



Legislation Text

File #: CB 119717, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Sections 4.26.005, 4.26.010, 4.26.020, 4.26.040, 4.26.070, 4.27.010, 4.27.020, 4.27.050, 4.29.010, 4.29.030, 4.29.050, and 4.29.070 to harmonize with the Washington State Paid Family and Medical Leave program and provide additional related enhancements to City employees for paid and unpaid leave benefits; and ratifying and confirming certain prior acts.

WHEREAS, in 2015 and early 2017, the City of Seattle established a paid parental leave and a paid family care leave program for City employees providing up to 12 weeks and four weeks of paid leave for qualifying City employees, respectively; and

WHEREAS, in 2017, the Washington State Legislature passed Senate Bill 5975 establishing a paid family medical leave insurance program, which provides wage supplementation to eligible individuals who work in Washington State who qualify for the program; and

WHEREAS, the City has provided an unpaid family and medical leave benefit since 1993 which requires revisions so that City employees may fully use the program offered by the State; and

WHEREAS, the City and its labor unions engaged in impacts bargaining over the implementation of the State paid family leave program; many unions agreed to revise elements of the City's paid parental leave and paid family care leave program as an outcome of those negotiations; and

WHEREAS, the Seattle Municipal Code as written contains gendered language, requiring revisions to be gender neutral; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.26.005 of the Seattle Municipal Code, last amended by Ordinance 123299, is

amended as follows:

4.26.005 Definitions~~((:))~~

Unless another meaning is clearly indicated from the context, as used in this ~~((chapter))~~ Chapter 4.26:

~~((A-))~~ "Active duty" means duty under a call or order to active duty under a provision of law referred to in 10 U.S.C. ~~((section))~~ Section 101(a)(13).

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability.

~~((B-))~~ "City" means The City of Seattle.

~~((C-))~~ "Contingency operation" has the same meaning given ~~((such term))~~ in 10 U.S.C. ~~((section))~~ Section 101(a)(13).

~~((D-))~~ "Covered servicemember" shall have the same meaning as in the federal Family and Medical Leave Act, and its implementing regulations.

~~((E-))~~ "Days" means calendar days.

~~((F-))~~ "Domestic partner" means an individual designated by a City officer or employee in an affidavit filed pursuant to ~~((Seattle Municipal Code))~~ Section 4.30.020 and qualified under Section 4.30.010.

~~((G-))~~ "Eligible employee" means an individual who has completed six ~~((6))~~ months of City employment.

"Grandchild" means a child of the employee's child.

"Grandparent" means a parent of the employee's parent.

~~((H-))~~ "Group health plan" means health insurance coverage for medical and dental care provided as an incident of employment and on existing terms and conditions as provided to employees similarly situated.

~~((I-))~~ "Health care provider" means any provider included within ~~((Seattle Municipal Code Section))~~

subsection 4.24.005.((D))B.

~~((J. "Medical leave" means leave requested to recuperate, recover or treat a serious health condition for the son, daughter, spouse/domestic partner, parent, or employee.~~

~~K.) "Military ~~((Exigency))~~ exigency" ~~((shall have))~~ has the same meaning ~~((as))~~ given in the federal Family and Medical Leave Act~~((;))~~ and its implementing regulations. Qualifying military exigencies must meet the requirements of the federal Family and Medical Leave Act~~((;))~~ and its implementing regulations.~~

~~((L.)) "Next of ~~((Kin,))~~ kin," used with respect to an individual, means the nearest blood relative of that individual.~~

~~((M. Reserved))~~

~~((N.)) "Parent" means the parent of an employee or the parent of an employee's spouse/domestic partner, or an individual who stood in loco parentis to an employee or the employee's spouse/domestic partner when the employee or the employee's spouse/domestic partner was a ~~((son or daughter))~~ child.~~

"Qualifying family member" means a spouse or domestic partner, child, parent, grandparent, grandchild, or sibling.

~~((O.)) "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.~~

~~((R.)) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:~~

- ~~1. Inpatient care in a hospital, hospice, or residential~~((;))~~ medical care facility; or~~
- ~~2. Continuing treatment by a health care provider.~~

~~((Q. "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:~~

- ~~1. Under ~~eighteen (18)~~ years of age; or~~
- ~~2. ~~Eighteen (18)~~ years of age or older and incapable of self-care because of a mental or physical~~

disability.))

“Sibling” means a sibling of the employee.

~~((R-))~~ "Spouse" means a ~~((husband or wife))~~ spouse of the employee.

Section 2. Section 4.26.010 of the Seattle Municipal Code, last amended by Ordinance 125834, is amended as follows:

4.26.010 Leave provisions

A. Except as provided by ~~((Seattle Municipal Code))~~ subsection 4.29.020.A, eligible employees are entitled to up to 90 calendar days of unpaid leave in addition to any paid leave to which they may otherwise be entitled during any 12 month period for one or more of the following:

1. The birth of a ~~((son or daughter))~~ child of the employee and in order to care for such ~~((son or daughter))~~ child.
2. The placement of a ~~((son or daughter))~~ child with the employee for adoption, foster care, or legal guardianship.
3. The care of a ~~((spouse/domestic partner, or a son or daughter, or parent, of the employee or spouse/domestic partner))~~ qualifying family member, if such ~~((spouse/domestic partner, son, daughter, or parent))~~ qualifying family member has a serious health condition.
4. A serious health condition that makes the employee unable to perform the functions of the position of such employee.
5. A qualifying military exigency for ~~((the spouse /domestic partner, son, daughter or parent))~~ a qualifying family member of the employee.

~~((Expiration of entitlement.))~~ The entitlement to leave under subsections 4.26.010.A.1 and 4.26.010.A.2 for birth or placement of a ~~((son or daughter))~~ child shall expire at the end of the 12 month period beginning on the date of such birth or placement.

B. Except as provided by ~~((Seattle Municipal Code))~~ subsection 4.29.020.A, eligible employees are

entitled to up to 26 workweeks of unpaid leave during any 12 month period for the care of a covered service member who is the spouse/domestic partner, parent, son, daughter, or next of kin of the employee.

C. Except as provided by (~~Seattle Municipal Code~~) subsection 4.29.020.A, eligible employees may take both types of family medical leave described in subsections 4.26.010.A and 4.26.010.B during the same 12 month period, provided that the combined leave taken in that 12 month period does not exceed a total of 26 workweeks.

Section 3. Section 4.26.020 of the Seattle Municipal Code, last amended by Ordinance 122968, is amended as follows:

4.26.020 Notice(~~:~~)

A. In any case in which the necessity for leave under subsection (~~(A(1) or A(2) of Section 4.26.010)~~) 4.26.010.A.1 or 4.26.010.A.2 is foreseeable based on an expected birth or placement, the employee shall provide the City with at least (~~(thirty (30))~~) 30 days' notice, before the date of leave is to begin, of the employee's intention to take leave, except that if the date of birth or placement requires leave to begin in less than (~~(thirty (30))~~) 30 days, the employee shall provide such notice as is practicable.

B. (~~In any case in which~~) If the necessity for leave under (~~(subsection A(3), A(4) or B of Section 4.26.010)~~) subsection 4.26.010.A.3, 4.26.010.A.4, or 4.26.010.B is foreseeable based on planned medical treatment, the employee shall:

1. Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City, subject to the approval of the health care provider of the employee or the health care provider of the (~~(son, daughter, spouse/domestic partner, covered servicemember, or parent, as appropriate)~~) qualifying family member; and

2. Provide the City with not less than (~~(thirty (30))~~) 30 days' notice, before the date the leave is to begin, of the employee's intention to take the leave (~~(under such subsection)~~), except that if the date of the treatment requires leave to begin in less than (~~(thirty (30))~~) 30 days, the employee shall provide (~~(such)~~) notice

as ~~((is))~~ soon as practicable.

C. Failure to provide notice as prescribed in this ~~((section))~~ Section 4.26.020 shall be grounds to deny leave.

Section 4. Seattle Municipal Code Section 4.26.040, last amended by Ordinance 122698, is amended as follows:

4.26.040 Medical certification requirement~~((:))~~

Medical certification is required for ~~((medical))~~ leave under subsection ~~((A(3), A(4) or B of Section 4.26.010))~~ 4.26.010.A.3, 4.26.010.A.4, or 4.26.010.B. The medical certification must be issued by the health care provider of the eligible employee or of the ~~((son, daughter, spouse/domestic partner, covered servicemember, or parent, as appropriate,))~~ qualifying family member ~~((of the employee))~~. Certification should include:

A. The date on which the serious health condition commenced;

B. The probable duration of the condition;

C. The appropriate medical facts within the knowledge of the health care provider regarding the condition;

D. A statement that the eligible employee is needed to care for the ~~((son, daughter, spouse/ domestic partner, covered servicemember, or parent))~~ qualifying family member, or a statement that the employee is unable to perform the functions of the position of the employee;

E. In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

F. In the case of certification for intermittent leave, or leave on a reduced leave schedule, under ~~((Section 4.26.010 subsection A(4)))~~ subsection 4.26.010.A.4, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

G. In the case of certification for intermittent leave, or leave on a reduced leave schedule, under ((~~Section 4.26.010 subsection A(3) or B~~)) subsection 4.26.010.A.3 or 4.26.010.B, a statement that the employee's intermittent leave on a reduced leave schedule is necessary for the care of the ((~~son, daughter, parent, covered servicemember or spouse/domestic partner who has a serious health condition~~)) qualifying family member or covered servicemember who has a serious health condition, or that the employee will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

The City may require, at the expense of the City, that the eligible employee obtain the opinion of a second health care provider designated or approved by the City concerning any information certified as provided above.

When the second opinion differs from the opinion in the original certification, the City may require, at the expense of the City, that the employee obtain the opinion of a third care provider designated or approved jointly by the City and the employee.

The opinion of the third health care provider concerning the information certified above shall be considered to be final and shall be binding on the City and the employee.

The City may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

Section 5. Section 4.26.070 of the Seattle Municipal Code, enacted by Ordinance 116761, is amended as follows:

4.26.070 ((Paid Leave)) Interaction with other leave benefits and family medical leave laws

A. ((~~Notwithstanding Seattle Municipal Code Section 4.20.360, an~~)) An employee need not exhaust ((~~his or her~~)) accrued ((~~sick leave, compensatory time and/or vacation leave~~)) paid leave balances prior to requesting or taking ((~~family or medical~~)) leave under this ((~~chapter~~)) Chapter 4.26.070.

B. The leave benefit provided by this Chapter 4.26 shall run concurrent with federal and state family and medical leave laws.

C. An employee who is not entitled to leave under this Chapter 4.26 but otherwise qualifies for the State paid family and medical leave program shall be eligible for an unpaid leave of absence. The employee shall be afforded the same job protections and be subject to the same obligations under this leave of absence as though they were covered by this Chapter 4.26. The Seattle Human Resources Director shall promulgate rules for the administration of such leave.

Section 6. Section 4.27.010 of the Seattle Municipal Code, last amended by Ordinance 125260, is amended as follows:

4.27.010 Definitions

Unless another meaning is clearly indicated from the context, as used in this ~~((chapter))~~ Chapter 4.27:

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability.

"City" means ~~((the))~~ The City of Seattle.

"Eligible employee" means an individual who has completed six months of City employment as an employee, as defined in Section 4.04.030, or as a temporary worker eligible for benefits under subsection 4.20.055.C.

"Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

"Single 12-month period" shall mean a 12-month period measured forward from the date of birth of a child, or placement of a child for adoption, foster care, or legal guardianship.

~~((“Son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:~~

- ~~1. Under 18 years of age; or~~

~~2. 18 years of age or older and incapable of self-care because of a mental or physical disability.)~~

"Week" shall mean 40 hours, prorated for part-time employees.

Section 7. Section 4.27.020 of the Seattle Municipal Code, last amended by Ordinance 125260, is amended as follows:

4.27.020 Leave provisions

A. Eligible employees are entitled to ~~((up to a total of))~~ 12 weeks of paid leave in addition to any paid and unpaid leave to which they may otherwise be entitled~~((, except as provided in subsection 4.27.020.B.))~~ during any single 12-month period for one or more of the following:

1. The birth of a ~~((son or daughter))~~ child of the employee ~~((and))~~ in order to care for such ~~((son or daughter))~~ child.

2. The placement of a ~~((son or daughter))~~ child with the employee for adoption, foster care, or legal guardianship.

~~((B. It is the intent of this Chapter 4.27 that all eligible employees have access to at least 12 weeks of paid leave for the non-medical care of a new son or daughter, without having to exhaust all of their accrued vacation and sick leave balances. To meet that intent, in addition to the paid vacation leave accrued pursuant to Chapter 4.34 and paid sick leave accrued pursuant to Chapter 4.24, paid parental leave is provided to eligible City employees as follows:~~

~~1. Upon the qualifying birth or placement of a son or daughter, the City shall provide eight weeks of paid parental leave to be used for the non-medical care of that child within 12 months of the qualifying event.~~

~~2. For eligible employees whose combined eight weeks of paid parental leave provided in subsection 4.27.020.B.1 and accrued vacation and sick leave, as accounted for in subsection 4.27.020.B.3, amounts to less than 12 weeks on the date of the qualifying birth or placement, the City shall provide whatever additional paid parental leave is needed to reach a total of 12 weeks.~~

~~3. When determining what, if any, additional paid parental leave to provide in subsection 4.27.020.B.2, the City shall not count one week of an eligible employee's accrued vacation leave and two weeks of an employee's accrued sick leave towards the 12-week benefit, with the intent that the employees retain such vacation leave and sick leave to use in accordance with existing City policy regarding such leave usage.))~~

~~((C.))~~ B. The entitlement to paid leave under subsections 4.27.020.A.1 and 4.27.020.A.2 for birth or placement of a ~~((son or daughter))~~ child shall expire at the end of the 12-month period beginning on the date of such birth or placement.

Section 8. Section 4.27.050 of the Seattle Municipal Code, enacted by Ordinance 124753, is amended as follows:

4.27.050 Exhaustion of ~~((Other Paid Leave Not Required.))~~ other paid leave not required

An employee need not exhaust ~~((his or her accrued sick leave, compensatory time and/or vacation leave))~~ paid leave balances prior to requesting and taking the ~~((Paid Parental Leave))~~ paid parental leave provided in this ~~((chapter))~~ Chapter 4.27.

Section 9. Seattle Municipal Code Section 4.29.010, last amended by Ordinance 125834, is amended as follows:

4.29.010 Definitions

Unless another meaning is clearly indicated from the context, as used in this Chapter 4.29:

"Child" means a biological, adopted, or foster child, a step child, a legal ward, or a child of a person standing in loco parentis, who is:

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability.

"City" means The City of Seattle.

"Domestic partner" means an individual designated by a City officer or employee in an affidavit filed pursuant to Section 4.30.020 and qualified under Section 4.30.010.

"Eligible employee" means an individual who has completed six months of City employment as an employee, as defined in Section 4.04.030, or as a temporary worker eligible for benefits under subsection 4.20.055.C.

"Grandchild" means a child of the employee's child.

"Grandparent" means a parent of the employee's parent.

"Health care provider" means any provider included in subsection 4.24.005.B.

"Parent" means the parent of an employee or the parent of the employee's spouse/domestic partner, or an individual who stood in loco parentis to an employee or the employee's spouse/domestic partner when the employee or the employee's spouse/domestic partner was a child.

"Qualifying death" means either (a) the death of a child or (b) the death of a domestic partner or spouse either from childbirth or from complications related to childbirth.

"Qualifying family member" mean spouse or domestic partner, child, parent, grandparent, grandchild, or sibling.

"Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

"Rolling 12-month period" means a 12-month period measured backward from the day that the employee wants to use paid family care leave.

"Runs concurrently" means substitutes for or counts toward another leave entitlement.

"Serious health condition" means an injury, illness, impairment, or physical or mental condition that includes:

1. Inpatient care in a hospital, hospice, or residential((~~5~~)) medical care facility; or
2. Continuing treatment by a health care provider.

"Sibling" means sibling of the employee.

"Spouse" means ((~~husband or wife~~)) spouse of the employee.

"Week" means 40 hours, prorated for part-time employees.

Section 10. Section 4.29.020 of the Seattle Municipal Code, last amended by Ordinance 125834, is amended as follows:

4.29.020 Leave provisions

A. Eligible employees are entitled to ~~((up to))~~ four weeks of paid family care leave in a rolling 12-month period, in addition to any paid leave to which they may otherwise be entitled, to care for a ~~((spouse/domestic partner, or a child, or parent of the employee or spouse/domestic partner))~~ qualifying family member, if such ~~((spouse/domestic partner, child, or parent))~~ qualifying family member has a serious health condition, or for the employee in the event of a qualifying death. Paid family care leave in the event of a qualifying death must be taken within 12 months of the qualifying death. Except in the event of a qualifying death, paid family care leave under this Chapter 4.29 runs concurrently with the eligible employee's family medical leave entitlement under Chapter 4.26, such that an employee who has exhausted the employee's family medical leave entitlement is not eligible to take paid family care leave. ~~((Except in the event of a qualifying death, to become eligible for paid family care leave, an employee must reduce the employee's paid leave balances as proscribed by Section 4.29.050.))~~ Except in the event of a qualifying death, to become eligible for paid family care leave, an employee must have the serious health condition certified by the health care provider of the ~~((child, spouse/domestic partner, or parent of the employee or spouse/domestic partner))~~ qualifying family member. In the event of a qualifying death, an employee must have the death certified.

B. Paid family care leave provided by the City to an employee under subsection 4.29.020.A but not used within a rolling 12-month period shall be forfeited and may not be retained for later use by the employee.

Section 11. Section 4.29.030 of the Seattle Municipal Code, last amended by Ordinance 125834, is amended as follows:

4.29.030 Notice

A. In any case in which the necessity for paid family care leave is foreseeable based on planned medical

treatment, the employee shall:

1. Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City, subject to the approval of the health care provider of the ~~((child, spouse/domestic partner, or parent~~)) qualifying family member~~((, as appropriate))~~; and

2. Provide the City with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take paid family care leave, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

B. Failure to provide notice as proscribed in this Section 4.29.030 shall be grounds to deny the leave.

Section 12. Section 4.29.050 of the Seattle Municipal Code Section 4.29.050, enacted by Ordinance 125260, is amended as follows:

4.29.050 Exhaustion of other paid leave

~~((An employee must reduce his or her accrued sick leave balances to a maximum of two weeks and his or her vacation leave balances to a maximum of one week in order to become eligible for the paid family care leave provided in this Chapter 4.29.))~~ An employee need not exhaust paid leave balances prior to requesting and taking the paid family care leave provided in this Chapter 4.29.

Section 13. Seattle Municipal Code Section 4.29.070, last amended by Ordinance 125834, is amended as follows:

4.29.070 Medical certification requirement

Except in the event of a qualifying death, medical certification is required for paid family care leave. The medical certification must be issued by the health care provider of the ~~((eligible child, spouse/domestic partner, or parent,))~~ qualifying family member of the employee. Certification should include:

- A. The date on which the serious health condition commenced;
- B. The probable duration of the condition;
- C. The appropriate medical facts within the knowledge of the health care provider regarding the

condition; and

D. A statement that the eligible employee is needed to care for the ~~((child, spouse/domestic partner, or parent))~~ qualifying family member.

Except in the event of a qualifying death, the City may require, at the expense of the City, that the eligible employee obtain the opinion of a second health care provider designated or approved by the City concerning any information certified as provided in this Section 4.29.070. When the second opinion differs from the opinion in the original certification, the City may require, at the expense of the City, that the employee obtain the opinion of a third care provider designated or approved jointly by the City and the employee. The opinion of the third health care provider concerning the information certified as provided in this Section 4.29.070 shall be considered to be final and shall be binding on the City and the employee. The City may require that the eligible employee obtain subsequent recertification on a reasonable basis.

Section 14. The revisions to paid parental leave benefits under Seattle Municipal Code Chapter 4.27 as identified in this ordinance shall apply to births or placements that occur on or after October 2, 2019. The revisions to all other leave benefits identified in this ordinance shall apply to the employees who meet the eligibility criteria set forth in this ordinance on or after January 1, 2020.

Section 15. This ordinance shall apply to all eligible employees not represented by a union. Subject to collective bargaining, this ordinance shall also apply to those eligible employees who are represented by a union that has agreed with the provisions as expressed in this ordinance. This ordinance applies to Seattle Public Library (SPL) employees, subject to the approval of the SPL Board of Trustees and the conditions and administration of SPL's personnel system.

Section 16. Any act consistent with the authority of this ordinance taken prior to its effective date is ratified and confirmed.

Section 17. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but

if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2019, and signed by me in open session in authentication of its passage this _____ day of _____, 2019.

President _____ of the City Council

Approved by me this _____ day of _____, 2019.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2019.

Monica Martinez Simmons, City Clerk

(Seal)