

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 982 (Delegate Barve, *et al.*) (Montgomery County Administration)
 Economic Matters

Maryland Family and Medical Leave Act

This bill establishes the Maryland Family and Medical Leave Act (MFMLA) to provide employees of firms with 25 to 49 employees benefits comparable to those available under the federal Family and Medical Leave Act (FMLA) for employees of firms with 50 or more employees. The bill provides for regulation by the Secretary of the Department of Labor, Licensing, and Regulation (DLLR) and permits affected employees to bring an action for damages against an employer who violates the bill's provisions.

The bill is effective January 1, 2003.

Fiscal Summary

State Effect: General fund expenditures would increase by \$86,200 in FY 2003. Later years reflect annualization and inflation. No impact on revenues.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	86,200	149,700	157,200	165,300	174,000
Net Effect	(\$86,200)	(\$149,700)	(\$157,200)	(\$165,300)	(\$174,000)

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

Local Effect: None.

Small Business Effect: Meaningful. The 1998 Survey of U.S. Business by the U.S. Census Department indicates that the bill would impact 4.8% Maryland firms. The impacted firms have 8.4% of the total employment in Maryland.

Analysis

Bill Summary: An eligible employee may take family leave up to a total of 12 weeks in a 12-month period for the birth or adoption of a child; the care for a spouse, child, or parent; or a serious health condition of the employee. During family leave the employer must maintain coverage for a group health plan and in certain circumstances may recover the premium if the employee fails to return to work. The leave may be paid or unpaid leave, and the employer can require the employee to utilize paid vacation, personal, family, medical or sick leave for any part of the 12-week family leave.

Employees must have worked for the employer for at least one year, for 1,250 hours in the previous 12 months, and provide the employer with 30-day prior notice of family leave. Prior notice is not required if the employee takes leave because of an unexpected health condition of the employee or of the employee's spouse, child, or parent, or because of a premature birth, unexpected adoption, or unexpected foster placement.

The bill permits an employer to require an employee to submit certification from a health care provider that supports the request for family leave and provides that an employer may require a second opinion from another health care provider, at the employer's expense, if the employer has reason to doubt the validity of the original certification.

Upon returning from family leave an employee is to be restored to the same position or an equivalent position. The bill provides that an employer may deny restoration of an employee's position if: (1) the denial is necessary to prevent substantial and grievous economic injury to the operations of the employer; (2) the employer notifies the employee of the intent of the employer to deny restoration of the employee's position; and (3) in the case of family leave that has already begun, the employee elects not to return to employment after receiving notice of the employer's intention to deny restoration of the employee's position.

Additional provisions require the Secretary of Labor, Licensing, and Regulation to adopt regulations. An employer is required to post a notice that advises employees of their rights. An employee has a right of action against an employer for damages caused by an employee's noncompliance.

An employer may not discharge or otherwise discriminate against an employee because the employee: (1) makes a complaint; (2) brings an action under the bill; or (3) has testified or will testify in an action or proceeding under MFMLA. A person who violates any provision of the bill is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.

The bill does not diminish: (1) an employer's obligation to comply with a collective bargaining agreement; (2) an employee's rights under a collective bargaining agreement; or (3) any employment benefit program or plan that provides greater rights to employees.

Current Law: The federal FMLA, which became effective in 1993, provides comparable benefits to employees of firms with 50 or more employees, and employees of any level of government. The U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, administers FMLA.

State Expenditures: General fund expenditures could increase by an estimated \$86,200 in fiscal 2003, which accounts for the bill's January 1, 2003 effective date. This estimate reflects the cost of four positions (one administrative officer, two wage and hour investigators, and one data device operator) at DLLR to investigate complaints and resolve problems. It assumes that there will be 1,000 complaints each year for investigation and includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$72,300
Operating Expenses	<u>13,900</u>
Total FY 2003 State Expenditures	\$86,200

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: SB 659 (Senator Ruben, *et al.*) (Montgomery County Administration) – Finance.

Information Source(s): Montgomery County; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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