

Colorado Legislative Council Staff Fiscal Note
**STATE, LOCAL AND STATUTORY
 PUBLIC ENTITY FISCAL IMPACT**

Drafting Number: LLS 13-0442
Prime Sponsor(s): Rep. Peniston
 Sen. Ulibarri

Date: February 18, 2013
Bill Status: House Health, Insurance & Environment
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TITLE: CONCERNING THE EXPANSION OF THE GROUP OF FAMILY MEMBERS FOR WHOM COLORADO EMPLOYEES ARE ENTITLED TO TAKE LEAVE FROM WORK UNDER THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993".

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	Minimal increase. See State Expenditures section.	
FTE Position Change		
Effective Date: August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See Local Government, School Districts, and Statutory Public Entities Impact section.		

Summary of Legislation

This bill creates a Colorado-specific expansion of leave available to employees under the Family and Medical Leave Act (FMLA). An employee may use FMLA leave to care for a person with a serious health condition if the person:

- is related to the employee by blood, adoption, legal custody, marriage, or civil union; or
- resides with and is in a committed relationship with the employee.

Employees may recover damages and equitable relief in court should an employer deny leave to care for the additional extended family members defined in the bill.

Background

The federal FMLA entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons, with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. FMLA leave is limited to care for an immediate family member, although employers can

provide expanded leave at their own discretion. Employees may use sick time, vacation time, or other accrued leave time along with FMLA leave in order to continue being paid. Covered employers include private employers with at least 50 employees, all government agencies, and elementary and secondary schools, regardless of the number of employees. For an employee to be eligible, he or she must have worked for the covered employer for at least 12 months and for at least 1,250 hours in the 12 months prior to taking FMLA leave. Finally, the employer must have at least 50 employees within 75 miles of an employee's worksite for the employer to be subject to FMLA requirements.

State Expenditures

This bill is not expected to increase state expenditures, but will drive an increase in workload as described below.

State agencies. All state agencies are currently subject to the FMLA. Because this bill expands the definition of family members, it is expected to increase the amount of FMLA leave requested and used by state employees. However, since this is unpaid or accrued leave, granting of additional FMLA leave will not affect state expenditures. State agencies will need to adjust their leave systems to accommodate this expansion, but that is expected to be addressed within existing appropriations. State agencies that deny FMLA leave are at risk of exposure to liability given the lack of definition for "committed relationship," but this impact cannot be determined.

Judicial. Because the bill provides a cause of action to recover damages or equitable relief from an employer that denies FMLA leave under the expanded leave rights, state courts are expected to see an increase in cases filed. Litigation may be required in order to define "committed relationship." The fiscal note assumes that any increase in court cases can be addressed within existing appropriations.

Local Government Impact

Local governments, elementary and secondary schools, and statutory public entities will be subject to this bill. The fiscal note assumes that these entities will see an increase in FMLA leave requested and used by their employees. Like state agencies, these entities may be exposed to liability for denying expanded leave, but this impact cannot be determined.

Departments Contacted

Judicial
Municipalities

Labor
Personnel and Administration