

HB 2806 -- MISSOURI FAMILY LEAVE ACT

SPONSOR: Newman

This bill establishes the "Missouri Family Leave Act." This program is authorized to provide up to six weeks of wage replacement benefits to employees who take time off work to care for a family member with a serious health condition or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

The Department of Labor and Industrial Relations must administer and implement the program and pay Missouri family leave benefits as specified in these provisions.

A maximum of six weeks of Missouri family leave benefits can be paid within any 12 month period.

An individual is not eligible for Missouri family leave program benefits for any day that they receive any unemployment, disability, or workers compensation benefits; or disability insurance benefits.

An individual who is entitled to leave under the Family and Medical Leave Act (FMLA) must take Missouri family leave concurrent with leave taken under the FMLA. The first payment of Missouri family leave benefits must be made to an individual within two weeks after the completed claim is received or the family leave began, whichever is later, and subsequent payments must be made biweekly thereafter.

The department must develop a certificate form for bonding that is separate and distinct from the certificate required for medical eligibility for an employee taking leave to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption.

The department may request additional medical evidence to supplement the first or any continued claim. Any cost incurred for procuring additional medical evidence must be paid by the employer.

Except as otherwise provided, an individual may file a notice of appeal from any determination or redetermination made by the department by mail or in person within 30 days after the date the individual received a copy of the department's decision. Upon receipt of the notice of appeal, the department must request the assignment of an administrative law judge to conduct a hearing and issue a proposed decision and order. The administrative law judge's proposed decision and order must be final and not subject

to further appeal, unless within 30 days after the decision is served on the interested parties, a party files a petition for judicial review. If upon judicial review the final decision of the department is reversed or modified, the court in its discretion may award the prevailing party, other than the department, reasonable attorneys' fees and costs. Attorneys' fees and costs owed by the department, if any, is payable from employer contributions collected.

A determination of amount of benefits potentially payable must not serve as a basis for appeal, however, the determination must be subject to request by the individual on family leave for redetermination by the department at any time within one year from the date of delivery or mailing of the determination, or any redetermination thereof. A redetermination must be furnished to the individual in writing and provide the basis for appeal.

It is unlawful for any person to discharge or in any other manner discriminate against an individual because the individual has applied for, indicated an intent to apply for, or received Missouri family leave benefits.

The bill specifies when the right to bring an action by or on behalf of any individual must terminate.

The department may bring an action in any court of competent jurisdiction to recover the damages and any sums recovered by the department must be held in a special deposit account and must be paid, on order of the department, directly to each individual affected.

The circuit courts have jurisdiction, for cause shown, in an action brought by the department to restrain violations of these provisions, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to an individual, or to award such other equitable relief as may be appropriate including employment, reinstatement, and promotion.

The department is required to develop and implement an outreach program to ensure that individuals who may be eligible to receive Missouri family leave benefits are made aware of the benefits. Outreach information must easily explain eligibility requirements, the claims process, weekly benefit amounts, maximum benefits payable, notice and medical certification requirements, reinstatement and nondiscrimination rights, confidentiality, and the relationship between employment protection, leave from employment, wage replacement benefits, and other laws, collective bargaining agreements, and employer policies.

No later than three years after the effective date of these provisions, the State Auditor must submit to the General Assembly a report on the Missouri family leave benefits paid for any month during the one-year period beginning on the effective date. The bill specifies information the report must include.

In order to provide funding to implement the provisions of these provisions, each employer that is liable for contributions must have an additional surcharge of .008% added to the employer's contribution rate calculated under Section 288.120, RSMo.

This bill is similar to HB 1161 (2015).