

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2098 (Kalra) – As Amended March 26, 2026

Policy Committee: Insurance

Vote: 12 - 2

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

**SUMMARY:**

This bill requires an employer to provide leave to an employee who makes a reasonable effort to schedule treatment related to a workers' compensation injury outside work hours, unless business necessity requires the treatment occur at a different time.

Specifically, this bill:

- 1) Requires an employee, when possible, to make a reasonable effort to schedule treatment received under the workers' compensation system outside of regular work hours, and provides that a reasonable effort must not require a worker to consequentially delay treatment.
- 2) Requires an employee to provide reasonable, advance notice to the employer if treatment occurs during work hours and the timing of treatment is foreseeable, and provide notice as soon as practicable if timing of the treatment is unforeseeable.
- 3) Prohibits an employer from denying a request to take leave during work hours for which the employee provided the required notice unless business necessity requires the treatment to occur at a different time, and provides that an employer that denies the request and knows, or should know, that business necessity does not require treatment to occur at a different time is guilty of a misdemeanor.
- 4) Defines "business necessity" to mean an overriding legitimate business purpose such that denial of the request is necessary to the safe and efficient operation of the business, for which there is no feasible alternative to the denial of the request that would serve the business purpose.
- 5) Requires treatment-related leave taken by an employee to run concurrently with leave taken pursuant to the federal Family and Medical Leave Act of 1993 (FMLA) and California Family Rights Act (CFRA) if the employee is eligible for such leave.
- 6) Provides that an employer that discharges or discriminates against an employee because the employee requested or took leave pursuant to these provisions is guilty of a misdemeanor and entitles the employee to reinstatement and reimbursement for lost wages and benefits.

**FISCAL EFFECT:**

- 1) Likely ongoing costs in the low millions of dollars shared between the Division of Workers' Compensation to manage a significant increase in inquiries from employees, employers, labor unions, insurance carriers, attorneys, and other interested parties regarding the new requirements, and the Workers' Compensation Appeals Board to process and hear petitions for increased compensation resulting from discrimination violations (Workers' Compensation Administration Revolving Fund).
- 2) Ongoing costs of an unknown, but potentially significant, amount to the state as an employer. To the extent a state agency denies an employee's request to attend treatment, this bill may result in increased discrimination claims against the state, with costs related to litigation and entitled compensation (General Fund (GF) and special funds).
- 3) Potential cost pressures (GF or Trial Court Trust Fund) of an unknown, but likely minor, amount to the trial courts in increased workload by specifying it is a misdemeanor for an employer to deny an employee's request to attend treatment. A defendant charged with a misdemeanor is entitled to no-cost legal representation and a jury trial.

The Legislative Analyst's Office recently warned of GF structural deficits of around \$35 billion per year in the 2027-28 fiscal year and ongoing.

#### COMMENTS:

- 1) **Purpose.** According to the author:

Although many of these injuries were serious, requiring prompt medical treatment to reduce their duration and severity, numerous workers found themselves unable to access the care they needed. AB 2098 removes one of the barriers to this care by prohibiting employers from denying workers' requests to receive treatment for occupational injuries during work hours. This will ensure that injured Californian workers are not precluded from necessary care simply because they are unable to schedule medical appointments outside of work hours.

- 7) **Workers' Compensation Compromise.** The workers' compensation system is based on a compromise that allows an employee injured at work to receive employer-funded medical care, temporary disability to replace lost wages, and permanent disability to provide compensation for lasting impairment. In exchange, the injured worker cannot sue their employer for their injury. This bill prohibits an employer from denying an employee's request to take leave during work hours unless business necessity requires the treatment to occur at a different time, and provides that an employer that denies the request and knows that business necessity does not require treatment to occur at a different time is guilty of a misdemeanor. This bill also provides that an employer that discharges or discriminates against an employee for requesting or taking such leave is guilty of a misdemeanor and liable for the employee's reinstatement and reimbursement for lost wages and benefits. However, an employee must make a reasonable effort to schedule treatment outside of regular work hours and provide advance notice to the employer if treatment occurs during work hours.

As noted in the Assembly Insurance Committee's analysis of this bill, an employer that has a reasonable belief to claim a business necessity may deny an employee's request. However:

the bill in print does not contemplate circumstances in which the employee fails to comply with their obligations under the bill, and the request is denied as a result. For instance, if the employee does not make a reasonable effort to schedule treatment outside of regular work hours, and this is known to the employer, the bill does not provide the employer with the ability to deny that request or suggest that such an effort to reschedule be made. Clarification that an employer can lawfully deny a request for leave if they have actual knowledge that the employee did not fulfill obligations under the bill may thus be warranted.

The analysis also distinguishes between what constitutes a business necessity, compared to an undue hardship for an employer:

In practice, business necessity is generally applied as the standard for workplace policies or actions that would otherwise be considered discriminatory, whereas undue hardship is generally applied as the standard for declining a request for what would otherwise be considered a reasonable accommodation...Because “business necessity” in the context of this bill is linked to a denial of a request for leave, and *not* to discrimination based on exercising the right to leave, “undue hardship,” as defined in Gov. Code Sec. 12926(u), may be a more fitting standard.

- 2) **Support and Opposition.** This bill is sponsored by the California Federation of Teachers, which argues “this reform will significantly improve injury and illness outcomes for workers in need of its protections, and as a result, employers and insurers should see reduced exposure to unnecessary workers’ compensation costs.” This bill is also supported by other labor organizations.

This bill is opposed by a coalition of employer organizations, led by the California Coalition on Workers’ Compensation, unless amended with “language more akin to the undue hardship standard for accommodation requests under FEHA” and “stating that an *unreasonable* denial of time off *may* constitute a violation of 132a.”

- 3) **Prior Legislation.** SB 1205 (Laird), of the 2023-24 Legislative Session, was substantially similar to this bill. SB 1205 was ordered to the Assembly Inactive File.

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