

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5001

By Delegates Kirby, Dean, E. Pritt, and Hansen

[Introduced January 22, 2024; Referred to the
Committee on Government Organization then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5-32-1 §5-32-2, §5-32-3, §5-32-4, §5-32-5, §5-32-6, §5-32-7, §5-32-8, and
 3 §5-32-9, all relating to the creation the State Employee Paid Leave Act ("SEPLA"); and
 4 relating to providing 12 weeks of paid family leave for state employees under qualified
 5 circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 32. THE STATE EMPLOYEE PAID LEAVE ACT (SEPLA).

§5-32-1. Legislative findings.

1 The Legislature hereby finds that there is a continuing crisis in this country and state
 2 affecting the stability of our families, that the family unit is being torn apart due to the need for
 3 families to have two income producing parents. In order to address this situation, following the
 4 example of recent federal legislation, and to provide for the love, nurturing and education of our
 5 children, the Legislature hereby enacts "The State Employee Paid Leave Act ("SEPLA")."

§5-32-2. Definitions.

1 As used in this article:

2 (a) "Dependent" means any person who is living with or dependent upon the income of any
 3 employee whether related by blood or not.

4 (b) Employee. --

5 (1) "Employee" means any individual, hired for permanent employment, who has worked
 6 for at least 12 consecutive months performing services for remuneration within this state for any
 7 department, division, board, bureau, agency, commission or other unit of state government, or any
 8 county board of education in the state.

9 (2) "Employee" does not include:

10 (A) Individuals employed by persons who are not "employers" as defined by this article;

11 (B) Elected public officials or the members of their immediate personal staffs;

12 (C) Principal administrative officers of any department, division, board, bureau, agency,
13 commission or other unit of state government, or any county board of education in the state; or

14 (D) A person in a vocational rehabilitation facility certified under federal law who has been
15 designated an evaluatee, trainee or work activity client.

16 (c) Employer. -- "Employer" includes any department, division, board, bureau, agency,
17 commission or other unit of state government and any county board of education in the state.

18 (d) "Employment benefits" means all benefits, other than salary or wages, provided or
19 made available to employees by an employer, and includes group life insurance, health insurance,
20 disability insurance, sick leave, annual leave, educational benefits and pensions, regardless of
21 whether such benefits are provided by a policy or practice of an employer or by an employee
22 benefit plan as defined in the federal Employee Retirement Income Security Act of 1974.

23 (e) The term "health care" or "health care services" means clinically related preventive,
24 diagnostic, treatment or rehabilitative services whether provided in the home, office, hospital,
25 clinic or any other suitable place, provided or prescribed by any health care provider or providers.
26 Such services include, among others, drugs and medical supplies, appliances, laboratory,
27 preventive, diagnostic, therapeutic and rehabilitative services, hospital care, nursing home and
28 convalescent care, medical physicians, osteopathic physicians, chiropractic physicians, and such
29 other surgical, dental, nursing, pharmaceutical, and podiatric services and supplies as may be
30 prescribed by such health care providers.

31 (f) "Health care provider" means a person, partnership, corporation, facility or institution
32 licensed, certified or authorized by law to provide professional health care services in this state to
33 an individual during this individual's medical care, treatment or confinement.

34 (g) "Parent" means a biological, foster or adoptive parent, a stepparent or a legal guardian.

35 (h) "Serious health condition" means a physical or mental illness, injury or impairment
36 which involves:

37 (1) Inpatient care in a hospital, hospice or residential health care facility; or

38 (2) Continuing treatment, health care or continuing supervision by a health care provider.

39 (i) "Son" or "daughter" means an individual who is a biological, adopted or foster child, a
40 stepchild or a legal ward, and is (1) under 18 years of age; or (2) 18 years of age or older and
41 incapable of self-care because of mental or physical disability.

42 (j) "Spouse" means any person legally married to an "employee" covered under this article.

§5-32-3. Scope.

1 Nothing in this article prohibits an employee from opting for unpaid family leave available to
2 the employee in lieu of the paid family leave benefits provided under this article.

§5-32-4. Paid family leave.

1 (a) An employee shall be entitled to a total of 12 weeks of paid family leave during a 12-
2 month period for any reason set forth in subdivisions (1) through (5) of this §5-32-4(a) of the code:
3 Provided, That an employee cannot carry over unused paid parental leave, nor will there be any
4 pay out for unused or expired leave:

5 (1) Because of the birth of a son or daughter of the employee;

6 (2) Because of the placement of a son or daughter with the employee for adoption;

7 (3) In order to care for the employee's son, daughter, spouse, parent or dependent who has
8 a serious health condition;

9 (4) Because of a serious health condition that makes the employee unable to perform the
10 functions of the employee's position; or

11 (5) Because of any qualifying exigency arising out of the fact that the spouse, or a son,
12 daughter, or parent of the employee is on covered active duty (or has been notified of an
13 impending call or order to covered active duty) in the Armed Forces.

14 (b) The entitlement to leave under subdivisions (1) or (2) of subparagraph (a) of this §5-32-
15 4 of the code based on the birth or placement of a son or daughter shall expire at the end of the 12-
16 month period beginning on the date of such birth or placement.

17 (c) In the case of a son, daughter, spouse, parent or dependent who has a serious health

18 condition, such paid family leave may be taken intermittently when medically necessary.

19 (d) An employee may take paid family leave on a part-time basis and on a part-time leave
20 schedule, but the period during which the number of work weeks of leave may be taken may not
21 exceed 12 consecutive months, and such leave shall be scheduled so as not to disrupt unduly the
22 operations of the employer.

23 (e)(1) If a leave because of birth or adoption is foreseeable, the employee shall provide the
24 employer with two weeks written notice of such expected birth or adoption.

25 (2) If a leave under this section is foreseeable because of planned medical treatment or
26 supervision, the employee:

27 (A) Shall make a reasonable effort to schedule the treatment or supervision so as not to
28 disrupt unduly the operations of the employer, subject to the approval of the health care provider of
29 the employee's son, daughter, parent or dependent; and

30 (B) Shall provide the employer with two weeks written notice of the treatment or
31 supervision.

32 (f) This article shall not be construed as granting an employee the paid family leave rights
33 provided in this section if he or she is entitled to such paid family leave rights under any other
34 provision of this code.

§5-32-5. Certification.

1 (a) If an employee requests paid family leave to care for a family member with a serious
2 health condition as authorized in this article, the employer may require the employee to provide
3 certification by a health care provider of the health condition.

4 (b) The certification shall be sufficient if it contains the following:

5 (1) That the child, dependent, parent or employee has a serious health condition;

6 (2) The date the serious health condition commenced and its probable duration; and

7 (3) The medical facts regarding the serious health condition.

§5-32-6. Position upon return from leave.

