

HB 2822 -- MISSOURI EARNED FAMILY AND MEDICAL LEAVE ACT

SPONSOR: Walsh Moore (93)

This bill establishes the "Missouri Earned Family and Medical Leave Act".

This bill specifies that, all employees who are not independent contractors are eligible to receive 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;
- (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.

This bill specifies that, an employee is 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 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, an employee 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 they are 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 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. Courts hearing such complaints may grant injunctive, equitable, or compensatory relief to employees. Complaints may be filed by either the employee or the Department. In the event that the Department files a complaint, the employee is thereafter barred from bringing his or her own action. In any event, a discrimination claim shall 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 within three years of the effective date of Sections 285.400 to 285.440, RSMo and submit the report to the General Assembly.

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, 2023, but no employee may receive benefits until January 1, 2025. All employee contributions are pre-taxed and not considered part of the adjusted gross income.

The provisions of this bill sunset on December 31, 2028.

The bill contains a referendum clause to be presented to the voters at the 2022 General Election.

This bill is similar to HB 2222 (2022); SB 729 (2022).