

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 859
Finance

(Senator Ferguson, *et al.*)

Appropriations

State Employees – Parental Leave

This bill provides up to 60 days of paid parental leave to an employee in the Executive Branch of State government who is the primary caregiver responsible for the care and nurturing of a child to care for the child immediately following either the child's birth or the adoption of a child who is younger than age six. An employee entitled to parental leave may use available accrued annual leave and personal leave. If that leave is less than 60 days, the State agency that employs the employee must provide the employee with additional paid leave to attain 60 days of parental leave.

Fiscal Summary

State Effect: Expenditures increase (all funds) due to employees taking paid parental leave. *Under one set of assumptions*, expenditures (all funds) increase by as much as \$3.6 million in FY 2019 and as much as \$4.8 million annually thereafter for overtime costs related to coverage for employees on paid parental leave; actual expenditures are likely less, but still significant, for the reasons described below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An employee must have approval from the employee's appointing authority before using parental leave, and an employee may not receive payment unless the employee provides his or her immediate supervisor information required by guidelines issued by the Secretary of Budget and Management on the federal Family and Medical

Leave Act of 1993 (FMLA). The Secretary must adopt regulations governing parental leave, including establishing conditions and procedures for requesting and approving parental leave.

By December 1, 2021, the Secretary of Budget and Management must report to the Senate Finance Committee and the House Appropriations Committee on what employee benefits, including paid parental leave, are important in order to attract and retain young people to State employment.

Current Law: An employee within the State Personnel Management System (SPMS) who is responsible for the care and nurturing of a child may use, without certification of illness or disability, up to 30 days of accrued sick leave to care for the child immediately following the birth or adoption of the employee's child. An employee who uses accrued sick leave may not receive payment unless the employee provides the employee's immediate supervisor information required by guidelines issued by the Secretary of Budget and Management on FMLA.

State employees in SPMS currently accrue paid sick leave at the rate of 1.5 hours for every 26 hours worked in nonovertime status. Employees earn a maximum of 15 days or 120 hours of sick leave each year. Employees may use paid sick leave for the following:

- the illness or disability of the employee;
- the death, illness, or disability of the employee's immediate family member;
- following the birth of the employee's child;
- when a child is placed with the employee for adoption; or
- a medical appointment of the employee or the employee's immediate family member.

Additionally, State employees in SPMS receive personal and annual paid leave days. They receive six personal leave days annually to be used for any reason after giving notice to the supervisor. Annual leave accruals are based on the employee's years of service, which ranges from a maximum of 80 hours of annual leave each year for employees with less than 5 years of service to a maximum of 200 hours of annual leave each year for employees with at least 20 years of service. Annual leave may be used for any reason, upon supervisor approval.

University System of Maryland Employees

The University System of Maryland (USM) Board of Regents policy states each eligible staff employee must be assured a period of up to eight weeks (*i.e.*, 40 work days) of paid parental leave to care for a new child. The parental leave period consists of any form of annual, sick, personal, holiday, or leave reserve fund leave accrued or otherwise available

to the employee under USM policies, to be supplemented as necessary by the institution with additional paid leave days to attain an eight-week period of paid parental leave.

Background: FMLA requires covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during any 12-month period under the following conditions:

- the birth and care of an employee’s newborn child;
- the adoption or placement of a child with an employee for foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;
- medical leave when the employee is unable to work due to a serious health condition; or
- any qualifying circumstance arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty.”

Generally, an FMLA-covered employer is an entity engaged in commerce that employs at least 50 employees. Public agencies and public or private elementary or secondary schools are considered to be covered employers regardless of the number of individuals they employ.

An eligible employee is an individual employed by a covered employer who has been employed for at least 12 months; however, these may be nonconsecutive months. Among other criteria, the individual must have been employed for at least 1,250 hours of service during the 12-month period.

Task Force to Study Family and Medical Leave Insurance

Chapter 678 of 2016 established the Task Force to Study Family and Medical Leave Insurance. The task force’s primary purposes were to, in consultation with appropriate State and local agencies and community organizations, study existing family and medical leave programs in other states and the District of Columbia, review specified family and medical leave program implementation studies and reports, and receive public testimony from relevant stakeholders. The task force issued its [report](#) in December 2017.

State Expenditures: The bill does not specify an accrual rate for parental leave or otherwise limit how often it may be taken, so the Department of Legislative Services (DLS) assumes all Executive Branch employees who are primary caregivers are entitled to take 60 days of parental leave for any birth or eligible adoption.

It is unknown how many employees will take paid parental leave. However, as approximately 1,500 newborns are added to the State employees' health insurance plan each year, DLS estimates approximately 1,500 employees will take paid parental leave. The actual number could vary as not all State employees carry State health insurance or are primary caregivers and the estimate includes Judiciary and Legislative employees, who are not entitled to parental leave under the bill.

The average salary of a State employee in fiscal 2017 was \$55,180. Thus, providing 60 days of parental leave to Executive Branch employees *could* increase State expenditures by approximately \$12,700 per employee taking parental leave, totaling \$14.3 million in fiscal 2019 (\$19.1 million on an annualized basis) if employees do not have any available annual or personal leave. However, much of that cost may be mitigated since the Department of Budget and Management (DBM) reports it does not generally hire temporary employees when employees are on leave, though the bill could result in lost productivity. To the extent, therefore, that other employees can temporarily cover an employee's workload, some agencies can implement the bill with existing resources. USM already provides up to 40 days of paid parental leave, so expenditures for USM increase to provide for additional staffing or overtime needed to cover the employee's workload for *at least* 20 additional days. However, as USM's paid parental leave policy encompasses use of accrued sick leave (and other forms of leave not included in this bill), to the extent USM employees currently use accrued sick leave or other types of leave for their paid parental leave, USM expenditures increase to cover those days as well.

Other agencies likely incur overtime costs for current employees to work extra shifts to cover for the employees on parental leave. Agencies with 24/7 operations within SPMS include the Department of Labor, Licensing, and Regulation; the Department of General Services; the Maryland Department of Health; the Department of Juvenile Services; the Department of State Police; the Department of Natural Resources; and the Department of Public Safety and Correctional Services. Approximately 25% of employees work in agencies that require 24/7 operations, so expenditures (all funds) may increase by approximately \$3.6 million in fiscal 2019, which accounts for the bill's October 1, 2018 effective date, and by \$4.8 million annually thereafter for overtime costs to ensure coverage if employees do not have available annual or personal leave.

The actual cost could be significantly less if employees have annual and personal leave available to use for parental leave. It is unknown how much existing leave employees who are eligible to take paid parental leave have available; thus, it is unknown how many additional days of leave the State must provide for an employee to attain 60 days of paid parental leave. A full-time employee in SPMS who has worked for the State for less than five years earns a maximum of 16 days of personal and annual leave annually. Assuming employees have 16 days of personal and annual leave available, expenditures (all funds)

may increase to provide 44 additional days of parental leave by approximately \$2.6 million in fiscal 2019, which accounts for the bill's October 1, 2018 effective date, and by \$3.5 million annually thereafter for overtime costs to ensure coverage.

DBM can meet the bill's reporting requirements with existing resources.

Additional Information

Prior Introductions: A similar bill, HB 776 of 2015, received a hearing in the House Appropriations Committee and was subsequently withdrawn. Its cross file, SB 687, was withdrawn without a hearing in the Senate Finance Committee.

Cross File: HB 775 (Delegate Kelly) - Appropriations.

Information Source(s): University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; U.S. Department of Labor; Department of Legislative Services

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