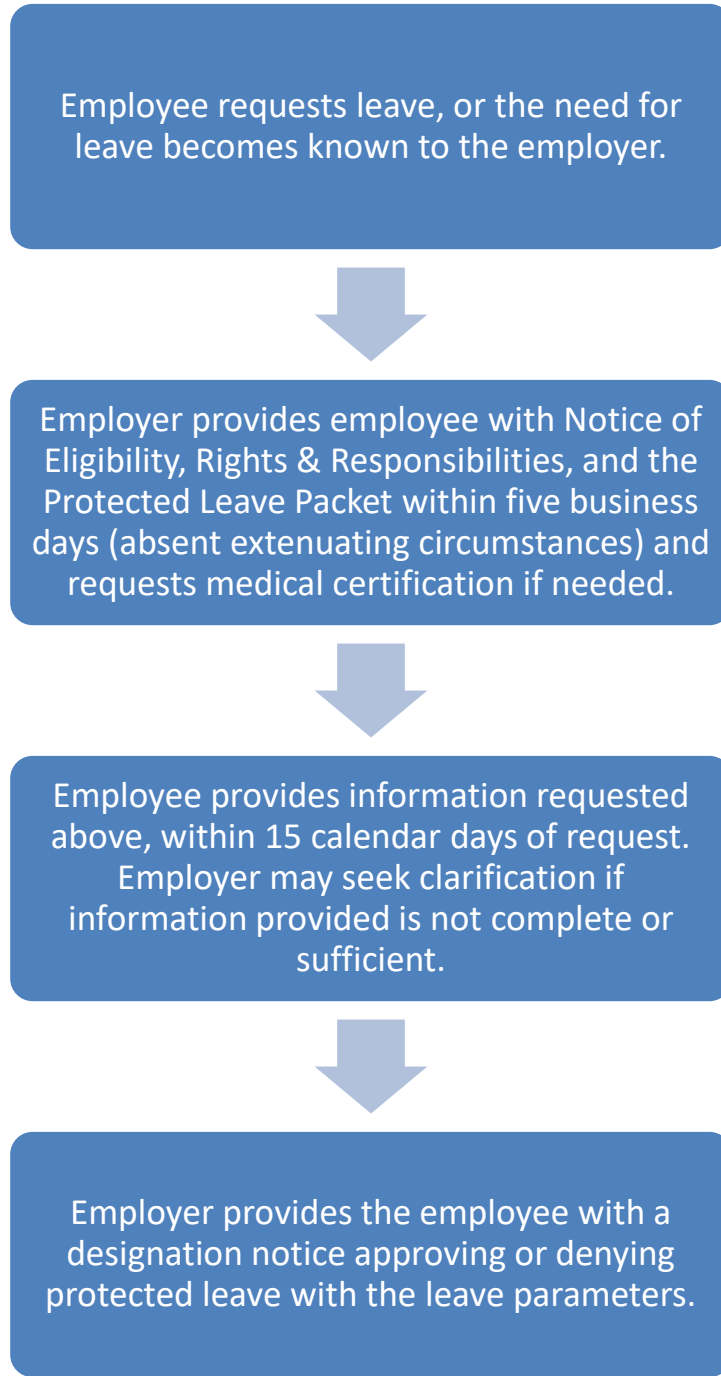
7. Protected Leave Status Designation:

- 7.1. The designation of leave will be determined by the leave administrator within five working days after receipt of completed documentation.
- 7.2. The leave administrator will notify the employee of the designation of leave and its parameters.
- 7.3. If approval is granted, the employee will work with the leave administrator, department representative, or supervisor to track protected leave hours and provide updated documentation as appropriate.

ATTACHMENT A

Overview of the Protected Leave Process by Qualifying Purposes for Leave

The information below is a general overview of the protected leave process. For complete information related to your specific situations, contact the HR Leave Administrator (503) 566-3999 or your HR business partner.





ADMINISTRATIVE PROCEDURES

TITLE: Protected Leave	PROCEDURE #: 305-A	
DEPT: Human Resources	PROGRAM: Benefits	
EFFECTIVE: 11/05	REVIEWED:	REVISED: 8/23/24

OBJECTIVE: To establish procedures for administering the county's protected leave program.

REFERENCE: Policy # 305

POLICY STATEMENT: Marion County provides protected leave for qualifying employees in the form of family, medical, domestic violence, and military leave in conformance with the Family and Medical Leave Act (FMLA), Oregon Family Medical Leave Act (OFLA), Oregon Victims of Certain Crimes Leave Act (OVCCCLA), Oregon Military Family Leave Act (OMFLA), Paid Leave Oregon (PLO) and The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

APPLICABILITY: All county employees.

PROCEDURES:

1. These procedures cover most situations for which Marion County designates protected leave. For assistance regarding specific situations or to access leave related forms, contact Marion County Human Resources.
2. Marion County does not designate or approve claims for Paid Leave Oregon.
3. Marion County designates protected leaves based on qualifying conditions, regardless of whether the employee has leave accruals to cover the absence or whether the employee requests protected leave.
4. Initiating Protected Leave:
 - 4.1. Any foreseen or unforeseen absence may signify a situation that qualifies an employee under the protected leave policy. Policy 305, Section 1.2 outlines qualifying conditions for protected leave status.
 - 4.2. Initiation of protected leave status eligibility may be requested by:
 - 4.2.1. Human Resources;
 - 4.2.2. Employee involved in the absence(s), or employee's designee; or
 - 4.2.3. Department representative or supervisor where employee is assigned.

5. Determining Protected Leave Eligibility:

- 5.1. The leave administrator will provide a packet to the employee within five working days of request for eligibility determination or circumstance.
- 5.2. The forms included will be based on the circumstances for which eligibility is being determined.
- 5.3. Components of an employee packet for determining protected leave eligibility may include some of, but is not limited to, the following:
 - 5.3.1. Cover letter explaining the employee's rights and responsibilities
 - 5.3.2. Notice of rights and responsibilities
 - 5.3.3. Administrative Policy 305
 - 5.3.4. Protected Leave Request Form with HIPAA Release
 - 5.3.5. Certification of Health Care Provider, Kaiser ROI Form or Certification of Exigency Form
 - 5.3.6. Sick Leave Retention Request Form
 - 5.3.7. Medical Release to Return to Work Form
 - 5.3.8. PLO Compensation Acknowledgement Form
 - 5.3.9. STD Compensation Acknowledgement Form

6. Submission of Documentation:

- 6.1. If medical certification, or other supporting documentation, has been requested the employee is required to complete and return documentation to the leave administrator within 15 calendar days of the date of the letter included in the packet.
- 6.2. Employees who are receiving Paid Leave Oregon benefits are required to turn in a PLO Compensation Acknowledgement Form to the HR Leave Administrator. This form is used to accept or decline supplementing your PLO benefit with your personal accruals.
 - 6.2.1. Employees who are ~~receiving~~ have applied for Paid Leave Oregon benefits and wish to supplement with their personal accruals, must provide a copy of the ~~approval-~~ "Report of Wages and Potential Benefit Amount" letter they receive from Paid Leave Oregon, ~~or the Oregon Employment Department,~~ which shows their benefit amount to the HR Leave Administrator.
- 6.3. Employees who are receiving Marion County sponsored short-term disability (STD) benefits are required to turn in a STD Compensation Acknowledgement Form to the HR Leave Administrator. This form is used to accept or decline supplementing your STD benefit with your personal accruals.
- 6.4. In the event of a personal medical injury in which the employee would be unable to complete the necessary forms, the employee's designee may complete the forms.
- 6.5. Upon receiving and reviewing the required and completed documents, the leave administrator will proceed with their review.

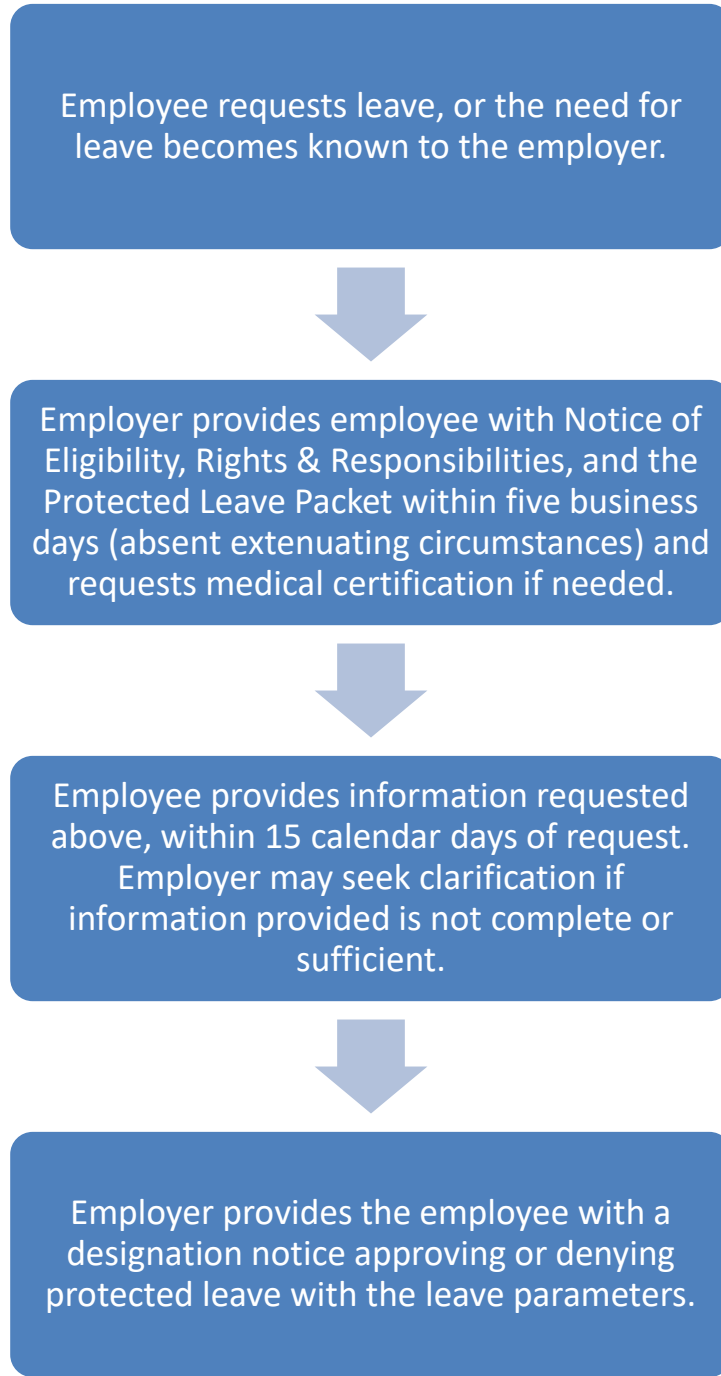
7. Protected Leave Status Designation:

- 7.1. The designation of leave will be determined by the leave administrator within five working days after receipt of completed documentation.
- 7.2. The leave administrator will notify the employee of the designation of leave and its parameters.
- 7.3. If approval is granted, the employee will work with the leave administrator, department representative, or supervisor to track protected leave hours and provide updated documentation as appropriate.

ATTACHMENT A

Overview of the Protected Leave Process by Qualifying Purposes for Leave

The information below is a general overview of the protected leave process. For complete information related to your specific situations, contact the HR leave administrator (503) 566-3999 or your HR business partner.



Enrolled
Senate Bill 1515

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Labor and Business)

CHAPTER

AN ACT

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 employee 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 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 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, 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” [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 period 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 em-

ployee 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 avail-

able 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 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.

EFFECTIVE DATE

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.

Passed by Senate February 14, 2024

.....
Obadiah Rutledge, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House February 27, 2024

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

.....
LaVonne Griffin-Valade, Secretary of State