

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE  
Revised

House Bill 1204 (Delegate Shriver. *et al.*)

Economic Matters

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Labor and Employment - Employee Sick Leave - Adoption

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This bill requires that any employer who provides paid leave following the birth of an employee's child must provide the same paid leave when a child is placed with the employee for adoption.

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Fiscal Summary

**State Effect:** None. The State already allows its permanent employees to use up to 30 days of paid leave for birth or adoption.

**Local Effect:** The bill could result in an indeterminate, but assumed minimal, increase in personnel expenditures for local governments.

**Small Business Effect:** Minimal. The bill could result in an indeterminate, but assumed minimal, increase in personnel expenditures for small businesses.

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Fiscal Analysis

**Background:** The federal Family and Medical Leave Act of 1993 (FMLA) provides that employers must allow employees to take unpaid leave of up to 12 weeks for certain events, including birth, adoption, or a serious medical condition of the employee or a member of the employee's immediate family. The employer has the option of allowing the employee to use paid leave for an FMLA absence. Certain employers, including those with less than 50 employees, are exempt from FMLA's requirements.

**State Expenditures:** Employees in the State Personnel Management System (SPMS) are not covered by the bill, but the State already allows these employees to use up to 30 days of paid

leave for birth or adoption. State employees in independent personnel systems, such as the Transportation Human Resources System, already have the same rights as SPMS members regarding leave for adoption. Contractual and temporary State employees do not receive paid leave and hence are not subject to the bill.

**Local Expenditures:** The impact on county and municipal governments cannot be reliably estimated at this time, but Legislative Services assumes the impact to be minimal. The Maryland Association of Counties advises that all Maryland counties provide paid leave, and it is assumed that most counties allow such leave to be used for adoption. For those counties that do not provide such leave, the impact of the proposed amendments is assumed to be minimal because (1) most counties have enough employees to cover for an employee who is absent on paid leave for adoption; and (2) statistically, the rate of adoption is very low (relative to birth) and hence unlikely to occur in any county, regardless of size, with sufficient frequency to cause a significant increase in personnel costs (for temporary employees or overtime payments).

The Maryland Municipal League advises that 133 of its 157 members have less than 50 employees. (Governmental employers with less than 50 employees are exempt from the requirement of the federal Family and Medical Leave Act of 1993 (FMLA) that employers must allow employees to take unpaid leave of up to 12 weeks for certain events, including birth, adoption, or a serious medical condition of the employee or a member of the employee's immediate family.) For an individual municipal government with few employees, providing paid leave for adoption could increase temporary employment or overtime costs in a particular instance. But again, given the low probability of adoption, Legislative Services assumes that the fiscal impact of such additional paid leave would be minimal in the aggregate.

**Small Business Effect:** It cannot be reliably determined at this time how many small businesses provide paid sick leave to their employees. The federal Department of Labor reports that 58% of medium and large employers (more than 100 employees) provide their employees with paid sick leave. The proportion of small businesses that provide paid sick leave is probably significantly lower.

Small businesses (less than 50 employees and hence not subject to FMLA) that do provide paid sick leave are likely to have policies that are more restrictive than those of large businesses, given that (1) they are not required by FMLA to provide unpaid leave for these absences; and (2) a long-term absence is more likely to pose a serious hardship to the business. The employer currently may opt not to provide paid sick leave for adoption. Requiring employers to allow use of paid sick leave for adoption is unlikely to result in a meaningful increase in costs, because the incidence of adoption is statistically much lower

than that of birth. For a particular small business in such circumstance, however, there may be additional costs for overtime payments or temporary employment to cover for the absent employee.

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**Information Source(s):** Department of Budget and Management; Department of Labor, Licensing, and Regulation; Maryland Municipal League; Department of Legislative Services

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