
HOUSE BILL 1087

State of Washington

67th Legislature

2021 Regular Session

By Representatives Berry and Wicks

Prefiled 01/05/21.

1 AN ACT Relating to clarifying the continuity of employee family
2 and medical leave rights; adding a new section to chapter 50A.05 RCW;
3 creating a new section; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) Since enacted in 1989, chapter 49.78
6 RCW afforded employees the right to unpaid family and medical leave,
7 to return to their jobs afterwards, and to enforce those rights. In
8 2017, the legislature passed Substitute Senate Bill No. 5975,
9 creating the paid family and medical leave act to replace and enhance
10 the existing unpaid family and medical leave laws.

11 (2) The passage of the paid family and medical leave act repealed
12 chapter 49.78 RCW and replaced its provisions as a new title in Title
13 50A RCW. However, the passage of the paid family and medical leave
14 act did not, and was not intended to, undermine any right, liability,
15 or obligation existing under chapter 49.78 RCW prior to its repeal,
16 or under any rule or order adopted under those statutes. Likewise,
17 the passage of the paid family and medical leave act was not intended
18 to affect any proceeding that had been, or could be, brought under
19 the existing chapter 49.78 RCW relating to conduct, acts, or
20 omissions occurring on or before December 31, 2019. To the contrary,
21 the legislature incorporated the employment protections provisions of

1 chapter 49.78 RCW wholesale into the new Title 50A RCW. Moreover, the
2 legislature specifically delayed the effective date of the repeal of
3 chapter 49.78 RCW by over two years after the effective date of the
4 rest of the act, in part, in order to ensure that there would be
5 continuity in the protections provided and rights available under
6 chapter 49.78 RCW and its successor provisions in Title 50A RCW.

7 (3) The legislature intends to clarify that the passage of the
8 paid family and medical leave act did not sever, impair, extinguish,
9 or in any way affect the rights, liabilities, or obligations under
10 chapter 49.78 RCW as it existed prior to January 1, 2020. A cause of
11 action for conduct, acts, or omissions occurring on or before
12 December 31, 2019, under chapter 49.78 RCW remains available within
13 its applicable statute of limitations.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 50A.05
15 RCW to read as follows:

16 (1) The provisions of chapter 49.78 RCW as they existed prior to
17 January 1, 2020, apply to employee and employer conduct, acts, or
18 omissions occurring on or before December 31, 2019, including but not
19 limited to the enforcement provisions set forth in RCW 49.78.330 as
20 they existed prior to January 1, 2020. Accordingly, a cause of action
21 for conduct, acts, or omissions occurring on or before December 31,
22 2019, under chapter 49.78 RCW remains available within its applicable
23 statute of limitations. As an exercise of the state's police powers
24 and for remedial purposes, this subsection applies retroactively to
25 claims based on conduct, acts, or omissions that occurred on or
26 before December 31, 2019.

27 (2) The provisions of this title apply to employee and employer
28 conduct, acts, or omissions occurring on or after January 1, 2020,
29 including but not limited to the enforcement provisions set forth in
30 RCW 50A.40.040.

31 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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