

HB 2597 -- EARNED FAMILY LEAVE ACT

SPONSOR: Walsh Moore

This bill establishes the "Missouri Earned Family and Medical Leave Act". The bill specifies that all employees who are not independent contractors are eligible for up to six weeks each year of wage replacement benefits for any of the following reasons:

- (1) To bond with a minor child within the first year of birth or placement in connection with foster care or adoption;
- (2) To care for a family member with a serious health condition as defined in the bill;
- (3) To tend to one's own serious health condition; or
- (4) To assume any familial responsibility because a spouse, child, or parent of an employee is on, or has been notified of an impending call to, active duty in the Armed Forces.

The bill makes an employee eligible for benefits equal to 100% of his or her average weekly pay for each full week taken for family or medical leave. However, an employee's average weekly wage may not be higher than the average state weekly wage, as defined in the bill. An employee may take partial weeks of leave but will only receive benefits equal to the fraction of the number of days of leave taken divided by the number of the days that the employee would have otherwise worked. An employee may additionally only take leave in full-day increments. An employee has 41 consecutive days following the first day on which he or she begins to take family or medical leave to file a claim for benefits with the Department of Labor and Industrial Relations. Furthermore, employees may not receive benefits until they have contributed to the Missouri Earned Family and Medical Leave Fund for at least 52 weeks. An employee may not receive benefits on any day for which he or she is eligible to receive unemployment or Workers' Compensation benefits. Leave taken under this Act must be taken concurrently with leave taken under the federal Family Medical Leave Act.

Employees establish eligibility for each leave period by filing a first claim for benefits for one of three different situations specified in the bill, which also includes requirements for the different forms of proof. The Department must develop a separate form for an employee taking leave to bond with a minor child. The bill also provides forms of proof for treatment occurring outside Missouri and to supplement any claim. Employees must provide at least 30 days of notice if the need for leave is foreseeable.

Employees are entitled to appeal a determination of eligibility by the Department to the Administrative Hearing Commission. A decision by the Commission may be appealed to a court of competent jurisdiction. An employee is not entitled to appeal a determination of the amount of benefits received but may request a redetermination by the Department within one year of the initial determination.

The bill makes it unlawful for an employer to discriminate against an employee because he or she filed a claim for, indicated an intent to file a claim for, or has received Missouri Earned Family and Medical Leave benefits. Complaints may be filed by either the employee or the Department. In the event that the Department files a complaint, the employee is barred from bringing his or her own action. In any event, a discrimination claim must be brought within three years. The bill provides for the Department to develop and implement an outreach program to make employees aware of their rights, duties, and responsibilities. The State Auditor is required to complete an audit of the program and submit the report to the General Assembly no later than January 2, 2031.

The bill creates the "Missouri Earned Family and Medical Leave Fund" which is funded through employee collections. An employee is required to contribute .025% of his or her average weekly pay to the Fund, provided that the total wages used to compute the contribution rate shall not exceed the contribution and benefit base used to calculate Social Security taxes. If, at the discretion of the Department Director there are not sufficient resources in the Fund to satisfy all claims, the Director is permitted to reduce the benefit amount each employee will receive. Contributions to the program will begin January 1, 2025, but no employee may receive benefits until January 1, 2028. All employee contributions are pre-taxed and not considered part of adjusted gross income.

The provisions of this bill sunset on December 31, six years after the effective date. The bill contains a referendum clause to be presented to the voters at the 2024 General Election.

This bill is similar to HB 1126 (2023) and HB 2822 (2022).