

Requested by Representative POWER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2474**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete line 3 and insert “659A.150, 659A.156, 659A.159, 659A.162 and
3 659A.168.”.

4 Delete lines 5 through 29 and delete pages 2 through 8 and insert:

5 **“SECTION 1.** ORS 659A.150 is amended to read:

6 “659A.150. As used in ORS 659A.150 to 659A.186:

7 “(1) ‘Covered employer’ means an employer described in ORS 659A.153.

8 “(2) ‘Eligible employee’ means any employee of a covered employer other
9 than those employees exempted under the provisions of ORS 659A.156.

10 “(3) ‘Family leave’ means a leave of absence described in ORS 659A.159,
11 except that ‘family leave’ does not include leave taken by an eligible em-
12 ployee who is unable to work because of a disabling compensable injury, as
13 defined in ORS 656.005, under ORS chapter 656.

14 “(4) ‘Family member’ means the spouse of an employee, the biological,
15 adoptive or foster parent or child of the employee, the grandparent or
16 grandchild of the employee, a parent-in-law of the employee or a person with
17 whom the employee was or is in a relationship of in loco parentis.

18 “(5) ‘Health care provider’ means:

19 “(a) A person who is primarily responsible for providing health care to
20 an eligible employee or a family member of an eligible employee, who is
21 performing within the scope of the person’s professional license or certificate

1 and who is:

2 “(A) A physician licensed under ORS chapter 677;

3 “(B) A physician assistant licensed under ORS 677.505 to 677.525;

4 “(C) A dentist licensed under ORS 679.090;

5 “(D) A psychologist licensed under ORS 675.030;

6 “(E) An optometrist licensed under ORS 683.070;

7 “(F) A naturopath licensed under ORS 685.080;

8 “(G) A registered nurse licensed under ORS 678.050;

9 “(H) A nurse practitioner licensed under ORS 678.375;

10 “(I) A direct entry midwife licensed under ORS 687.420;

11 “(J) A licensed registered nurse licensed by the Oregon State Board of
12 Nursing as a nurse practitioner specializing in nurse midwifery;

13 “(K) A regulated social worker authorized to practice regulated social
14 work under ORS 675.510 to 675.600; or

15 “(L) A chiropractic physician licensed under ORS 684.054, but only to the
16 extent the chiropractic physician provides treatment consisting of manual
17 manipulation of the spine to correct a subluxation demonstrated to exist by
18 X-rays.

19 “(b) A person who is primarily responsible for the treatment of an eligible
20 employee or a family member of an eligible employee solely through spiritual
21 means, including but not limited to a Christian Science practitioner.

22 “(6) **‘Public health emergency’ means:**

23 “(a) **A public health emergency declared under ORS 433.441.**

24 “(b) **An emergency declared under ORS 401.165 if related to a public
25 health emergency as defined in ORS 433.442.**

26 “[6] (7) **‘Serious health condition’ means:**

27 “(a) An illness, injury, impairment or physical or mental condition that
28 requires inpatient care in a hospital, hospice or residential medical care fa-
29 cility;

30 “(b) An illness, disease or condition that in the medical judgment of the

1 treating health care provider poses an imminent danger of death, is terminal
2 in prognosis with a reasonable possibility of death in the near future, or
3 requires constant care;

4 “(c) Any period of disability due to pregnancy, or period of absence for
5 prenatal care; or

6 “(d) Any period of absence for the donation of a body part, organ or tis-
7 sue, including preoperative or diagnostic services, surgery, post-operative
8 treatment and recovery.

9 **“SECTION 2.** ORS 659A.156 is amended to read:

10 “659A.156. (1) All employees of a covered employer are eligible to take
11 leave for one of the purposes specified in ORS 659A.159 (1)(b) to (e) except:

12 “(a) An employee who was employed by the covered employer for fewer
13 than 180 days immediately before the date on which the family leave would
14 commence.

15 “(b) An employee who worked an average of fewer than 25 hours per week
16 for the covered employer during the 180 days immediately preceding the date
17 on which the family leave would commence.

18 “(2) All employees of a covered employer are eligible to take leave for the
19 purpose specified in ORS 659A.159 (1)(a) except an employee who was em-
20 ployed by the covered employer for fewer than 180 days immediately before
21 the date on which the family leave would commence.

22 **“(3) Notwithstanding subsections (1)(a) and (2) of this section, all**
23 **employees of a covered employer are eligible to take leave for one of**
24 **the purposes specified in ORS 659A.159 (1)(a) to (e) during a period of**
25 **time covered by a public health emergency except an employee who**
26 **was employed by the covered employer for fewer than 30 days imme-**
27 **diately before the date on which the family leave would commence.**

28 **“(4)(a) Notwithstanding subsections (1)(a) and (2) of this section,**
29 **an employee of a covered employer is eligible to take leave for one of**
30 **the purposes specified in ORS 659A.159 (1)(b) to (e) or for the purpose**

1 **specified in ORS 659A.159 (1)(a), if the employee:**

2 **“(A)(i) Separates from employment with the covered employer, ir-**
3 **respective of any reason;**

4 **“(ii) Is eligible to take leave under subsections (1) or (2) of this**
5 **section at the time the employee separates; and**

6 **“(iii) Is reemployed by the covered employer within 180 days of**
7 **separation from employment; or**

8 **“(B)(i) Is eligible to take leave under subsections (1) or (2) of this**
9 **section at the beginning of a temporary cessation of scheduled hours**
10 **of 180 days or less; and**

11 **“(ii) Returns to work at the end of the temporary cessation of**
12 **scheduled hours of 180 days or less.**

13 **“(b) Any family leave taken by the employee within any one-year**
14 **period continues to count against the length of time of family leave**
15 **the employee is entitled under ORS 659A.162.**

16 **“SECTION 3.** ORS 659A.159 is amended to read:

17 **“659A.159. (1) Family leave under ORS 659A.150 to 659A.186 may be taken**
18 **by an eligible employee for any of the following purposes:**

19 **“(a) To care for an infant or newly adopted child under 18 years of age,**
20 **or for a newly placed foster child under 18 years of age, or for an adopted**
21 **or foster child older than 18 years of age if the child is incapable of self-care**
22 **because of a mental or physical disability.**

23 **“(b) To care for a family member with a serious health condition.**

24 **“(c) To recover from or seek treatment for a serious health condition of**
25 **the employee that renders the employee unable to perform at least one of the**
26 **essential functions of the employee’s regular position.**

27 **“(d) To care for a child of the employee who is suffering from an illness,**
28 **injury or condition that is not a serious health condition but that requires**
29 **home care or who requires home care due to the closure of the child’s**
30 **school or child care provider as a result of a public health**

1 **emergency.**

2 “(e) To deal with the death of a family member by:

3 “(A) Attending the funeral or alternative to a funeral of the family
4 member;

5 “(B) Making arrangements necessitated by the death of the family mem-
6 ber; or

7 “(C) Grieving the death of the family member.

8 “(2)(a) Leave under subsection (1)(a) of this section must be completed
9 within 12 months after birth or placement of the child, and an eligible em-
10 ployee is not entitled to any period of family leave under subsection (1)(a)
11 of this section after the expiration of 12 months after birth or placement of
12 the child.

13 “(b) Leave under subsection (1)(e) of this section must be completed
14 within 60 days of the date on which the eligible employee receives notice of
15 the death of a family member.

16 **“SECTION 4.** ORS 659A.162 is amended to read:

17 “659A.162. (1) Except as specifically provided by ORS 659A.150 to
18 659A.186, an eligible employee is entitled to up to a total of 12 weeks of
19 family leave within any one-year period.

20 “(2)(a) Except as provided by paragraph (b) of this subsection, an eligible
21 employee is entitled to a total of two weeks of family leave for the purposes
22 described in ORS 659A.159 (1)(e).

23 “(b) An eligible employee is entitled to the period of leave described in
24 paragraph (a) of this subsection upon the death of each family member of the
25 employee within any one-year period, except that leave taken as provided by
26 this subsection may not exceed the total period of family leave authorized
27 by subsection (1) of this section.

28 “(c) A covered employer may not require an eligible employee to take
29 multiple periods of leave described in ORS 659A.159 (1)(e) concurrently if
30 more than one family member of the employee dies during the one-year pe-

1 rioid.

2 “(d) All leave taken for the purposes described in ORS 659A.159 (1)(e)
3 shall be counted toward the total period of family leave authorized by sub-
4 section (1) of this section.

5 “(3)(a) In addition to the 12 weeks of family leave authorized by sub-
6 section (1) of this section, [*a female*] **an** eligible employee may take a total
7 of 12 weeks of leave within any one-year period for an illness, injury or
8 condition related to **the eligible employee’s own** pregnancy or childbirth
9 that disables the eligible employee from performing any available job duties
10 offered by the covered employer.

11 “(b) An eligible employee who takes 12 weeks of family leave within a
12 one-year period for the purpose specified in ORS 659A.159 (1)(a) may take
13 up to an additional 12 weeks of leave within the one-year period for the
14 purpose specified in ORS 659A.159 (1)(d).

15 “(4) When two or more family members work for the same covered em-
16 ployer, the eligible employees may not take concurrent family leave unless:

17 “(a) One employee needs to care for another employee who is a family
18 member and who is suffering from a serious health condition;

19 “(b) One employee needs to care for a child who has a serious health
20 condition while another employee who is a family member is also suffering
21 from a serious health condition; or

22 “(c) The employees are taking leave described in ORS 659A.159 (1)(e).

23 “(5) An eligible employee may take family leave for the purpose specified
24 in ORS 659A.159 (1)(a) in two or more nonconsecutive periods of leave only
25 with the approval of the employer.

26 “(6) Leave need not be provided to an eligible employee by a covered
27 employer for the purpose specified in ORS 659A.159 (1)(d) if another family
28 member is available to care for the child.

29 “(7) A covered employer may not reduce the amount of family leave
30 available to an eligible employee under this section by any period the em-

1 ployee is unable to work because of a disabling compensable injury.

2 “(8)(a) The Commissioner of the Bureau of Labor and Industries shall
3 adopt rules governing when family leave for a serious health condition of
4 an eligible employee or a family member of the eligible employee may be
5 taken intermittently or by working a reduced workweek. Rules adopted by
6 the commissioner under this paragraph shall allow taking of family leave on
7 an intermittent basis or by use of a reduced workweek to the extent per-
8 mitted by federal law and to the extent that taking family leave on an in-
9 termittent basis or by use of a reduced workweek does not result in the loss
10 of an eligible employee’s exempt status under the federal Fair Labor Stan-
11 dards Act.

12 “(b) The commissioner shall adopt rules governing when family leave for
13 the purposes described in ORS 659A.159 (1)(e) may be taken to the extent
14 permitted by federal law and to the extent that taking family leave on an
15 intermittent basis does not result in the loss of an eligible employee’s exempt
16 status under the federal Fair Labor Standards Act.

17 **“SECTION 5.** ORS 659A.162, as amended by section 56, chapter 700,
18 Oregon Laws 2019, is amended to read:

19 “659A.162. (1) Except as specifically provided by ORS 657B.020 and
20 659A.150 to 659A.186, an eligible employee is entitled to up to a total of 12
21 weeks of family leave within any one-year period.

22 “(2)(a) Except as provided by paragraph (b) of this subsection, an eligible
23 employee is entitled to a total of two weeks of family leave for the purposes
24 described in ORS 659A.159 (1)(e).

25 “(b) An eligible employee is entitled to the period of leave described in
26 paragraph (a) of this subsection upon the death of each family member of the
27 employee within any one-year period, except that leave taken as provided by
28 this subsection may not exceed the total period of family leave authorized
29 by subsection (1) of this section.

30 “(c) A covered employer may not require an eligible employee to take

1 multiple periods of leave described in ORS 659A.159 (1)(e) concurrently if
2 more than one family member of the employee dies during the one-year pe-
3 riod.

4 “(d) All leave taken for the purposes described in ORS 659A.159 (1)(e)
5 shall be counted toward the total period of family leave authorized by sub-
6 section (1) of this section.

7 “(3)(a) In addition to the 12 weeks of family leave authorized by sub-
8 section (1) of this section, [*a female*] **an** eligible employee may take a total
9 of 12 weeks of leave within any one-year period for an illness, injury or
10 condition related to **the eligible employee’s own** pregnancy or childbirth
11 that disables the eligible employee from performing any available job duties
12 offered by the covered employer.

13 “(b) An eligible employee who takes 12 weeks of family leave within a
14 one-year period for the purpose specified in ORS 659A.159 (1)(a) may take
15 up to an additional 12 weeks of leave within the one-year period for the
16 purpose specified in ORS 659A.159 (1)(d).

17 “(4) When two or more family members work for the same covered em-
18 ployer, the eligible employees may not take concurrent family leave unless:

19 “(a) One employee needs to care for another employee who is a family
20 member and who is suffering from a serious health condition;

21 “(b) One employee needs to care for a child who has a serious health
22 condition while another employee who is a family member is also suffering
23 from a serious health condition; or

24 “(c) The employees are taking leave described in ORS 659A.159 (1)(e).

25 “(5) An eligible employee may take family leave for the purpose specified
26 in ORS 659A.159 (1)(a) in two or more nonconsecutive periods of leave only
27 with the approval of the employer.

28 “(6) Leave need not be provided to an eligible employee by a covered
29 employer for the purpose specified in ORS 659A.159 (1)(d) if another family
30 member is available to care for the child.

1 “(7) A covered employer may not reduce the amount of family leave
2 available to an eligible employee under this section by any period the em-
3 ployee is unable to work because of a disabling compensable injury.

4 “(8)(a) The Commissioner of the Bureau of Labor and Industries shall
5 adopt rules governing when family leave for a serious health condition of
6 an eligible employee or a family member of the eligible employee may be
7 taken intermittently or by working a reduced workweek. Rules adopted by
8 the commissioner under this paragraph shall allow taking of family leave on
9 an intermittent basis or by use of a reduced workweek to the extent per-
10 mitted by federal law and to the extent that taking family leave on an in-
11 termittent basis or by use of a reduced workweek does not result in the loss
12 of an eligible employee’s exempt status under the federal Fair Labor Stan-
13 dards Act.

14 “(b) The commissioner shall adopt rules governing when family leave for
15 the purposes described in ORS 659A.159 (1)(e) may be taken to the extent
16 permitted by federal law and to the extent that taking family leave on an
17 intermittent basis does not result in the loss of an eligible employee’s exempt
18 status under the federal Fair Labor Standards Act.

19 **“SECTION 6.** ORS 659A.168 is amended to read:

20 “659A.168. (1) Except as provided in subsection (2) of this section, a cov-
21 ered employer may require medical verification from a health care provider
22 of the need for the leave if the leave is for a purpose described in ORS
23 659A.159 (1)(b) to (d) **other than to care for a child who requires home**
24 **care due to the closure of the child’s school or child care provider as**
25 **a result of a public health emergency.** If an employee is required to give
26 notice under ORS 659A.165 (1), the employer may require that medical ver-
27 ification be provided by the employee before the leave period commences. If
28 the employee commences family leave without prior notice pursuant to ORS
29 659A.165 (2), the medical verification must be provided by the employee
30 within 15 days after the employer requests the medical verification. The

1 employer may require an employee to obtain the opinion of a second health
2 care provider designated by the employer, at the employer's expense. If the
3 opinion of the second health care provider conflicts with the medical verifi-
4 cation provided by the employee, the employer may require the two health
5 care providers to designate a third health care provider to provide an opinion
6 at the employer's expense. The opinion of the third health care provider shall
7 be final and binding on the employer and employee. In addition to the med-
8 ical verifications provided for in this subsection, an employer may require
9 subsequent medical verification on a reasonable basis.

10 “(2) A covered employer may require medical verification for leave taken
11 for the purpose described in ORS 659A.159 (1)(d), **other than to care for a**
12 **child who requires home care due to the closure of the child's school**
13 **or child care provider as a result of a public health emergency**, only
14 after an employee has taken more than three days of leave under ORS
15 659A.159 (1)(d) during any one-year period. Any medical verification required
16 under this subsection must be paid for by the covered employer. An employer
17 may not require an employee to obtain the opinion of a second health care
18 provider for the purpose of medical verification required under this sub-
19 section.

20 “(3) A covered employer may request verification for the need for
21 leave for the purpose in ORS 659A.159 (1)(d) to care for a child who
22 requires home care due to the closure of the child's school or child
23 care provider as a result of a public health emergency. A request for
24 verification may include a request for:

25 “(a) The name of the child requiring home care;

26 “(b) The name of the school or child care provider that is subject
27 to closure;

28 “(c) A statement from the employee that no other family member
29 of the child is willing and able to care for the child; and

30 “(d) A statement that special circumstances exist that require the

1 **employee to provide home care for the child during the day, if the**
2 **child is older than 14 years of age.**

3 “[3] (4) Subject to the approval of the health care provider, the employee
4 taking family leave for a serious health condition of the employee or a family
5 member of the employee shall make a reasonable effort to schedule medical
6 treatment or supervision at times that will minimize disruption of the
7 employer’s operations.”.

8
