


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

(replaces fiscal note dated March 6, 2013)

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

**Date:** April 2, 2013  
**Bill Status:** Senate Health and Human Services  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

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

**Summary of Legislation**

The *reengrossed* bill creates a Colorado-specific expansion of leave available to employees under the Family and Medical Leave Act (FMLA). An employee may use expanded FMLA leave to care for a person with a serious health condition if the person is the employee's partner in a civil union or domestic partnership.

An employer can require an employee seeking to take expanded FMLA leave to provide the same certification as the employer can require under the federal FMLA. An employee who uses 12 weeks of leave under the federal FMLA cannot also take expanded leave within the same 12-month period. Employees may recover damages and equitable relief in court should an employer deny leave to care for the employee's partner in a civil union or domestic partnership.

**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. The Department of Personnel and Administration will modify its rules to establish the expanded leave provisions and state agencies will need to adjust their leave systems to accommodate this expansion. Both efforts are expected to be addressed within existing appropriations.

*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. The fiscal note assumes that any increase in court cases can be addressed within existing appropriations.

### **Local Government, School District, and Statutory Public Entity Impact**

Local governments, public 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

Labor

Municipalities

Personnel and Administration