

Senate File 195 - Introduced

SENATE FILE 195

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A BILL FOR

1 An Act relating to a family leave and medical leave insurance
2 program that provides for paid, job-protected leave for
3 certain family leave and medical leave reasons for eligible
4 employees of specified employers.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 7E.5, subsection 1, paragraph h, Code
2 2019, is amended to read as follows:

3 h. The department of workforce development, created
4 in [section 84A.1](#), which has primary responsibility for
5 administering the laws relating to unemployment compensation
6 insurance, job placement and training, employment safety, labor
7 standards, workers' compensation, the family leave and medical
8 insurance program, and related matters.

9 Sec. 2. NEW SECTION. 96A.1 Short title.

10 This chapter may be cited as the "*Iowa Family and Medical*
11 *Leave Act*".

12 Sec. 3. NEW SECTION. 96A.2 Definitions.

13 As used in this chapter, unless the context otherwise
14 requires:

15 1. "*Child*" means a biological, adopted, or foster child,
16 a stepchild, a legal ward, or a child of a person standing in
17 loco parentis, regardless of the child's age or dependency
18 status.

19 2. "*Covered employer*" means a private sector employer who
20 has ten or more employees for each working day during each of
21 twenty or more calendar workweeks in the current or previous
22 calendar year and a public employer without regard to the
23 number of employees employed.

24 3. "*Department*" means the department of workforce
25 development.

26 4. "*Director*" means the director of the department of
27 workforce development.

28 5. "*Employee*" means the same as defined in section 91A.2.
29 "*Employee*" does not include an independent contractor, a self-
30 employed person, or a patient or inmate employed by a state
31 or local institution to which the patient or inmate has been
32 sentenced or committed.

33 6. "*Employer*" means the same as defined in 91A.2.
34 "*Employer*" includes a temporary staffing agency or employment
35 agency.

1 7. "*Employment benefits*" means all benefits provided or
2 made available to an employee by an employer, including group
3 life insurance, health insurance, disability insurance, sick
4 leave, annual leave, educational benefits, and pensions except
5 benefits that are provided by a practice or written policy of
6 an employer or through an employee benefit plan as defined in
7 29 U.S.C. §1002(3).

8 8. "*Family leave*" means a leave taken from work by an
9 employee for any of the following reasons:

10 a. To participate in providing care, including physical or
11 psychological care, for a family member of the employee made
12 necessary by a serious health condition of the family member.

13 b. To bond with the employee's child after the child's
14 birth or with a child under the age of eighteen placed with the
15 employee for adoption or foster care.

16 c. Because of a qualifying exigency for a family member as
17 permitted under the federal Family and Medical Leave Act of
18 1993, as amended, and federal regulations as provided in 29
19 C.F.R. §825.126.

20 9. "*Family member*" means a child, parent, or spouse of an
21 employee.

22 10. "*Gross earnings*" means the same as defined in section
23 85.61.

24 11. "*Health care provider*" means a physician or other
25 health care practitioner licensed, accredited, registered, or
26 certified to perform specified health care services consistent
27 with state law.

28 12. "*In loco parentis*" means an individual who has
29 day-to-day responsibilities to care for or financially support
30 a child.

31 13. "*Inpatient care*" means an overnight stay in a hospital,
32 hospice, or residential medical care facility, including any
33 period of incapacity, or any subsequent treatment in connection
34 with such inpatient care.

35 14. "*Medical leave*" means a leave from work taken by an

1 employee made necessary by the employee's own serious health
2 condition.

3 15. "*Parent*" means a biological, adoptive, step, or foster
4 father or mother, or any other individual who stands in
5 loco parentis to an employee or who stood in loco parentis
6 when the employee was a child. "*Parent*" does not include a
7 parent-in-law.

8 16. "*Period of incapacity*" means an inability to work,
9 attend school, or perform other regular daily activities due
10 to a serious health condition, treatment of a serious health
11 condition, or recovery from a serious health condition.

12 17. "*Premium*" or "*premiums*" means the payments required by
13 section 96A.12 and paid to the department for deposit in the
14 family and medical leave insurance account pursuant to section
15 96A.22.

16 18. "*Public employer*" means the state of Iowa, its
17 boards, commissions, agencies, departments, and its political
18 subdivisions including school districts and other special
19 purpose districts.

20 19. "*Serious health condition*" means an illness, injury,
21 impairment, physical condition, or mental condition that
22 involves inpatient care in a hospital, hospice, medical care
23 facility, or continued treatment or continuing supervision by
24 a health care provider.

25 20. "*Spendable weekly earnings*" means the amount remaining
26 after payroll taxes are deducted from an employee's gross
27 weekly earnings.

28 21. "*Spouse*" means the person with whom an individual has
29 entered into marriage as defined or recognized under state law
30 for purposes of marriage in the state in which the marriage
31 was entered into or, in the case of a marriage entered into
32 outside of any state, if the marriage is valid in the place
33 where the marriage was entered into and the marriage could have
34 been entered into in at least one state, including a same sex
35 or common law marriage.

1 22. "Wages" means the same as defined in section 91A.2.

2 Sec. 4. NEW SECTION. 96A.3 **Benefit eligibility.**

3 An employee is eligible for family leave and medical leave
4 as provided in this chapter after working for a covered
5 employer for both a minimum of twelve consecutive months
6 immediately preceding the employee's request for leave and a
7 minimum of one thousand two hundred fifty hours during that
8 twelve-consecutive-month period.

9 Sec. 5. NEW SECTION. 96A.4 **Leave entitlement for a defined**
10 **twelve-month period.**

11 1. An employee is entitled to a maximum of twelve weeks
12 of family leave during a defined period of twelve consecutive
13 months.

14 2. An employee is entitled to a maximum of twelve weeks of
15 medical leave during a defined period of twelve consecutive
16 months unless the employee experiences a serious health
17 condition, which is pregnancy-related, that results in a longer
18 period of incapacity in which case any extended medical leave
19 beyond twelve weeks shall conform with section 216.6.

20 3. An employee is entitled to a maximum combined total of
21 paid family leave and medical leave of sixteen weeks during a
22 defined period of twelve consecutive months.

23 4. An employee is not entitled to family leave or medical
24 leave of less than eight consecutive hours.

25 Sec. 6. NEW SECTION. 96A.5 **Calculating the defined**
26 **twelve-month period.**

27 The defined period of twelve consecutive months for
28 calculation of an eligible employee's family leave or medical
29 leave entitlement begins on any of the following:

30 1. The date of birth of an employee's child or the date
31 of placement of a child for adoption or foster care with the
32 employee.

33 2. The first day of family leave that an employee takes for
34 a family member's serious health condition or a family member's
35 qualifying exigency.

1 3. The first day of medical leave.

2 Sec. 7. NEW SECTION. 96A.6 Disqualification from leave
3 entitlement.

4 An eligible employee is disqualified for family leave or
5 medical leave benefits under this chapter for any of the
6 following:

7 1. An absence due to the employee's willful intention to
8 injure or cause a sickness to the employee or to the employee's
9 family member.

10 2. An injury or sickness caused by the employee engaging in
11 an illegal act.

12 3. The employee's absence due to an employer taking any
13 disciplinary action against the employee.

14 Sec. 8. NEW SECTION. 96A.7 Employee notice to employer of
15 intent to take leave.

16 1. If leave for the birth of a child or placement of a child
17 for adoption or foster care with an employee is foreseeable,
18 the employee shall provide written notice not less than thirty
19 calendar days before the date the leave is to begin.

20 2. If the birth of a child or placement of a child for
21 adoption or foster care with an employee requires leave to
22 begin in less than thirty calendar days, the employee shall
23 provide written notice as far in advance as is practicable.

24 3. If leave for a family member's serious health condition
25 or an employee's serious health condition is foreseeable based
26 on planned medical treatment, the employee shall do all of the
27 following:

28 a. Make a reasonable effort to schedule such medical
29 treatment, subject to the recommendation of the employee's or
30 family member's health care provider as appropriate, to not
31 unduly disrupt the operations of the employer.

32 b. Provide the employer with not less than thirty calendar
33 days prior written notice of the employee's intention to take
34 leave for a family member's serious health condition or the
35 employee's serious health condition.

1 4. If leave for a family member's serious health condition
2 or an employee's serious health condition is not foreseeable,
3 the employee shall provide written notice as far in advance as
4 is practicable.

5 Sec. 9. NEW SECTION. 96A.8 Weekly claim, certification, and
6 verification.

7 Beginning January 1, 2024, family leave or medical leave
8 insurance benefits are payable to an employee during a period
9 in which the employee is unable to perform the employee's
10 regular or customary work because the employee is on family
11 leave or medical leave if the employee meets all of the
12 following requirements:

13 1. The employee files a weekly claim for benefits with the
14 department as required per rules adopted by the director.

15 2. The employee meets the eligibility requirements pursuant
16 to section 96A.3 or the elective coverage requirements pursuant
17 to section 96A.14.

18 3. The employee consents to the disclosure of information or
19 records that may be deemed private or confidential under state
20 or federal law. Disclosure of such information and records by
21 another state agency or an employer to the department shall
22 be solely for purposes related to the administration of this
23 chapter. Information and records disclosed by an employee
24 under this chapter shall not be public records as defined in
25 section 22.1.

26 4. The employee authorizes the health care provider of the
27 employee's family member or of the employee, as applicable, to
28 complete a certification of a serious health condition in a
29 form as required by the director.

30 5. The employee attests that written notice has been
31 provided to the employee's employer per section 96A.7.

32 6. The employee provides documentation of a family member's
33 qualifying exigency if requested by the employee's employer.

34 Sec. 10. NEW SECTION. 96A.9 Waiting period for leave
35 benefits.

1 Family leave or medical leave insurance benefits shall be
2 payable to an eligible employee following a waiting period
3 consisting of the first seven calendar days of leave. However,
4 no such waiting period applies to a leave for the birth or
5 placement of a child with an eligible employee.

6 Sec. 11. NEW SECTION. 96A.10 Weekly leave benefit amount.

7 1. The basis for the calculation of a leave benefit amount
8 shall be the weekly earnings of an eligible employee on the
9 day the leave is granted. "*Weekly earnings*" means the gross
10 earnings of an employee to which such employee would have been
11 entitled had the employee worked the employee's customary hours
12 for the full pay period in which the employee is on family
13 leave or medical leave. Weekly earnings shall be computed as
14 follows, rounded to the nearest dollar, for an employee who is
15 paid on the following basis:

16 a. On a weekly pay period basis, the weekly earnings are the
17 weekly gross earnings.

18 b. On a biweekly pay period basis, the weekly earnings are
19 one-half of the biweekly gross earnings.

20 c. On a semimonthly pay period basis, the weekly earnings
21 are the semimonthly gross earnings multiplied by twenty-four
22 and then divided by fifty-two.

23 d. On a monthly pay period basis, the weekly earnings
24 are the monthly gross earnings multiplied by twelve and then
25 divided by fifty-two.

26 e. On a yearly pay period basis, the weekly earnings shall
27 be the yearly earnings divided by fifty-two.

28 f. On a daily or hourly basis, or by the output of an
29 employee, the weekly earnings shall be computed by dividing by
30 thirteen the earnings, including shift differential pay but
31 not including overtime or premium pay, of the employee earned
32 in the last completed period of thirteen consecutive calendar
33 weeks immediately preceding the start day of the leave. If
34 the employee was absent from employment for personal reasons
35 during part of the thirteen calendar weeks preceding the

1 leave, the employee's weekly earnings shall be the amount the
2 employee would have earned had the employee worked when work
3 was available to other employees of the employer in a similar
4 occupation. A week that does not fairly reflect the employee's
5 customary earnings shall be replaced by the closest previous
6 week with earnings that fairly represent the employee's
7 customary earnings.

8 2. If on the date that leave begins an employee's hourly
9 earnings cannot be ascertained, the earnings for the purpose
10 of calculating the benefit amount shall be the usual earnings
11 for similar services where such services are rendered by paid
12 employees.

13 3. If an employee earns either no wages or less than the
14 usual weekly earnings of a regular full-time adult laborer
15 in the line of work in which the employee is working in
16 that locality, the weekly earnings shall be one-fiftieth of
17 the total earnings which the employee has earned from all
18 employment during the twelve consecutive calendar months
19 immediately preceding the date that the employee's leave
20 begins.

21 4. The weekly leave benefit amount payable to an employee
22 for any one week shall be eighty percent of the employee's
23 spendable weekly earnings, but shall not exceed an amount equal
24 to two hundred percent of the statewide average weekly wage
25 paid to employees as determined by the department pursuant to
26 section 96.19 and in effect on the date that the employee's
27 leave commences. However, the weekly leave benefit amount
28 shall be a minimum equal to the lesser of the weekly leave
29 benefit amount of a person whose gross weekly earnings are
30 thirty-five percent of the statewide average weekly wage, or to
31 the spendable weekly earnings of the employee.

32 **Sec. 12. NEW SECTION. 96A.11 Payment of benefits to an**
33 **eligible employee.**

34 1. The department shall send the first benefit payment to
35 an employee within ten calendar days after the first properly

1 completed weekly claim from the employee is received by
2 the department. Subsequent payments shall be sent at least
3 biweekly to an eligible employee if a properly completed weekly
4 claim from the employee is received by the department.

5 2. If an employer contests an employee's initial claim
6 for family leave or medical leave benefits, the employer must
7 notify the employee and the department in the manner prescribed
8 by the director within ten calendar days of the employer's
9 receipt of notice from the department of the employee's filing
10 of a claim for benefits pursuant to section 96A.21, subsection
11 3. Failure to timely contest an initial application shall
12 constitute a waiver of objection to the family leave or medical
13 leave claim.

14 3. If the department or the employer contests an employee's
15 eligibility for benefits after the employee begins receiving
16 benefits the employee shall continue to be paid benefits
17 conditionally for any weeks for which the employee files a
18 claim for benefits. The employee's right to retain such
19 benefit payments shall be conditioned upon the department's
20 finding that the employee is eligible for such benefit
21 payments.

22 a. At an employee's request, the department shall hold
23 conditional benefit payments until the department resolves the
24 employee's eligibility status.

25 b. Payment shall be issued promptly for any withheld benefit
26 payments if the department determines that an employee is
27 eligible for benefits.

28 c. If the department determines that an employee is
29 ineligible for the conditionally paid benefits, the employee
30 shall repay the overpayment per rules as adopted by the
31 director.

32 Sec. 13. NEW SECTION. 96A.12 Funding the family leave and
33 medical leave insurance program.

34 1. Beginning on January 1, 2022, and ending December
35 31, 2023, the department shall assess for each employee

1 in employment with a covered employer a premium rate of
2 four-tenths of one percent of an employee's wages based on the
3 amount of the individual's wages, subject to subsection 6.

4 *a.* The premium rate for family leave benefits shall be equal
5 to one-third of the total premium rate.

6 *b.* The premium rate for medical leave benefits shall be
7 equal to two-thirds of the total premium rate.

8 2. For calendar year 2024 and subsequent calendar years the
9 director shall determine the percentage of paid claims related
10 to family leave benefits and the percentage of paid claims
11 related to medical leave benefits and adjust the premium rates
12 set in subsection 1 by the proportional share of claims paid
13 for both types of leave.

14 3. For family leave premiums a covered employer may deduct
15 up to forty-five percent of the full amount of the required
16 premiums from the wages of each employee. The remaining
17 fifty-five percent of the required premiums shall be paid by
18 the covered employer.

19 4. For medical leave premiums a covered employer may deduct
20 up to forty-five percent of the full amount of the required
21 premiums from the wages of each employee. The remaining
22 fifty-five percent of the required premiums shall be paid by
23 the covered employer.

24 5. A covered employer may elect to pay all or any portion of
25 the employee's share of the premiums for family leave benefits
26 or medical leave benefits or both.

27 6. The director shall annually set a maximum limit on the
28 amount of an employee's wages that are subject to a premium
29 assessment under this section that is equal to the contribution
30 and benefit base for the calendar year as determined by the
31 United States social security administration for purposes of
32 26 U.S.C. §3121(a).

33 7. For calendar year 2024 and subsequent calendar years,
34 the total premium rate shall be based on the family leave and
35 medical leave insurance account balance ratio as of September

1 30 of the previous year. The director shall calculate the
2 account balance ratio by dividing the balance of the family
3 leave and medical leave insurance account by the total wages
4 paid by covered employers. The division shall be carried
5 to the fourth decimal place with the remaining fraction
6 disregarded unless it amounts to five hundred thousandths or
7 more in which case the fourth decimal place shall be rounded
8 to the next higher digit. If the family leave and medical
9 leave insurance account balance ratio is any of the following
10 percentages, the premium shall be the following percentage of
11 an employee's wages subject to a premium assessment:

12 *a.* If the ratio is zero to nine hundredths of one percent,
13 the premium shall be six-tenths of one percent.

14 *b.* If the ratio is one-tenth of one percent to nineteen
15 hundredths of one percent, the premium shall be five-tenths of
16 one percent.

17 *c.* If the ratio is two-tenths of one percent to twenty-nine
18 hundredths of one percent, the premium shall be four-tenths of
19 one percent.

20 *d.* If the ratio is three-tenths of one percent to
21 thirty-nine hundredths of one percent, the premium shall be
22 three-tenths of one percent.

23 *e.* If the ratio is four-tenths of one percent to forty-nine
24 hundredths of one percent, the premium shall be two-tenths of
25 one percent.

26 *f.* If the ratio is five-tenths of one percent or greater,
27 the premium shall be one-tenth of one percent.

28 8. Beginning January 1, 2024, if the account balance ratio
29 calculated in subsection 7 is below five hundredths of one
30 percent, the director shall assess a solvency surcharge at
31 the lowest rate necessary to provide revenue to pay for the
32 administrative and benefit costs of family leave and medical
33 leave insurance for the calendar year. The solvency surcharge
34 shall be at least one-tenth of one percent and no more than
35 six-tenths of one percent and shall be added to the total

1 premium rate assessed to each employee of a covered employer
2 for family leave and medical leave benefits.

3 9. A covered employer shall collect all required premiums
4 and surcharges from the employer's employees through payroll
5 deductions and shall remit the amount collected and the amount
6 to be paid by the employer to the department as required by
7 rules adopted by the director.

8 10. On September 30 of each year the department shall
9 average the number of employees reported by an employer over
10 the last four completed calendar quarters to determine the
11 number of employees employed by the employer for the purpose
12 of determining if an employer shall be considered a covered
13 employer for the next calendar year.

14 Sec. 14. NEW SECTION. 96A.13 **Waiver of premium for**
15 **out-of-state employee.**

16 1. An employer may file an application with the department
17 for a conditional waiver of the payment of family leave and
18 medical leave premiums assessed under section 96A.12 for an
19 employee who meets all of the following requirements:

20 a. The employee is physically based outside of the state.

21 b. The employee is physically working in the state on a
22 limited or temporary work schedule.

23 c. The employee is not expected to be physically working
24 in the state for one thousand two hundred fifty hours or more
25 during any consecutive twelve-month period.

26 2. The department shall approve an application that is
27 signed by both the employee and the employee's employer
28 attesting to compliance with the requirements of subsection 1.

29 3. If the employee physically works in the state for one
30 thousand two hundred fifty hours or more in any consecutive
31 twelve-month period, the conditional waiver shall expire and
32 the employer and employee shall be responsible for all premiums
33 pursuant to section 96A.12 for the consecutive twelve-month
34 period in which the employee worked one thousand two hundred
35 fifty hours or more. Upon submission of the premiums by the

1 employer to the department, the employee shall be credited for
2 the hours worked during that consecutive twelve-month period
3 and shall be eligible for benefits under this chapter.

4 Sec. 15. NEW SECTION. **96A.14 Self-employed persons elective**
5 **participation in the family leave and medical leave insurance**
6 **program.**

7 1. A self-employed person electing to participate in the
8 family leave and medical leave insurance program shall be
9 considered either an employer or employee under this chapter as
10 the context so dictates.

11 2. For benefits payable beginning January 1, 2024, a
12 self-employed person may elect to participate in the family
13 leave and medical leave insurance program under this chapter
14 if the self-employed person meets all of the following
15 requirements:

16 a. The initial participation period for the self-employed
17 person must be a minimum of three years.

18 b. Any subsequent period of participation by the
19 self-employed person must be for a minimum of one year.

20 c. The self-employed person must participate in both family
21 leave and medical leave.

22 d. One hundred percent of all premiums assessed under
23 section 96A.12 shall be paid by the self-employed person.

24 3. A self-employed person shall file a written notice of
25 election of elective coverage with the department in the manner
26 required by the director.

27 4. A self-employed person shall be eligible for
28 family leave and medical leave benefits after working one
29 thousand two hundred fifty hours in the state during the
30 twelve-consecutive-month period immediately following the date
31 of the written notice the self-employed person filed pursuant
32 to subsection 3.

33 5. A self-employed person who has elected coverage may
34 withdraw from coverage within thirty calendar days after the
35 end of each participation period pursuant to subsection 2,

1 paragraph "a" or "b", by filing a written notice of withdrawal
2 as required by the director. The withdrawal shall take effect
3 no sooner than thirty calendar days after the self-employed
4 person files the notice of withdrawal.

5 6. If a self-employed person fails to submit the required
6 premium payments, the department may cancel the person's
7 elective coverage. The cancellation shall be effective no
8 sooner than thirty days from the date of a written notice
9 from the department to the self-employed person advising the
10 self-employed person of the impending cancellation of the
11 self-employed person's elective coverage. The department shall
12 collect all due and unpaid premiums from the self-employed
13 person for the remainder of the participation period pursuant
14 to subsection 2, paragraph "a" or "b".

15 Sec. 16. NEW SECTION. 96A.15 **Employment protection.**

16 1. An eligible employee who takes family leave or medical
17 leave under this chapter is entitled to any of the following on
18 the employee's return from leave:

19 a. To be restored to the same position held by the employee
20 when the employee's leave commenced.

21 b. To be restored to an equivalent position with equivalent
22 employment benefits, pay, and other terms and conditions of
23 employment.

24 2. As a condition of restoration under subsection 1 for an
25 employee who has taken medical leave, the employer may apply
26 a uniform policy to the employee that requires an employee to
27 provide certification from the employee's health care provider
28 that the employee is able to resume work.

29 3. Taking leave under this chapter shall not result in the
30 loss of any employment benefits accrued by an employee prior to
31 the date on which the employee's leave commenced.

32 4. This section shall not be construed to entitle a restored
33 employee to any of the following:

34 a. The accrual of any seniority or employment benefits
35 during any period of leave.

1 *b.* Any right, benefit, or position of employment other than
2 any right, benefit, or position of employment to which the
3 employee would have been entitled had the employee not taken
4 leave.

5 5. This section shall not be construed to prohibit an
6 employer from requiring an employee on leave to report
7 periodically to the employer on the status and intention of the
8 employee to return to work.

9 6. An employer may deny restoration under this section to
10 a salaried employee who is among the ten percent highest-paid
11 employees employed by the employer within seventy-five miles
12 of the facility at which the employee is employed if all of the
13 following apply:

14 *a.* Denial of restoration is necessary to prevent substantial
15 and grievous economic injury to the operations of the employer.

16 *b.* The employer notifies the employee of the intent of the
17 employer to deny restoration on such basis at the time the
18 employer determines such basis exists.

19 *c.* The employee is on leave and elects not to return
20 to employment after receiving the employer's notice of the
21 employer's intent not to restore the employee.

22 7. This section shall not be construed as providing an
23 employee greater restoration rights than those required under
24 the federal Family and Medical Leave Act of 1993, as amended.

25 Sec. 17. NEW SECTION. **96A.16 Maintenance of existing health**
26 **benefits.**

27 If required by the federal Family and Medical Leave
28 Act of 1993, as amended, an employer shall maintain any
29 existing health benefits of an employee for the duration of
30 an employee's leave under this chapter. If the employer and
31 the employee normally share the cost of such existing health
32 benefits, the employee shall remain responsible for the
33 employee's share of the cost of such.

34 Sec. 18. NEW SECTION. **96A.17 Employer submission of reports**
35 **and maintenance of records.**

1 1. As specified by the director and in the form and at the
2 time as required by the director, an employer shall submit
3 reports and furnish information related to the family leave and
4 medical leave insurance program to the director.

5 2. An employer shall maintain at the employer's primary
6 place of business a record of employment for each employee from
7 which any information needed by the department for purposes of
8 this chapter may be obtained. Such record shall be maintained
9 for ten years from the date on which an eligible employee
10 applies for family leave or medical leave under this chapter.
11 The record shall be open for inspection by the director at all
12 times. All personnel and employee medical records shall be
13 maintained by the employer in compliance with all applicable
14 federal and state laws.

15 **Sec. 19. NEW SECTION. 96A.18 Coordination of family leave
16 and medical leave with other laws and with employer policies.**

17 1. Family leave or medical leave taken by an employee under
18 this chapter shall be in addition to any leave available to
19 an employee as required by applicable state or federal law
20 for sickness or temporary disability because of pregnancy or
21 childbirth.

22 2. Family leave or medical leave taken by an employee under
23 this chapter shall be taken concurrently with any leave taken
24 under the federal Family and Medical Leave Act of 1993, as
25 amended.

26 3. An employer may allow an employee who has accrued
27 vacation, sick, or other paid time off to choose to use either
28 such accrued time or to receive paid family leave or medical
29 leave insurance benefits under this chapter.

30 **Sec. 20. NEW SECTION. 96A.19 Relationship to other state
31 and federal benefits.**

32 In any week an employee is eligible to receive benefits under
33 chapter 85, 85A, 85B, or 96, or any other applicable state or
34 federal unemployment compensation, workers' compensation, or
35 disability insurance laws, the employee is disqualified from

1 receiving family leave or medical leave insurance benefits
2 under this chapter.

3 Sec. 21. NEW SECTION. **96A.20 Discrimination prohibited.**

4 This chapter shall not be construed to modify or affect any
5 federal, state, or local law prohibiting discrimination on the
6 basis of age, race, creed, color, sex, sexual orientation,
7 gender identity, national origin, religion, disability, or
8 other protected category.

9 Sec. 22. NEW SECTION. **96A.21 Department to administer
10 family leave and medical leave insurance program and conduct
11 outreach.**

12 1. The director shall establish and administer the family
13 leave and medical leave insurance program and disburse family
14 leave and medical leave benefits to an eligible employee as
15 specified in this chapter.

16 2. The director shall establish procedures and forms for
17 an employee to file an application for benefits under this
18 chapter.

19 3. The department shall notify an employer within five
20 business days of an employee filing a claim for family leave or
21 medical leave insurance benefits.

22 4. Information and records pertaining to an employee under
23 this chapter that are maintained by the department shall
24 be confidential and shall only be available to department
25 personnel in the performance of official duties.

26 5. The director shall develop and implement an outreach
27 program to ensure that employers and employees are aware of
28 the family leave and medical leave insurance program and are
29 aware of the leave benefits available to eligible employees.
30 Outreach information shall explain in an easy-to-understand
31 format all of the following:

32 a. Eligibility requirements.

33 b. The application process.

34 c. How weekly benefits are calculated and the minimum and
35 maximum weekly benefit amount.

1 *d.* Restoration rights.

2 *e.* Nondiscrimination rights.

3 *f.* Confidentiality.

4 *g.* The relationship between employment protection, leave
5 from employment, wage replacement benefits under this chapter
6 and other laws, and employer policies.

7 6. The department shall be authorized to inspect and audit
8 an employer's files and records relating to the family leave
9 and medical leave insurance program under this chapter.

10 Sec. 23. NEW SECTION. **96A.22 Family leave and medical leave**
11 **insurance account.**

12 1. The family leave and medical leave insurance account
13 is created as a separate account in the state treasury in the
14 custody of the treasurer of state.

15 2. The director shall deposit all receipts from premiums
16 imposed under this chapter into such account. Expenditures
17 from the account shall be used only for the purposes of the
18 family leave and medical leave insurance program and only as
19 authorized by the director.

20 3. All premiums deposited in the account shall remain in
21 the account until expended pursuant to the requirements of this
22 chapter.

23 Sec. 24. NEW SECTION. **96A.23 Rules.**

24 The director shall adopt rules pursuant to chapter 17A as
25 necessary to implement and administer this chapter.

26 Sec. 25. NEW SECTION. **96A.24 Enforcement.**

27 The director may take any action under the director's
28 authority to enforce compliance with this chapter.

29 Sec. 26. Section 84A.1, subsection 1, Code 2019, is amended
30 to read as follows:

31 1. The department of workforce development is created to
32 administer the laws of this state relating to unemployment
33 compensation insurance, job placement and training, employment
34 safety, labor standards, and workers' compensation, and the
35 family leave and medical leave insurance program.

1 Sec. 27. DIRECTOR ANALYSIS OF FUNDING THE FAMILY LEAVE
2 AND MEDICAL LEAVE INSURANCE PROGRAM AND REPORT TO THE GENERAL
3 ASSEMBLY. The director of the department of workforce
4 development shall conduct an analysis of the family leave
5 and medical leave insurance program as funded pursuant to
6 section 96A.12, as enacted in this Act, and of the benefits
7 paid pursuant to section 96A.10, as enacted in this Act. The
8 director shall determine if the premium rates and benefit
9 levels are appropriate to fully fund and maintain the solvency
10 of the family leave and medical leave insurance account.
11 The director shall submit the director's findings to the
12 general assembly pursuant to section 7A.11 no later than
13 January 14, 2020.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill relates to a family leave and medical leave
18 insurance program (program), administered by the director of
19 the department of workforce development, that provides for
20 paid, job-protected leave for certain family leave and medical
21 leave reasons for eligible employees of specified employers.
22 An employee is eligible for family leave and medical leave
23 after working for a covered employer, as defined in the bill,
24 for a minimum of 12 consecutive months and a minimum of 1,250
25 hours during the 12 consecutive-month period immediately
26 preceding the employee's request for leave. Family leave and
27 medical leave are defined in the bill. Family leave includes
28 leave to care for an immediate family member with a serious
29 health condition, to bond with a newborn child or adopted or
30 foster child, or for a qualifying exigency for a family member
31 as permitted under the federal Family and Medical Leave Act of
32 1993, as amended (FMLA). Medical leave includes leave due to
33 the employee's own serious health condition. Serious health
34 condition is defined in the bill.
35 The bill provides that an eligible employee may not receive

1 more than 12 weeks of family leave, 12 weeks of medical leave,
2 or 16 weeks of combined family and medical leave in a defined
3 consecutive 12-month period. The defined consecutive 12-month
4 period begins on the date of the birth of a child or placement
5 of a child for adoption or foster care with an eligible
6 employee, or on the first date that an eligible employee takes
7 either family leave or medical leave. The minimum duration of
8 leave an eligible employee may take is eight consecutive hours.

9 An employee is disqualified for family leave and medical
10 leave benefits for an absence due to the employee purposefully
11 causing injury or sickness to the employee or a family member,
12 for an absence caused by an illness or injury due to the
13 employee engaging in an illegal act, or an absence due to an
14 employer taking disciplinary action against the employee.

15 An employee must provide a minimum of 30 days notice to an
16 employer of the employee's intent to take leave for the birth
17 of a child or placement of a child for adoption or foster care,
18 or of the employee's intent to take family leave or medical
19 leave. If circumstances require an employee's leave to begin
20 in less than 30 days, the employee must give as much notice as
21 is practicable. If an eligible employee requests medical leave
22 or family leave, the employee must make a reasonable effort to
23 schedule their own, or their family member's medical treatment,
24 to not unduly disrupt the employer's operations.

25 The bill requires an eligible employee to file a claim
26 for benefits as required by the director. The employee
27 must consent to the disclosure of potentially private or
28 confidential information to and from the department, and the
29 employee's employer, for administration of the family leave
30 or medical leave. The bill specifies that such information
31 is not a public record pursuant to Code section 22.1. The
32 employee must attest that the employee has provided notice of
33 the employee's intent to take leave to the employee's employer.
34 The employee must also authorize the employee's, or the
35 employee's family member's health care provider, to complete

1 a certification of a serious health condition as required by
2 the director.

3 The bill provides for a seven-day waiting period before
4 benefits are payable. There is no waiting period for benefits
5 for leave for the birth of a child or placement of a child for
6 adoption or foster care.

7 The basis for the calculation of the amount of a family
8 leave or medical leave benefit is an eligible employee's weekly
9 earnings as defined in the bill. The weekly leave benefit
10 amount payable to an employee for any one week is 80 percent
11 of the employee's weekly spendable earnings, but must not
12 exceed an amount equal to 200 percent of the statewide average
13 weekly wage paid to employees as determined by the department
14 of workforce development. The minimum weekly leave benefit
15 amount is equal to the weekly leave benefit amount of a person
16 whose gross weekly earnings are 35 percent of the statewide
17 average weekly wage, or to the spendable weekly earnings of the
18 employee, whichever is less. "Spendable weekly earnings" is
19 defined in the bill as the amount remaining after payroll taxes
20 are deducted from an employee's gross weekly earnings.

21 The department must send the first benefit payment to an
22 eligible employee within 10 days after a properly completed
23 weekly claim for benefits is received by the department. If
24 the employee continues to submit a properly completed weekly
25 claim, subsequent payments are to be made to the employee at
26 least biweekly. If an employer, or the department, contests
27 an employee's eligibility, benefit payments may be made on
28 a conditional basis. The employee is required to pay the
29 benefits back if the department later rules that the employee
30 is ineligible to receive such benefits.

31 The bill provides that the program shall be funded via
32 employee and employer contributions. Beginning on January 1,
33 2022, and ending on December 31, 2023, the department must
34 assess a covered employer a premium rate of four-tenths of one
35 percent of an employee's weekly wages, subject to a maximum

1 limit of wages subject to the assessment, as determined by
2 the director based on the maximum wages subject to taxation
3 for social security. One-third of the premium is to be used
4 to fund family leave insurance benefits and two-thirds of the
5 premium is to be used to fund medical leave benefits. The
6 covered employer may deduct the full amount of the family leave
7 premium from an employee's wage. A covered employer may deduct
8 up to 45 percent of the medical leave premium and 45 percent of
9 the family leave premium from an employee's wage. The employer
10 must pay the remaining 55 percent of both the medical leave and
11 family leave premiums, and may elect to pay all or any portion
12 of an employee's share of such premiums. Beginning January
13 1, 2024, the premium rate shall be calculated by the director
14 based on the family leave and medical leave insurance account
15 balance ratio as of September 30 of the previous calendar year.
16 The premium rate is adjusted based on the balance ratio as
17 detailed in the bill. If the balance ratio falls below five
18 hundredths of one percent, the bill requires the director to
19 assess a solvency surcharge that is added to the total premium
20 rate assessed to a covered employer. The minimum solvency
21 surcharge is one-tenth of one percent and the maximum is
22 six-tenths of one percent.

23 On September 30 of each year, the bill requires the
24 department to average the number of employees reported by an
25 employer over the last four completed calendar quarters to
26 determine if the employer is a covered employer for the next
27 calendar year.

28 The bill requires a covered employer to collect all assessed
29 premiums and surcharges from the employer's employees through
30 payroll deduction and to remit all premiums to the department
31 as required by the director.

32 An employer may apply for, and the director must grant, a
33 waiver of premiums for an employee who is located physically
34 outside of the state and not expected to work in the state for
35 1,250 or more hours in any consecutive 12-month period. If

1 the employee subsequently works 1,250 or more hours within
2 the state, the employer and employee are responsible for all
3 premiums that should have been collected.

4 Self-employed persons may elect to participate in the
5 program for a minimum initial participation period of three
6 years. Any subsequent period of participation must be for
7 a minimum of one year. A self-employed person must pay
8 the employee and employer's portion of the premium assessed
9 by the director. A self-employed person who elects to
10 participate in the program is eligible for family leave and
11 medical leave benefits after working a minimum of 1,250 hours
12 in the consecutive 12-month period immediately following
13 the person's election to participate in the program. The
14 self-employed person may withdraw from the program by providing
15 written notice to the director. The director may cancel the
16 self-employed person's elective coverage for failure to submit
17 the required premiums.

18 An eligible employee who takes family leave or medical leave
19 is entitled to restoration of employment equal to but not
20 greater than that provided by FMLA. The bill provides that if
21 required under FMLA, an employer must maintain any existing
22 health benefits during an employee's leave. If the employer
23 and employee normally share the cost of such, the employee is
24 responsible for paying the employee's share of the costs.

25 A covered employer must submit reports as required by the
26 director and maintain employment records for each employee
27 from which the director may obtain information related to an
28 employee's family leave or medical leave. Such records must
29 be maintained for 10 years from the date on which an employee
30 first takes a family leave or medical leave.

31 The bill provides that family leave or medical leave shall
32 be in addition to leave required under state or federal law
33 for sickness or temporary disability due to pregnancy or
34 childbirth. The bill requires family leave or medical leave
35 taken under this program to be taken concurrently with leave

1 taken under FMLA. A covered employer may allow an employee
2 to choose to use either accrued sick or vacation benefits, or
3 family leave and medical leave benefits. An employee cannot
4 receive family or medical leave benefits at the same time the
5 employee is receiving state or federal unemployment, workers'
6 compensation, or disability benefits. The bill prohibits
7 discrimination on the basis of any state or federally protected
8 category.

9 The bill requires the director to administer the program and
10 to provide outreach to ensure that employers and employees are
11 aware of the program and the benefits available under such.

12 The bill provides that a family leave and medical leave
13 insurance account shall be created in the custody of the
14 treasurer of state. The director shall deposit all premiums
15 collected from employers into such account and the account can
16 only be used for the program as authorized by the director.

17 The bill requires the director to adopt rules as necessary
18 to implement and administer the provisions of the bill. The
19 director may take any action under the director's authority to
20 enforce compliance with the bill.

21 Code section 84A.1(1) is amended to require the department
22 of workforce development to administer the laws relating to the
23 program.

24 The director is required to analyze the funding of the
25 program and the benefits payable from the program's account.
26 The director shall determine if the premium rates and the
27 benefit levels are appropriate to fully fund and maintain the
28 solvency of the program. The director must submit the findings
29 to the general assembly no later than January 14, 2020.