

HB 881 -- MISSOURI EARNED FAMILY AND MEDICAL LEAVE ACT

SPONSOR: McCreery

This bill establishes the "Missouri Earned Family and Medical Leave Act." Beginning January 1, 2021, all employed Missouri residents will be required to pay .25% of their average weekly pay into the program, which will be used to provide up to six weeks of wage replacement benefits per year to employees taking time off for family or medical leave.

Program benefits can be reduced if there are insufficient resources in the fund. Amounts contributed to the fund may be deducted from the individual's adjusted gross income. The term "family or medical leave" is defined to include leave due to the employee's serious health condition, leave to care for a family member with a serious health condition, leave to bond with a minor child after birth or adoption, and leave to assume any familial responsibility when a spouse, child, or parent is on or called to active duty.

The Department of Labor and Industrial Relations will be in charge of administering and implementing this program. No employee shall receive benefits from the fund until January 1, 2021. After that date employees may file a claim for benefits under the program as long as it is within 41 days of the first compensable day of leave, unless extended for good cause. However, an employee is not eligible for benefits on any day he or she is eligible for unemployment compensation or workers' compensation benefits. Leave taken under this program will be concurrent with leave the employee is entitled to under the federal Family and Medical Leave Act. The bill specifies what information the employee must provide to establish eligibility for leave, including medical evidence of the serious health condition of the employee or family member. If the need for leave is foreseeable, an employee must provide at least 30 days' notice to his or her employer prior to taking the leave.

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

It will be unlawful to fire or discriminate against an employee if that employee claims or receives benefits under the program; any person doing so will be liable to that employee for actual damages and an additional amount as liquidated damages. The affected

employee may also seek equitable relief including reinstatement and the court may also require the employer to pay reasonable attorney's fees. The department can also bring an action seeking relief on behalf of an employee. Any such actions must be filed not later than three years from the date of the alleged violation.

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

The bill creates the "Missouri Earned Family and Medical Leave Fund" in the State Treasury. The State Treasurer shall be the custodian of the fund. The fund shall be a dedicated fund with its moneys used solely by the Department of Labor and Industrial Relations to distribute the Missouri Earned Family and Medical Leave Act program benefits.

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

This bill is similar to HB 1956 (2018).