

Senate File 324 - Introduced

SENATE FILE 324

BY SODDERS

A BILL FOR

1 An Act providing for family disability leave benefits,
2 establishing a task force, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 96A.1 Title.

2 This chapter shall be known as the "*Iowa Family Disability*
3 *Leave Benefits Law*".

4 Sec. 2. NEW SECTION. 96A.2 Definitions.

5 As used in this chapter, unless the context clearly requires
6 otherwise:

7 1. "*Appeal board*" means the employment appeal board created
8 under section 10A.601.

9 2. "*Base period*" means the period beginning with the
10 first day of the five completed calendar quarters immediately
11 preceding the first day of a covered individual's benefit year
12 and ending with the last day of the next to the last completed
13 calendar quarter immediately preceding the date on which the
14 covered individual filed a valid claim.

15 3. "*Benefit year*" means a period of one year beginning with
16 the day with respect to which a covered individual filed a
17 valid claim for benefits.

18 4. "*Benefits*" means the money payments payable to a covered
19 individual, as provided in this chapter, with respect to the
20 individual's family disability leave.

21 5. "*Calendar quarter*" means the period of three consecutive
22 calendar months ending on March 31, June 30, September 30, or
23 December 31.

24 6. "*Child*" means a biological, adopted, or foster child,
25 stepchild, or legal ward who is less than eighteen years of age
26 or is eighteen years of age or older but incapable of self-care
27 because of mental or physical impairment.

28 7. "*Contributions*" means the money payments to the family
29 disability leave benefits fund required by this chapter.

30 8. "*Covered employer*" means an employer as defined in
31 section 96.19, subsection 16.

32 9. "*Covered individual*" means an individual who is in
33 employment with a covered employer and who has been employed
34 for at least twelve months by the covered employer and for at
35 least one thousand two hundred fifty hours of service with the

1 covered employer during the previous twelve-month period.

2 10. "*Department*" means the department of workforce
3 development created in section 84A.1.

4 11. "*Director*" means the director of the department of
5 workforce development created in section 84A.1.

6 12. "*Employment*" means as defined in section 96.19,
7 subsection 18.

8 13. "*Family disability leave*" means unpaid leave taken by a
9 covered individual from employment to provide care for a family
10 member made necessary by the following:

11 a. The birth of a child of the individual.

12 b. The placement of a child with the individual in
13 connection with the adoption of the child by the individual.

14 c. A serious health condition of a family member of the
15 individual.

16 d. Attending a parent-teacher conference for a child.

17 e. Accompanying a family member for routine medical or
18 dental care.

19 14. "*Family member*" means a child, parent, or spouse of a
20 covered individual.

21 15. "*Fund*" means the family disability leave benefits
22 fund established by this chapter, to which all contributions
23 required and from which all benefits provided under this
24 chapter shall be paid.

25 16. "*Parent*" means a biological parent, foster parent,
26 adoptive parent, or stepparent of a covered individual or a
27 person who was a legal guardian of the covered individual when
28 the covered individual was a child.

29 17. "*Serious health condition*" means an illness, injury,
30 or physical or mental condition which requires inpatient care
31 in a hospital, hospice, or residential medical care facility;
32 or continuing medical treatment or continuing supervision by
33 a health care provider.

34 18. "*Statewide average weekly wage*" means the amount
35 computed by the department as provided in chapter 96 concerning

1 unemployment compensation.

2 19. "Wages" means as defined in section 96.19, subsection
3 41.

4 20. "Week" means such period or periods of seven consecutive
5 calendar days ending at midnight, or as the department may by
6 rule prescribe.

7 21. "Weekly benefit amount" means the amount of benefits a
8 covered individual would be entitled to receive for one week
9 of family disability leave. An individual's weekly benefit
10 amount, as determined for the first week of the individual's
11 benefit year, shall constitute the individual's weekly benefit
12 amount throughout such benefit year.

13 Sec. 3. NEW SECTION. 96A.3 Duties, powers, rules —
14 privilege.

15 1. *Duties and powers of director.* The director shall
16 administer this chapter and shall adopt rules pursuant to
17 chapter 17A, employ such persons, make such expenditures,
18 require such reports, make such investigations, and take such
19 other action as the director deems necessary or suitable
20 to that end. Not later than the fifteenth day of December
21 of each year, the director shall submit to the governor a
22 report covering the administration and operation of this
23 chapter during the preceding fiscal year and shall make such
24 recommendations for amendments to this chapter as the director
25 deems proper. Such report shall include a balance sheet of the
26 moneys in the fund.

27 2. *General and special rules.* Each covered employer shall
28 post and maintain printed statements of all rules of the
29 department in places readily accessible to individuals in the
30 employer's service, and shall make available to each such
31 individual at the time the individual is absent from work due
32 to a family disability leave potentially compensable under
33 this chapter a printed statement of such rules relating to the
34 filing of claims for benefits. Such printed statements shall
35 be supplied by the department to each employer without cost to

1 the employer.

2 3. *Publications.* The director shall cause to be printed
3 for distribution to the public the text of this chapter, the
4 department's general rules, its annual reports to the governor,
5 and any other material the director deems relevant and suitable
6 and shall furnish the same to any person upon application
7 therefor.

8 4. *Records, reports, and confidentiality.*

9 a. An employing unit shall keep true and accurate work
10 records containing information required by the department.
11 The records shall be open to inspection and copying by an
12 authorized representative of the department at any reasonable
13 time and as often as necessary. An authorized representative
14 of the department may require from an employing unit a sworn
15 or unsworn report, with respect to individuals employed by the
16 employing unit, which the department deems necessary for the
17 effective administration of this chapter.

18 b. (1) The department shall hold confidential the
19 information obtained from an employer or individual in
20 the course of administering this chapter and the initial
21 determination made by a representative of the department under
22 section 96A.8, subsection 2, as to the benefit rights of an
23 individual. The department shall not disclose or open this
24 information for public inspection in a manner that reveals the
25 identity of the employer or the individual, except as provided
26 in subparagraph (3) or paragraph "c".

27 (2) A report or statement, whether written or verbal,
28 made by a person to a representative of the department or
29 to another person administering this chapter is a privileged
30 communication. A person is not liable for slander or libel
31 on account of the report or statement unless the report or
32 statement is made with malice.

33 (3) Information obtained from an employer or individual
34 in the course of administering this chapter and an initial
35 determination made by a representative of the department

1 under section 96A.8, subsection 2, as to benefit rights of
2 an individual shall not be used in any action or proceeding,
3 except in a contested case proceeding or judicial review under
4 chapter 17A. However, the department shall make information,
5 which is obtained from an employer or individual in the
6 course of administering this chapter and which relates to
7 the employment and wage history of the individual, available
8 to a county attorney for the county attorney's use in the
9 performance of duties under section 331.756, subsection 5.
10 The information may be used by the interested parties in a
11 proceeding under this chapter to the extent necessary for the
12 proper presentation or defense of a claim.

13 *c.* Subject to conditions as the department by rule
14 prescribes, information obtained from an employer or individual
15 in the course of administering this chapter and an initial
16 determination made by a representative of the department
17 under section 96A.8, subsection 2, as to benefit rights of an
18 individual may be made available for purposes consistent with
19 the purposes of this chapter to any of the following:

20 (1) The internal revenue service of the United States
21 department of the treasury.

22 (2) The department of revenue.

23 (3) Colleges, universities, and public agencies of this
24 state for use in connection with research of a public nature,
25 provided the department does not reveal the identity of an
26 employer or individual.

27 (4) An employee of the department, a member of the general
28 assembly, or a member of the Congress of the United States in
29 connection with the employee's or member's official duties.

30 *d.* Upon request of an agency of this or another state
31 or of the federal government which administers or operates
32 a program of public assistance or child support enforcement
33 under either the law of this or another state or federal
34 law, or which is charged with a duty or responsibility under
35 the program, and if the agency is required by law to impose

1 safeguards for the confidentiality of information at least as
2 effective as required under this subsection, the department
3 shall provide to the requesting agency, with respect to any
4 named individual without regard to paragraph "g", any of the
5 following information:

6 (1) Whether the individual is receiving or has received
7 benefits, or has made an application for benefits under this
8 chapter.

9 (2) The period, if any, for which benefits were payable and
10 the weekly benefit amount.

11 (3) The individual's most recent address.

12 e. The department may require an agency which is provided
13 information under this subsection to reimburse the department
14 for the costs of furnishing the information.

15 f. An employee of the department, an administrative
16 law judge, or a member of the appeal board who violates
17 this subsection is guilty, upon conviction, of a serious
18 misdemeanor.

19 g. Information subject to the confidentiality of this
20 subsection shall not be directly released to any authorized
21 agency unless an attempt is made to provide written
22 notification to the individual involved. Information released
23 in accordance with criminal investigations by a law enforcement
24 agency of this state, another state, or the federal government
25 is exempt from this requirement.

26 h. The department and its employees shall not be liable for
27 any acts or omissions resulting from the release of information
28 to any person pursuant to this subsection.

29 5. *Oaths and witnesses.* In the discharge of the duties
30 imposed by this chapter, the chairperson of the appeal board
31 and any duly authorized representative of the department
32 shall have power to administer oaths and affirmations, take
33 depositions, certify to official acts, and issue subpoenas to
34 compel the attendance of witnesses and the production of books,
35 papers, correspondence, memoranda, and other records deemed

1 necessary as evidence in connection with a disputed claim or
2 the administration of this chapter.

3 6. *Subpoenas.* In case of contumacy by, or refusal to obey
4 a subpoena issued to any person, any court of this state within
5 the jurisdiction of which the inquiry is carried on or within
6 the jurisdiction of which the person guilty of contumacy or
7 refusal to obey is found or resides or transacts business, upon
8 application by the department, or any member or duly authorized
9 representative thereof, shall have jurisdiction to issue to
10 such person an order requiring such person to appear before
11 the department or any member or duly authorized representative
12 thereof to produce evidence if so ordered or to give testimony
13 touching the matter under investigation or in question; any
14 failure to obey such order of the court may be punished by the
15 court as a contempt thereof.

16 7. *Protection against self-incrimination.* A person shall
17 not be excused from attending and testifying or from producing
18 books, papers, correspondence, memoranda, and other records
19 before the department, or the appeal board, or in obedience
20 to a subpoena in any cause or proceeding provided for in
21 this chapter, on the ground that the testimony or evidence,
22 documentary or otherwise, required of the person may tend to
23 incriminate the person or subject the person to a penalty
24 for forfeiture; but a person shall not be prosecuted or
25 subjected to any penalty of forfeiture for or on account of
26 any transaction, matter, or thing concerning which the person
27 is compelled, after having claimed privilege against self-
28 incrimination, to testify or produce evidence, documentary or
29 otherwise, except that such person so testifying shall not be
30 exempt from prosecution and punishment for perjury committed
31 in so testifying.

32 8. *Destruction of records.* The department may destroy
33 or dispose of such original reports or records as have been
34 properly recorded or summarized in the permanent records of
35 the department and are deemed by the director to be no longer

1 necessary to the proper administration of this chapter. Wage
2 records of the individual or transcripts therefrom may be
3 destroyed or disposed of two years after the expiration of the
4 period covered by such wage records or upon proof of the death
5 of the individual. Such destruction or disposition shall be
6 made only by order of the director.

7 9. *Purging uncollectible overpayments.* Notwithstanding any
8 other provision of this chapter, the department shall review
9 all outstanding overpayments of benefit payments annually.
10 The department may determine as uncollectible and purge from
11 its records any remaining unpaid balances of outstanding
12 overpayments which are ten years or older from the date of the
13 overpayment decision.

14 10. *Reimbursement of setoff costs.* The department shall
15 include in the amount set off in accordance with section
16 421.17, subsection 27, for the collection of an overpayment
17 created pursuant to this chapter, an additional amount for the
18 reimbursement of setoff costs incurred by the department of
19 revenue.

20 Sec. 4. NEW SECTION. 96A.4 **Private plans.**

21 1. Any covered employer may establish a private plan for
22 the purpose of providing family disability leave benefits in
23 lieu of benefits as provided by this chapter. The private plan
24 shall provide benefits to the same or greater extent than that
25 which is provided under this chapter.

26 2. The department shall establish requirements for
27 determining whether a private plan meets the requirements of
28 this section and shall certify whether a covered employer has
29 established an eligible private plan.

30 3. Covered individuals of a covered employer that has
31 established an eligible private plan shall not be entitled to
32 benefits as provided by this chapter. In addition, covered
33 individuals and the covered employer of an eligible private
34 plan shall not be required to make contributions to the family
35 disability leave benefits fund.

1 **Sec. 5. NEW SECTION. 96A.5 Nonduplication of benefits.**

2 Benefits shall not be required to be paid or paid under this
3 chapter for any period of family disability leave with respect
4 to which benefits are paid or payable under any unemployment
5 compensation or similar law, or under any disability or cash
6 sickness benefit or similar law, of this state or of any other
7 state or of the federal government. Benefits shall not be
8 required to be paid or paid under this chapter for any period
9 of family disability leave with respect to which benefits are
10 paid or payable on account of a disability of the covered
11 individual under any worker's compensation law, occupational
12 disease law, or similar legislation of this state or of any
13 other state or the federal government.

14 **Sec. 6. NEW SECTION. 96A.6 Coverage.**

15 All covered individuals shall be entitled on and after
16 January 1, 2012, to family disability leave benefits provided
17 by this chapter pursuant to family disability leave.

18 **Sec. 7. NEW SECTION. 96A.7 Family disability leave benefits**
19 **— determination — duration.**

20 1. *Determination of benefits.* a. A covered individual who
21 is absent from work during an entire week pursuant to family
22 disability leave shall be paid with respect to such weekly
23 benefits in an amount which shall be equal to the individual's
24 weekly benefit amount. A covered individual who is absent from
25 work pursuant to family disability leave for a portion of any
26 week and who meets the conditions of eligibility for benefits
27 shall be paid with respect to that week an amount equal to the
28 individual's weekly benefit amount less that part of wages
29 payable to the individual with respect to that week in excess
30 of one-fourth of the individual's weekly benefit amount. The
31 benefits shall be rounded to the lower multiple of one dollar.

32 b. For purposes of this section, a covered individual's
33 weekly benefit amount shall be an amount equal to the amount as
34 determined pursuant to section 96.3, subsection 4.

35 2. *Eligibility for benefits.* The department shall adopt

1 rules governing the ability of a covered employer to establish
2 reasonable guidelines governing a covered individual's request
3 for, and continued eligibility for, family disability leave.
4 The rules shall provide that any guidelines established by
5 an employer shall not require a covered individual to use
6 paid leave prior to becoming eligible for benefits under this
7 chapter.

8 3. *Duration of benefits.* The maximum total amount of family
9 disability leave for which a covered individual is eligible for
10 benefits pursuant to this chapter during a benefit year shall
11 not exceed twenty-six weeks. Of the maximum family disability
12 leave permitted pursuant to this section, no more than
13 twenty-four hours shall be family disability leave as described
14 in section 96A.2, subsection 13, paragraphs "d" and "e".

15 Sec. 8. NEW SECTION. **96A.8 Filing — determination —**
16 **appeal.**

17 1. *Filing.* Claims for benefits shall be made in accordance
18 with such rules as the department may prescribe.

19 2. *Initial determination.* A representative designated
20 by the director shall promptly notify all interested parties
21 to the claim of its filing, and the parties shall have ten
22 days from the date of mailing the notice of the filing of the
23 claim by ordinary mail to the last known address to protest
24 payment of benefits to the claimant. The representative shall
25 promptly examine the claim and any protest, take the initiative
26 to ascertain relevant information concerning the claim, and,
27 on the basis of the facts found by the representative, shall
28 determine whether or not the claim is valid, the week with
29 respect to which benefits shall commence, the weekly benefit
30 amount payable and its maximum duration, and whether any
31 disqualification shall be imposed. The claimant has the burden
32 of proving that the claimant meets the basic eligibility
33 conditions of this chapter. Unless the claimant or other
34 interested party, after notification or within ten calendar
35 days after notification was mailed to the claimant's last

1 known address, files an appeal from the decision, the decision
2 is final and benefits shall be paid or denied in accordance
3 with the decision. If an administrative law judge affirms a
4 decision of the representative, or the appeal board affirms a
5 decision of the administrative law judge allowing benefits,
6 the benefits shall be paid regardless of any appeal which is
7 thereafter taken.

8 3. *Appeals.* Unless the appeal is withdrawn, an
9 administrative law judge, after affording the parties
10 reasonable opportunity for fair hearing, shall affirm or modify
11 the findings of fact and decision of the representative. The
12 hearing shall be conducted pursuant to the provisions of
13 chapter 17A relating to hearings for contested cases. Before
14 the hearing is scheduled, the parties shall be afforded
15 the opportunity to choose either a telephone hearing or an
16 in-person hearing. A request for an in-person hearing shall
17 be approved unless the in-person hearing would be impractical
18 because of the distance between the parties to the hearing. A
19 telephone or in-person hearing shall not be scheduled before
20 the seventh calendar day after the parties receive notice of
21 the hearing. Reasonable requests for the postponement of a
22 hearing shall be granted. The parties shall be duly notified
23 of the administrative law judge's decision, together with
24 the administrative law judge's reasons for the decision,
25 which is the final decision of the department, unless within
26 fifteen days after the date of notification or mailing of
27 the decision, further appeal is initiated pursuant to this
28 section. Appeals from the initial determination shall be heard
29 by an administrative law judge employed by the department. An
30 administrative law judge's decision may be appealed by any
31 party to the appeal board. The decision of the appeal board is
32 final agency action and an appeal of the decision shall be made
33 directly to the district court.

34 4. *Effect of determination.* A finding of fact or law,
35 judgment, conclusion, or final order made pursuant to this

1 section by an employee or representative of the department,
2 administrative law judge, or the appeal board, is binding only
3 upon the parties to proceedings brought under this chapter,
4 and is not binding upon any other proceedings or action
5 involving the same facts brought by the same or related parties
6 before the division of labor services, division of workers'
7 compensation, other state agency, arbitrator, court, or judge
8 of this state or the United States.

9 Sec. 9. NEW SECTION. **96A.9 Recovery of overpayment of**
10 **benefits.**

11 If a covered individual receives benefits for which the
12 individual is subsequently determined to be ineligible, even
13 though the individual acts in good faith and is not otherwise
14 at fault, the benefits shall be recovered. The department
15 in its discretion may recover the overpayment of benefits
16 either by having a sum equal to the overpayment deducted from
17 any future benefits payable to the individual or by having
18 the individual pay to the department a sum equal to the
19 overpayment.

20 Sec. 10. NEW SECTION. **96A.10 Waiver — fees — assignments**
21 **— penalties.**

22 1. *Waiver of rights void.* Any agreement by a covered
23 individual to waive, release, or commute the individual's
24 rights to benefits or any other rights under this chapter shall
25 be void. Any agreement by any individual in the employ of
26 any person or concern to pay all or any portion of a covered
27 employer's contributions, required under this chapter from
28 such employer, shall be void. A covered employer shall not
29 directly or indirectly make or require or accept any deduction
30 from wages to finance the employer's contributions required
31 from the employer, or require or accept any waiver of any
32 right hereunder by any individual in the employer's employ.
33 Any covered employer or officer or agent of an employer who
34 violates any provision of this subsection shall, for each
35 offense, be guilty of a serious misdemeanor.

1 2. *Prohibition against fees.* A covered individual claiming
2 benefits under this chapter shall not be charged fees of any
3 kind in any proceeding under this chapter by the department or
4 its representatives or by a court or an officer of the court.
5 An individual claiming benefits in a proceeding before the
6 department, an appeal tribunal, or a court may be represented
7 by counsel or other duly authorized agent. A person who
8 violates a provision of this subsection is guilty of a serious
9 misdemeanor for each violation.

10 3. *No assignment of benefits — exemptions.* a. Any
11 assignment, pledge, or encumbrance of any right to benefits
12 which are or may become due or payable under this chapter shall
13 be void, and such rights to benefits shall be exempt from levy,
14 execution, attachment, or any other remedy whatsoever provided
15 for the collection of debt; and benefits received by any
16 individual, so long as they are not mingled with other funds
17 of the recipient, shall be exempt from any remedy whatsoever
18 for the collection of all debts. Any waiver of any exemption
19 provided for in this subsection shall be void.

20 b. However, benefits under this chapter are not exempt from
21 income withholding, garnishment, attachment, or execution if
22 withheld for or garnisheed by the child support recovery unit,
23 established in section 252B.2, or if an income withholding
24 order or notice of the income withholding order under section
25 598.22 or 598.23 is being enforced by the child support
26 recovery unit to satisfy the child support obligation of a
27 covered individual who is eligible for benefits under this
28 chapter.

29 Sec. 11. NEW SECTION. 96A.11 **Family disability leave**
30 **benefits fund.**

31 1. *Establishment and control.* A family disability leave
32 benefits fund is hereby established as a special fund, separate
33 and apart from all public moneys or funds of this state. The
34 department shall administer the fund exclusively for the
35 purposes of this chapter. The fund shall consist of all of the

1 following:

2 *a.* All contributions collected under this chapter,
3 including any interest and penalties collected on delinquent
4 contributions.

5 *b.* Interest earned upon any moneys in the fund.

6 *c.* Any property or securities acquired through the use of
7 moneys belonging to the fund.

8 *d.* All earnings of such property or securities.

9 *e.* Any other moneys specifically directed or appropriated
10 to the fund.

11 2. *Accounts and deposits.* The treasurer of state shall
12 be the custodian of the fund and shall administer the fund in
13 accordance with the directions of the department.

14 3. *Exclusive use.* Moneys in the fund shall be held in trust
15 for the exclusive payment of family disability leave benefits
16 pursuant to this chapter.

17 Sec. 12. NEW SECTION. **96A.12 Contributions.**

18 1. Covered employers who have not established an eligible
19 private plan pursuant to section 96A.4 and all employees of
20 a covered employer shall pay into the fund contributions as
21 provided by this section.

22 2. *a.* For each calendar year, the department shall by
23 November 1 of the previous calendar year, establish a total
24 contribution rate for the upcoming calendar year based upon
25 the anticipated wages of employees of covered employers for
26 the upcoming calendar year which shall be sufficient to pay
27 anticipated benefits pursuant to this chapter for that calendar
28 year.

29 *b.* Of the total contribution rate established by the
30 department, covered employers shall pay contributions based
31 on two-thirds of the total contribution rate established and
32 employees of covered employers shall pay contributions based
33 on one-third of the total contribution rate established by the
34 department. Covered employers shall ensure that the employee
35 contribution shall be deducted from the employee's wages.

1 Sec. 13. NEW SECTION. **96A.13 Priority — refunds.**

2 1. *Interest.* An employer who fails to pay any contribution
3 at the time required by this chapter and the rules of the
4 department shall pay to the department in addition to such
5 contribution, interest thereon at the rate of one percent per
6 month and one-thirtieth of one percent for each day or fraction
7 thereof computed from the date upon which the contribution
8 should have been paid.

9 2. *Fraud — penalty.* If the department finds that an
10 employer has willfully failed to pay any contribution or part
11 thereof when required by this chapter and the rules of the
12 department, with intent to defraud the department, the employer
13 shall in addition to such contribution or part thereof, pay
14 a contribution equal to fifty percent of the amount of such
15 contribution or part thereof, as the case may be.

16 3. *Cancellation upon proof.* The department may cancel any
17 interest or penalties if it is shown to the satisfaction of
18 the department that the failure to pay a required contribution
19 or to file a required report was not the result of negligence,
20 fraud, or intentional disregard of the law or the rules of the
21 department.

22 4. *Lien of contributions — collection.* Whenever any covered
23 employer liable to pay contributions refuses or neglects to pay
24 the contributions, the amount, including any interest, together
25 with the costs that may accrue in addition thereto, shall be
26 a lien in favor of the state upon all property and rights to
27 property, whether real or personal, belonging to the employer.

28 Sec. 14. NEW SECTION. **96A.14 Offenses.**

29 1. *Penalties.* An individual who makes a false statement
30 or representation knowing it to be false or knowingly fails to
31 disclose a material fact, to obtain or increase any benefit or
32 other payment under this chapter, either for the individual or
33 for any other individual, is guilty of a fraudulent practice
34 as defined in sections 714.8 through 714.14. The total amount
35 of benefits or payments involved in the completion of or in

1 the attempt to complete a fraudulent practice shall be used in
2 determining the value involved under section 714.14.

3 2. *False statement.* Any covered employer or any officer
4 or agent of a covered employer or any other person who makes a
5 false statement or representation knowing it to be false, or
6 who knowingly fails to disclose a material fact, to prevent
7 or reduce the payment of benefits to any individual entitled
8 thereto, or to avoid becoming or remaining subject hereto,
9 or to avoid or reduce any contribution or other payment
10 required from a covered employer under this chapter, or who
11 willfully fails or refuses to make any such contributions or
12 other payment or to furnish any reports required hereunder
13 or to produce or permit the inspection or copying of records
14 as required hereunder, is guilty of a fraudulent practice as
15 defined in sections 714.8 through 714.14. The total amount of
16 benefits, contributions, or payments involved in the completion
17 of or in the attempt to complete a fraudulent practice shall be
18 used in determining the value involved under section 714.14.

19 3. *Unlawful acts.* Any person who willfully violates any
20 provision of this chapter or any rule adopted pursuant to
21 this chapter, the violation of which is made unlawful or
22 the observance of which is required under the terms of this
23 chapter, and for which a penalty is neither prescribed herein
24 nor provided by any other applicable statute, shall be guilty
25 of a simple misdemeanor, and each day such violation continues
26 shall be deemed to be a separate offense.

27 4. *Misrepresentation.* An individual who, by reason of the
28 nondisclosure or misrepresentation by the individual or by
29 another of a material fact, has received any sum as benefits
30 under this chapter while any conditions for the receipt of
31 benefits imposed by this chapter were not fulfilled in the
32 individual's case, or while the individual was disqualified
33 from receiving benefits, shall, in the discretion of the
34 department, either be liable to have the sum deducted from any
35 future benefits payable to the individual under this chapter

1 or shall be liable to repay to the department for the fund,
2 a sum equal to the amount so received by the individual. If
3 the department seeks to recover the amount of the benefits by
4 having the individual pay to the department a sum equal to that
5 amount, the department may file a lien with the county recorder
6 in favor of the state on the individual's property and rights
7 to property, whether real or personal.

8 Sec. 15. TASK FORCE ON WORK AND THE FAMILY.

9 1. A task force on work and the family is established under
10 the sponsorship of the department of workforce development.
11 The task force shall consist of the following members: the
12 director of the department of workforce development and
13 fourteen public members, appointed by the governor and
14 confirmed by the senate, including four representatives
15 of women's organizations; four representatives of labor
16 organizations; four representatives of business organizations;
17 and two individuals with expertise on the impact of work on
18 family life. Not more than seven of the public members shall
19 be of the same political party. Each member shall serve on
20 the task force for a term lasting until the task force is
21 dissolved. Any member may be removed from office by the
22 governor, for cause, after a hearing and may be suspended
23 by the governor pending the completion of the hearing. All
24 vacancies shall be filled in the same manner as the original
25 appointment. Members shall serve without compensation. The
26 task force shall organize itself within fifteen days after
27 the appointment of its members. In organizing itself, the
28 task force shall elect a chairperson and vice chairperson
29 from among its members. Each member shall be entitled to one
30 vote on all matters which may come before the task force. No
31 determination, decision, or action of the task force shall be
32 made or taken unless a majority of the members votes in favor
33 of the action.

34 2. The task force shall issue a report not later than
35 June 1, 2015, which evaluates and describes the impact of the

1 provisions of chapter 96A, including the costs and benefits
2 resulting from the provisions of the chapter for the following:

3 a. Employees and their families.

4 b. Employers, including benefits such as reduced training
5 and other costs related to reduced turnover of personnel, and
6 increased affordability of family disability leave benefits
7 through the provisions of chapter 96A, with special attention
8 given to small businesses.

9 c. The public, including savings caused by any reduction in
10 the number of people receiving public assistance.

11 The task force shall evaluate the impact of the provisions of
12 chapter 96A on welfare costs and on the stability of employment
13 of participants. The report shall include recommendations
14 regarding whether to continue or modify the provisions of
15 chapter 96A after December 31, 2016, and any draft legislation
16 needed to implement the recommendations. The task force shall
17 dissolve immediately after issuing the report. The task force
18 may hold public hearings and shall have access to all files
19 and records of the department of revenue and finance, the
20 department of workforce development, and other relevant state
21 agencies and may call to its assistance and avail itself of the
22 services of the employees of those departments and agencies to
23 provide whatever information the task force deems necessary in
24 the performance of its functions.

25 3. The total amount of expenses which the task force
26 determines is necessary to carry out its duties pursuant
27 to this section, if any, shall be provided through an
28 appropriation to the department of workforce development,
29 except that the amount shall in no case exceed one hundred
30 fifty thousand dollars during any fiscal year. The task force
31 shall make that determination in consultation with the director
32 of the department of workforce development and shall report
33 that determination to the director not later than the sixtieth
34 day following its organization.

35

EXPLANATION

1 This bill establishes a family disability leave benefits law
2 which provides benefits to individuals who take unpaid time
3 from work to provide care for a family member's disability or
4 for certain other absences from work. The law is administered
5 by the department of workforce development. The bill defines
6 family disability leave as unpaid leave for the birth of a
7 child of the individual, the placement of a child with the
8 individual in connection with the adoption of the child by the
9 individual, a serious health condition of a family member of
10 the individual, attending a parent-teacher conference for a
11 child, and accompanying a family member for routine medical and
12 dental care. Benefits are calculated in the same manner as
13 unemployment compensation benefits are calculated. The bill
14 establishes a mechanism for employers to opt out of coverage
15 under the law if the employer has established a private plan to
16 provide family disability leave benefits.

17 The bill establishes a family disability leave benefits
18 fund for the payment of benefits and establishes the mechanism
19 for establishing the rate for both employers and employees to
20 make contributions into the fund. The department of workforce
21 development administers the fund and also provides for the
22 payment and determination of benefits payable from the fund.

23 The bill provides for the recovery of benefit overpayments
24 and establishes penalties for violations of various provisions
25 of the law. The bill provides that the rights granted by the
26 bill cannot be waived.

27 The bill provides that family disability leave benefits
28 shall be payable beginning January 1, 2012.

29 The bill establishes a task force concerning work and
30 family in the department of workforce development to examine
31 the impact of the bill and requires the task force to issue
32 a report by June 1, 2015, concerning its findings. The bill
33 specifies the membership of the task force and provides that
34 the costs associated with the task force be payable from an
35 appropriation to the department of workforce development.