

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 260 (Senator Washington, *et al.*)
 Finance

Labor and Employment - Leave With Pay - Bereavement Leave (Family Bereavement Act)

This bill expands Maryland’s Flexible Leave Act by authorizing employees of certain employers (those with at least 15 employees) to use earned paid leave for bereavement leave. An employee is allowed to use bereavement leave for the death of the employee’s immediate family member or the employee’s pet.

Fiscal Summary

State Effect: General fund expenditures increase by \$161,000 in FY 2021. Out-year expenditures reflect annualization and the elimination of contractual staff and one-time start-up costs. The bill does not apply to the State as an employer; it pertains exclusively to private-sector employers. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	161,000	186,500	190,700	155,900	161,100
Net Effect	(\$161,000)	(\$186,500)	(\$190,700)	(\$155,900)	(\$161,100)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. The bill pertains exclusively to private-sector employers.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Under the Maryland Flexible Leave Act, a private-sector employer who provides paid leave to its employees must allow an employee to use earned paid leave to

care for immediate family members, including a child, spouse, or parent, with an illness. An employer is prohibited from taking action against an employee who exercises the rights granted or against an employee who files a complaint, testifies against, or assists in an action brought against the employer for a violation of these provisions.

An employer is considered a person that employs 15 or more individuals and is engaged in a business, industry, profession, trade, or other enterprise in the State, including a person that acts directly or indirectly in the interest of another employer. State and local governments are not included.

Employees who earn more than one type of paid leave from their employers may elect the type and amount of paid leave to be used in caring for their immediate family members.

State Expenditures: The bill creates additional responsibilities for the Division of Labor and Industry within the Maryland Department of Labor (MDL) by expanding the Maryland Flexible Leave Act to allow employees to take bereavement leave, including leave for the death of a pet. MDL anticipates bereavement leave for pets will be challenging to enforce due to varying definitions of “pets,” documenting a pet’s death, and demonstrating a pet’s relation to the employee. MDL cannot absorb the additional workload within existing resources and requires additional staff to respond to the increase in inquiries and complaints prompted by the bill.

MDL anticipates approximately 200 complaints annually and, therefore, anticipates needing one wage and hour investigator and one contractual wage and hour investigator to respond to and manage the additional workload. Additionally, an assistant Attorney General is needed to promulgate regulations and handle legal proceedings. Over time, it is anticipated that employer familiarity and compliance with the bill’s provisions increase, thereby reducing the need for the contractual employee by fiscal 2024 and allowing MDL to respond to inquiries and enforce the bill with the two full-time permanent positions.

Accordingly, general fund expenditures increase for MDL by \$161,043 in fiscal 2021, which reflects the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring one regular and one contractual wage and hour investigators to investigate and process complaints, and one assistant Attorney General to handle legal proceedings. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Regular Positions	2.0
Contractual Position	1.0
Regular Salaries and Fringe Benefits	\$109,007
Contractual Salary and Fringe Benefits	28,307
Operating Expenses	<u>23,729</u>
Total FY 2021 MDL Expenditures	\$161,043

Future year expenditures reflect the elimination of the contractual position, full salaries with annual increases and employee turnover, and ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for the specified contractual employee under the State's implementation of the federal Patient Protection and Affordable Care Act.

Small Business Effect: Small businesses with at least 15 employees may incur additional costs associated with employees using their paid leave for bereavement leave, including leave for the death of a pet.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 712 (Delegate Boyce, *et al.*) - Economic Matters.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2020
an/mcr

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