

OFLA Modernization Act (House Bill 3140/SB 947)

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The following is a list of improvements that [HB 3140/SB 947](#) make to the Oregon Family Leave Act and the Oregon Military Family Leave Act.

1. Deletes the current 25 employer size threshold in the Oregon Military Family Leave Act (OMFLA) and the Oregon Family Leave Act (OFLA). Applies OMFLA and OFLA to all employers regardless of size (Section 1 & 3, respectively).
2. Creates a more inclusive definition of “family member” that recognizes all types of today’s family relationships (Section 2). See new language below.
 - Also creates a definition of “activities of daily living” and “medical treatment” which are used within the family definition to designate those with caregiving responsibilities as potential family members. The definitions are linked to existing definitions of those terms in statute.
3. Removes requirement that employee work an average of 25 hours/week to be eligible for OFLA. Applies OFLA projections to all workers, regardless of hours worked each week (Section 4). Also deletes requirement that employee work an average of 20 hours per week to qualify for OMFL (Section 1).
4. Reduces the waiting period for employee eligibility under OFLA from 180 days to 30 days (Section 4).
5. Adds a provision that says an employee who returns to work with the same employer within 180 days of leaving employment does not have to re-establish eligibility with that same employer (i.e. a school employee who technically separated employment every summer and then returns to the exact same position doesn’t have to qualify). (Section 4(1-2))
6. Increases number of weeks provided by OFLA from 12 weeks to 24 weeks (Section 5).
7. Deletes 2 week limitation on bereavement leave (Section 5(2)(a)).
8. Deletes ORS 659A.162(4)(a-b) that precludes two employees working for the same employer to take OFLA leaves concurrently (Section 5)
9. Makes language in 659A.162(3) related to pregnancy disability gender neutral (Section 5).
10. Deletes ORS 659A.165(4) which allows employers to penalize employees who fail to give proper notice to the employer of their need for leave by reducing the employee’s available leave by 3 weeks (Section 6).
11. Requires OFLA leave be paid by the employer at the employee’s regular rate of pay (Section 7).

12. Deletes provisions in 659A.174 (3) that allow the employer to determine the order in which paid leave is taken prior to OFLA leave and if accrued paid leave must be exhausted before OFLA leave is taken. Allow the employee to determine if they want to use paid leave and in what order paid leave will be exhausted (Section 7).
13. Amends 659A.885(3) to allow punitive and compensatory damages for OFLA, not just economic damages. Violations of 659A.150-659A.186 should be enforceable under 659A.885(2) and 659A.885(3) (Sections 8 and 9).
 - NOTE: Sections 8 and 9 appear to be identical, but they are not and both sections are necessary in the bill. It's called a "double amendment" and is necessary to amend ORS 659A.885 as it exists today and as it will exist in 2024. The equal pay bill (HB 2005) amends this statute again in 2024 to enact the private right of action (which was given a delayed operative date).

"Family member" means:

- (a) The spouse of an employee, the biological, adoptive or foster parent, **stepparent** or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis;
- (b) An individual who is biologically related to the employee;**
- (c) An individual who is legally recognized under the laws of the state as related to the employee;**
- (d) An individual for whom the employee is responsible for providing health care, assistance in accessing or managing medical treatment or support with the activities of daily living;**
- (e) An individual who lives with the employee and with whom the employee shares responsibility for each other's common welfare; or**
- (f) Any other individual whose close association with the employee that is equivalent to a family relationship as evidenced by a nexus of factors including but not limited to:**
 - (A) A shared responsibility for financial obligations;**
 - (B) Signs of intent to marry;**
 - (C) Children in common;**
 - (D) The length of the personal relationship between the individual and the employee; or**
 - (E) Common ownership of real or personal property.**