

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/19  
 SPONSOR Padilla LAST UPDATED 3/08/19 HB \_\_\_\_\_  
 SHORT TITLE Public & Private Caregiver Leave Acts SB 123/aHLVMC  
 ANALYST Glenn

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Indeterminate	Indeterminate	Indeterminate		Recurring	See Fiscal Implications

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 213 and HB 264

#### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Workforce Solutions Department (WSD)

#### Responses Not Received From

State Personnel Office (SPO)

#### SUMMARY

##### Synopsis of HLVMC Amendment

The House Labor, Veterans and Military Affairs Committee amendment changes the definition of “family member” for purposes of the Public Employee Caregiver Leave Act to include a “domestic partner.”

##### Synopsis of Original Bill

Senate Bill 123 creates the Caregiver Leave Act and the Public Employee Caregiver Leave Act. The new Acts would require public and private employers to allow their employees to use accrued sick leave to care for “family members,” as defined in the Acts. The Acts would not apply to employees whose employers do not provide sick leave. SB 123 provides that the term “sick leave” as used in the Acts does not include leave to which an employee is entitled through the federal Family and Medical Leave Act.

SB 123 requires the Workforce Solutions Department (WSD) to promulgate rules implementing the Caregiver Leave Act, including grievance procedures that accord eligible private sector employees recourse for violations of the Act. SB 123 requires SPO to promulgate rules implementing the Public Employee Caregiver Leave Act, including grievance procedures, for state agencies covered by the Personnel Act. For a state agency not covered by the Personnel Act, SB 123 provides that the director of the agency shall promulgate the required rules.

### **FISCAL IMPLICATIONS**

WSD states that the fiscal implications regarding the implementation of the grievance policy, as well as investigating and enforcing the policy, are undetermined because the policy and procedure required by the bill have not been established and there is a lack of historical data on what types of grievances may be filed. Startup costs would be required to draft the rules, implement grievance and investigative procedures, and establish enforcement practices.

### **SIGNIFICANT ISSUES**

The State Personnel Office's current rules governing sick leave includes family caregiving. Rule 1.7.7.10(D) NMAC provides that employees can use accrued sick leave to care for a family member up to the third degree.

WSD notes that SB 123 makes WSD responsible for promulgating rules and developing procedures applicable to private employers, and directs SPO and state agency directors to promulgate rules and develop procedures applicable to state agency employers and employees. According to WSD, because the bill allows individual state agencies to promulgate implementing rules and procedures, it may result varied and possibly conflicting applications of the bill's requirements, depending on a particular state agency's procedures implementing the bill.

WSD states that its Labor Relations Division currently investigates claims against employers for failure to provide wages owed to their employees. According to WSD, not allowing an employee to use sick leave in violation of SB 123 could be construed as nonpayment of wages owed to employees. WSD states that investigation into these claims is outside the scope of the Division's current operations and may require additional staffing to investigate grievances. WSD also notes that there is no indication in the bill of the consequences of violating the law, such as enforcement means or penalty assessment.

### **RELATIONSHIP**

Relates to HB 213, Paid Family and Medical Leave Act, and HB 264, Paid Family Medical Leave Act

BG/sb