

Senate File 137 - Introduced

SENATE FILE 137

BY BOULTON, GIDDENS, BOLKCOM,
BISIGNANO, TRONE GARRIOTT,
MATHIS, JOCHUM, QUIRMBACH,
PETERSEN, J. SMITH, RAGAN,
DOTZLER, and WAHLS

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 2021, 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. Section 84A.1, subsection 1, Code 2021, is amended
10 to read as follows:

11 1. The department of workforce development is created to
12 administer the laws of this state relating to unemployment
13 compensation insurance, job placement and training, employment
14 safety, labor standards, and workers' compensation, and the
15 family leave and medical leave insurance program.

16 Sec. 3. NEW SECTION. 96A.1 Short title.

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

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

20 As used in this chapter, unless the context otherwise
21 requires:

22 1. "*Child*" means a biological, adopted, or foster child,
23 a stepchild, a legal ward, or a child of a person standing in
24 loco parentis, regardless of the child's age or dependency
25 status.

26 2. "*Covered employer*" means a private sector employer who
27 has ten or more employees for each working day during each of
28 twenty or more calendar workweeks in the current or previous
29 calendar year, and a public employer without regard to the
30 number of employees employed.

31 3. "*Department*" means the department of workforce
32 development.

33 4. "*Director*" means the director of the department of
34 workforce development.

35 5. "*Employee*" means a natural person who is employed in

1 this state for wages by an employer. "Employee" also includes
2 a commission salesperson who takes orders or performs services
3 on behalf of a principal and who is paid on the basis of
4 commissions but does not include persons who purchase for
5 their own account for resale. "Employee" shall not include an
6 independent contractor, a self-employed person, or a patient or
7 inmate employed by a state or local institution to which the
8 patient or inmate has been sentenced or committed, or any of
9 the following persons engaged in agriculture:

10 a. The spouse of the employer and a relative of either the
11 employer or the employer's spouse who resides on the premises
12 of the employer.

13 b. A person engaged in agriculture as an owner-operator
14 or tenant-operator, and the spouse or a relative of either
15 an owner-operator or a tenant-operator who resides on the
16 premises while exchanging labor with the owner-operator or the
17 tenant-operator for mutual benefit.

18 c. A neighboring person engaged in agriculture who is
19 exchanging labor or other services.

20 6. "Employer" means the same as defined in 91A.2.
21 "Employer" includes a temporary staffing agency or employment
22 agency.

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

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

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

35 b. To bond with the employee's child after the child's

1 birth, or with a child under the age of eighteen placed with
2 the employee for adoption or foster care.

3 c. Because of a qualifying exigency for a family member as
4 permitted under the federal Family and Medical Leave Act of
5 1993, as amended, and federal regulations as provided in 29
6 C.F.R. §825.126.

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

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

11 11. "*Health care provider*" means a physician or other
12 health care practitioner licensed, accredited, registered, or
13 certified to perform specified health care services consistent
14 with state law.

15 12. "*In loco parentis*" means an individual who has
16 day-to-day responsibilities to care for or financially support
17 a child.

18 13. "*Inpatient care*" means an overnight stay in a hospital,
19 hospice, or residential medical care facility, including any
20 period of incapacity, or any subsequent treatment in connection
21 with such inpatient care.

22 14. "*Medical leave*" means a leave from work taken by an
23 employee made necessary by the employee's own serious health
24 condition.

25 15. "*Parent*" means a biological, adoptive, step, or foster
26 father or mother, or any other individual who stands in
27 loco parentis to an employee or who stood in loco parentis
28 when the employee was a child. "*Parent*" does not include a
29 parent-in-law.

30 16. "*Period of incapacity*" means an inability to work,
31 attend school, or perform other regular daily activities due
32 to a serious health condition, treatment of a serious health
33 condition, or recovery from a serious health condition.

34 17. "*Premium*" or "*premiums*" means the payments required by
35 section 96A.12 and paid to the department for deposit in the

1 family and medical leave insurance account pursuant to section
2 96A.22.

3 18. "*Public employer*" means the state of Iowa, its
4 boards, commissions, agencies, departments, and its political
5 subdivisions including school districts and other special
6 purpose districts.

7 19. "*Serious health condition*" means an illness, injury,
8 impairment, physical condition, or mental condition that
9 involves inpatient care in a hospital, hospice, medical care
10 facility, or continued treatment or continuing supervision by
11 a health care provider.

12 20. "*Spendable weekly earnings*" means the amount remaining
13 after payroll taxes are deducted from an employee's gross
14 weekly earnings.

15 21. "*Spouse*" means the person with whom an individual has
16 entered into marriage as defined or recognized under state law
17 for purposes of marriage in the state in which the marriage
18 was entered into or, in the case of a marriage entered into
19 outside of any state, if the marriage is valid in the place
20 where the marriage was entered into and the marriage could have
21 been entered into in at least one state, including a common law
22 marriage.

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

24 Sec. 5. NEW SECTION. 96A.3 Benefit eligibility.

25 An employee is eligible for family leave and medical leave
26 as provided in this chapter after working for a covered
27 employer for both a minimum of twelve consecutive months
28 immediately preceding the employee's request for leave and a
29 minimum of one thousand two hundred fifty hours during that
30 twelve-consecutive-month period.

31 Sec. 6. NEW SECTION. 96A.4 Leave entitlement for a defined
32 twelve-month period.

33 1. An employee is entitled to a maximum of twelve weeks
34 of family leave during a defined period of twelve consecutive
35 months.

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

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

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

12 **Sec. 7. NEW SECTION. 96A.5 Calculating the defined**
13 **twelve-month period.**

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

17 1. The date of birth of the employee's child, or the date
18 of placement of a child for adoption or foster care with the
19 employee.

20 2. The first day of family leave that the employee takes for
21 a family member's serious health condition or a family member's
22 qualifying exigency.

23 3. The first day of the employee's medical leave.

24 **Sec. 8. NEW SECTION. 96A.6 Disqualification from leave**
25 **entitlement.**

26 An eligible employee is disqualified for family leave or
27 medical leave benefits under this chapter for any of the
28 following reasons:

29 1. An absence due to the employee's willful intention to
30 injure or cause a sickness to the employee or to the employee's
31 family member.

32 2. An injury or sickness caused by the employee engaging in
33 an illegal act.

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

1 Sec. 9. NEW SECTION. 96A.7 Employee notice to employer of
2 intent to take leave.

3 1. If leave for the birth of a child or placement of a child
4 for adoption or foster care with an employee is foreseeable,
5 the employee shall provide written notice to the employer not
6 less than thirty calendar days before the date the leave is to
7 begin.

8 2. If the birth of a child or placement of a child for
9 adoption or foster care with an employee requires leave to
10 begin in less than thirty calendar days, the employee shall
11 provide written notice to the employer as far in advance as is
12 practicable.

13 3. If leave for a family member's serious health condition
14 or an employee's serious health condition is foreseeable based
15 on planned medical treatment, the employee shall do all of the
16 following:

17 a. Make a reasonable effort to schedule such medical
18 treatment, subject to the recommendation of the employee's or
19 family member's health care provider as appropriate, to not
20 unduly disrupt the operations of the employer.

21 b. Provide the employer with not less than thirty calendar
22 days prior written notice of the employee's intention to take
23 leave for a family member's serious health condition or the
24 employee's serious health condition.

25 4. If leave for a family member's serious health condition
26 or an employee's serious health condition is not foreseeable,
27 the employee shall provide written notice to the employer as
28 far in advance as is practicable.

29 Sec. 10. NEW SECTION. 96A.8 Weekly claim, certification,
30 and verification.

31 Beginning January 1, 2026, family leave or medical leave
32 insurance benefits are payable to an employee during a period
33 in which the employee is unable to perform the employee's
34 regular or customary work because the employee is on family
35 leave or medical leave if the employee meets all of the

1 following requirements:

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

4 2. The employee meets the eligibility requirements pursuant
5 to section 96A.3 or the elective coverage requirements pursuant
6 to section 96A.14.

7 3. The employee consents to the disclosure of information or
8 records that may be deemed private or confidential under state
9 or federal law. Disclosure of such information and records by
10 another state agency or an employer to the department shall
11 be solely for purposes related to the administration of this
12 chapter. Information and records disclosed by an employee
13 under this chapter shall not be public records as defined in
14 section 22.1.

15 4. The employee authorizes the health care provider of the
16 employee's family member or of the employee, as applicable, to
17 complete a certification of a serious health condition in a
18 form as required by the director.

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

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

23 **Sec. 11. NEW SECTION. 96A.9 Waiting period for leave**
24 **benefits.**

25 Family leave or medical leave insurance benefits shall be
26 payable to an eligible employee following a waiting period
27 consisting of the first seven calendar days of the employee's
28 leave. However, no such waiting period applies to a leave for
29 the birth or placement of a child with an eligible employee.

30 **Sec. 12. NEW SECTION. 96A.10 Weekly leave benefit amount.**

31 1. The basis for the calculation of a leave benefit amount
32 shall be the weekly earnings of an eligible employee on the
33 day the leave is granted. "*Weekly earnings*" means the gross
34 earnings of an employee to which the employee would have been
35 entitled had the employee worked the employee's customary hours

1 for the full pay period in which the employee is on family
2 leave or medical leave. Weekly earnings shall be computed as
3 follows, rounded to the nearest dollar, for an employee who is
4 paid on the following basis:

5 *a.* On a weekly pay period basis, the weekly earnings are the
6 weekly gross earnings.

7 *b.* On a biweekly pay period basis, the weekly earnings are
8 one-half of the biweekly gross earnings.

9 *c.* On a semimonthly pay period basis, the weekly earnings
10 are the semimonthly gross earnings multiplied by twenty-four
11 and then divided by fifty-two.

12 *d.* On a monthly pay period basis, the weekly earnings
13 are the monthly gross earnings multiplied by twelve and then
14 divided by fifty-two.

15 *e.* On a yearly pay period basis, the weekly earnings shall
16 be the yearly earnings divided by fifty-two.

17 *f.* On a daily or hourly basis, or by the output of an
18 employee, the weekly earnings shall be computed by dividing by
19 thirteen the earnings, including shift differential pay but
20 not including overtime or premium pay, of the employee earned
21 in the last completed period of thirteen consecutive calendar
22 weeks immediately preceding the start day of the leave. If
23 the employee was absent from employment for personal reasons
24 during part of the thirteen calendar weeks preceding the
25 leave, the employee's weekly earnings shall be the amount the
26 employee would have earned had the employee worked when work
27 was available to other employees of the employer in a similar
28 occupation. A week that does not fairly reflect the employee's
29 customary earnings shall be replaced by the closest previous
30 week with earnings that fairly represent the employee's
31 customary earnings.

32 2. If on the date that an employee's leave begins the
33 employee's hourly earnings cannot be ascertained, the earnings
34 for the purpose of calculating the benefit amount shall be the
35 usual earnings for similar services where such services are

1 rendered by paid employees.

2 3. If an employee earns either no wages, or less than the
3 usual weekly earnings of a regular full-time adult laborer
4 in the line of work in which the employee is working in
5 that locality, the weekly earnings shall be one-fiftieth of
6 the total earnings which the employee has earned from all
7 employment during the twelve consecutive calendar months
8 immediately preceding the date that the employee's leave
9 begins.

10 4. The weekly leave benefit amount payable to an employee
11 for any one week shall be eighty percent of the employee's
12 spendable weekly earnings, but shall not exceed an amount equal
13 to two hundred percent of the statewide average weekly wage
14 as calculated by the department pursuant to section 96.1A and
15 in effect on the date that the employee's leave commences.
16 However, the weekly leave benefit amount shall be a minimum
17 equal to the lesser of the weekly leave benefit amount of a
18 person whose gross weekly earnings are thirty-five percent of
19 the statewide average weekly wage, or to the spendable weekly
20 earnings of the employee.

21 Sec. 13. NEW SECTION. 96A.11 **Payment of benefits to an**
22 **eligible employee.**

23 1. The department shall send the first benefit payment to
24 an employee within ten calendar days after the first properly
25 completed weekly claim from the employee is received by
26 the department. Subsequent payments shall be sent at least
27 biweekly to an eligible employee if a properly completed weekly
28 claim from the employee is received by the department.

29 2. If an employer contests an employee's initial claim
30 for family leave or medical leave benefits, the employer must
31 notify the employee and the department in the manner prescribed
32 by the director within ten calendar days of the employer's
33 receipt of notice from the department of the employee's filing
34 of a claim for benefits pursuant to section 96A.21, subsection
35 3. Failure to timely contest an initial application shall

1 constitute a waiver of objection to the family leave or medical
2 leave claim.

3 3. If the department or the employee's employer contests
4 an employee's eligibility for benefits after the employee
5 begins receiving benefits, the employee shall continue to
6 be paid benefits conditionally for any weeks for which the
7 employee files a claim for benefits. The employee's right to
8 retain such benefit payments shall be conditioned upon the
9 department's finding that the employee is eligible for such
10 benefit payments.

11 a. At an employee's request, the department shall hold
12 conditional benefit payments until the department resolves the
13 employee's eligibility status.

14 b. Payment shall be issued promptly for any withheld benefit
15 payments if the department determines that an employee is
16 eligible for benefits.

17 c. If the department determines that an employee is
18 ineligible for the conditionally paid benefits, the employee
19 shall repay the overpayment per rules adopted by the director.

20 Sec. 14. NEW SECTION. 96A.12 Funding the family leave and
21 medical leave insurance program.

22 1. Beginning on January 1, 2024, and ending December
23 31, 2025, the department shall assess for each employee
24 in employment with a covered employer a premium rate of
25 four-tenths of one percent of the employee's wages based on the
26 amount of the wages, subject to subsection 6.

27 a. The premium rate for family leave benefits shall be equal
28 to one-third of the total premium rate.

29 b. The premium rate for medical leave benefits shall be
30 equal to two-thirds of the total premium rate.

31 2. For calendar year 2026 and subsequent calendar years the
32 director shall determine the percentage of paid claims related
33 to family leave benefits and the percentage of paid claims
34 related to medical leave benefits and adjust the premium rates
35 set in subsection 1 by the proportional share of claims paid

1 for both types of leave.

2 3. For family leave premiums a covered employer may deduct
3 up to forty-five percent of the full amount of the required
4 premiums from the wages of each employee. The remaining
5 fifty-five percent of the required premiums shall be paid by
6 the covered employer.

7 4. For medical leave premiums a covered employer may deduct
8 up to forty-five percent of the full amount of the required
9 premiums from the wages of each employee. The remaining
10 fifty-five percent of the required premiums shall be paid by
11 the covered employer.

12 5. A covered employer may elect to pay all or any portion of
13 its employees' share of the premiums for family leave benefits
14 or medical leave benefits or both.

15 6. The director shall annually set a maximum limit on the
16 amount of an employee's wages that are subject to a premium
17 assessment under this section that is equal to the contribution
18 and benefit base for the calendar year as determined by the
19 United States social security administration for purposes of
20 26 U.S.C. §3121(a).

21 7. For calendar year 2026 and subsequent calendar years,
22 the total premium rate shall be based on the family leave and
23 medical leave insurance account balance ratio as of September
24 30 of the previous year. The director shall calculate the
25 account balance ratio by dividing the balance of the family
26 leave and medical leave insurance account by the total wages
27 paid by covered employers. The division shall be carried
28 to the fourth decimal place with the remaining fraction
29 disregarded unless it amounts to five hundred thousandths or
30 more in which case the fourth decimal place shall be rounded
31 to the next higher digit. If the family leave and medical
32 leave insurance account balance ratio is any of the following
33 percentages, the premium shall be the following percentage of
34 an employee's wages subject to a premium assessment:

35 a. If the ratio is zero to nine hundredths of one percent,

1 the premium shall be six-tenths of one percent.

2 *b.* If the ratio is one-tenth of one percent to nineteen
3 hundredths of one percent, the premium shall be five-tenths of
4 one percent.

5 *c.* If the ratio is two-tenths of one percent to twenty-nine
6 hundredths of one percent, the premium shall be four-tenths of
7 one percent.

8 *d.* If the ratio is three-tenths of one percent to
9 thirty-nine hundredths of one percent, the premium shall be
10 three-tenths of one percent.

11 *e.* If the ratio is four-tenths of one percent to forty-nine
12 hundredths of one percent, the premium shall be two-tenths of
13 one percent.

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

16 8. Beginning January 1, 2026, if the account balance ratio
17 calculated in subsection 7 is below five hundredths of one
18 percent, the director shall assess a solvency surcharge at
19 the lowest rate necessary to provide revenue to pay for the
20 administrative and benefit costs of family leave and medical
21 leave insurance for the calendar year. The solvency surcharge
22 shall be at least one-tenth of one percent and no more than
23 six-tenths of one percent and shall be added to the total
24 premium rate assessed to each employee of a covered employer
25 for family leave and medical leave benefits.

26 9. A covered employer shall collect all required premiums
27 and surcharges from the employer's employees through payroll
28 deductions and shall remit the amount collected and the amount
29 to be paid by the employer to the department as required by
30 rules adopted by the director.

31 10. On September 30 of each year the department shall
32 average the number of employees reported by an employer over
33 the last four completed calendar quarters to determine the
34 number of employees employed by the employer for the purpose
35 of determining if an employer shall be considered a covered

1 employer for the next calendar year.

2 Sec. 15. NEW SECTION. 96A.13 Conditional waiver of premium
3 for out-of-state employee.

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

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

9 b. The employee physically works in the state on a limited
10 or temporary work schedule.

11 c. The employee is not expected to physically work in the
12 state for one thousand two hundred fifty hours or more during
13 any consecutive twelve-month period.

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

17 3. If the employee physically works in the state for one
18 thousand two hundred fifty hours or more in any consecutive
19 twelve-month period, the conditional waiver shall expire and
20 the employer and employee shall be responsible for all premiums
21 pursuant to section 96A.12 for the consecutive twelve-month
22 period in which the employee worked one thousand two hundred
23 fifty hours or more. Upon submission of the premiums by the
24 employer to the department, the employee shall be credited for
25 the hours worked during that consecutive twelve-month period
26 and shall be eligible for benefits under this chapter.

27 Sec. 16. NEW SECTION. 96A.14 Self-employed persons elective
28 participation in the family leave and medical leave insurance
29 program.

30 1. A self-employed person electing to participate in the
31 family leave and medical leave insurance program shall be
32 considered either an employer or employee under this chapter
33 as the context dictates.

34 2. For benefits payable beginning January 1, 2026, a
35 self-employed person may elect to participate in the family

1 leave and medical leave insurance program under this chapter
2 if the self-employed person meets all of the following
3 requirements:

4 *a.* The initial participation period for the self-employed
5 person must be a minimum of three years.

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

8 *c.* The self-employed person must participate in both family
9 leave and medical leave.

10 *d.* One hundred percent of all premiums assessed by
11 the department under section 96A.12 shall be paid by the
12 self-employed person.

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

16 4. A self-employed person shall be eligible for
17 family leave and medical leave benefits after working one
18 thousand two hundred fifty hours in the state during the
19 twelve-consecutive-month period immediately following the date
20 of the written notice the self-employed person filed pursuant
21 to subsection 3.

22 5. A self-employed person who has elected coverage may
23 withdraw from coverage within thirty calendar days after the
24 end of each participation period pursuant to subsection 2,
25 paragraph "a" or "b", by filing a written notice of withdrawal
26 as required pursuant to the rules adopted by the director. The
27 withdrawal shall take effect no sooner than thirty calendar
28 days after the self-employed person files the notice of
29 withdrawal.

30 6. If a self-employed person fails to submit the required
31 premium payments, the department may cancel the person's
32 elective coverage. The cancellation shall be effective no
33 sooner than thirty days from the date of a written notice
34 from the department to the self-employed person advising the
35 self-employed person of the impending cancellation of the

1 self-employed person's elective coverage. The department shall
2 collect all due and unpaid premiums from the self-employed
3 person for the remainder of the applicable participation period
4 pursuant to subsection 2, paragraph "a" or "b".

5 Sec. 17. NEW SECTION. 96A.15 **Employment protection.**

6 1. An eligible employee who takes family leave or medical
7 leave under this chapter is entitled to either of the following
8 on the employee's return from leave:

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

11 b. To be restored to an equivalent position with equivalent
12 employment benefits, pay, and other terms and conditions of
13 employment.

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

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

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

24 a. The accrual of any seniority or employment benefits
25 during any period of leave.

26 b. Any right, benefit, or position of employment other than
27 any right, benefit, or position of employment to which the
28 employee would have been entitled had the employee not taken
29 leave.

30 5. This section shall not be construed to prohibit an
31 employer from requiring an employee on leave to report
32 periodically to the employer on the status and intention of the
33 employee to return to work.

34 6. An employer may deny restoration under this section to
35 a salaried employee who is among the ten percent highest-paid

1 employees employed by the employer within seventy-five miles
2 of the facility at which the employee is employed if all of the
3 following apply:

4 a. Denial of restoration is necessary to prevent substantial
5 and grievous economic injury to the operations of the employer.

6 b. The employer notifies the employee of the intent of the
7 employer to deny restoration on such basis at the time the
8 employer determines such basis exists.

9 c. The employee is on leave and elects not to return
10 to employment after receiving the employer's notice of the
11 employer's intent not to restore the employee.

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

15 Sec. 18. NEW SECTION. **96A.16 Maintenance of existing health**
16 **benefits.**

17 If required by the federal Family and Medical Leave
18 Act of 1993, as amended, an employer shall maintain any
19 existing health benefits of an employee for the duration of
20 an employee's leave under this chapter. If the employer and
21 the employee normally share the cost of such existing health
22 benefits, the employee shall remain responsible for the
23 employee's share of the cost of such.

24 Sec. 19. NEW SECTION. **96A.17 Employer submission of reports**
25 **and maintenance of records.**

26 1. Pursuant to rules adopted by the director, an employer
27 shall submit reports and furnish information related to
28 the family leave and medical leave insurance program to the
29 director.

30 2. An employer shall maintain at the employer's primary
31 place of business a record of employment for each employee from
32 which any information needed by the department for purposes of
33 this chapter may be obtained. Such record shall be maintained
34 for ten years from the date on which an eligible employee
35 applies for family leave or medical leave under this chapter.

1 The record shall be open for inspection by the director at all
2 times. All personnel records and employee medical records
3 shall be maintained by the employer in compliance with all
4 applicable federal and state laws.

5 Sec. 20. NEW SECTION. **96A.18 Coordination of family leave
6 and medical leave with other laws and with employer policies.**

7 1. Family leave or medical leave taken by an employee under
8 this chapter shall be in addition to any leave available to
9 an employee as required by applicable state or federal law
10 for sickness or temporary disability because of pregnancy or
11 childbirth.

12 2. Family leave or medical leave taken by an employee under
13 this chapter shall be taken concurrently with any leave taken
14 under the federal Family and Medical Leave Act of 1993, as
15 amended.

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

20 Sec. 21. NEW SECTION. **96A.19 Relationship to other state
21 and federal benefits.**

22 In any week an employee is eligible to receive benefits under
23 chapter 85, 85A, 85B, or 96, or any other applicable state or
24 federal unemployment compensation, workers' compensation, or
25 disability insurance laws, the employee is disqualified from
26 receiving family leave or medical leave insurance benefits
27 under this chapter.

28 Sec. 22. NEW SECTION. **96A.20 Discrimination prohibited.**

29 This chapter shall not be construed to modify or affect any
30 federal, state, or local law prohibiting discrimination on the
31 basis of age, race, creed, color, sex, sexual orientation,
32 gender identity, national origin, religion, disability, or
33 other protected category.

34 Sec. 23. NEW SECTION. **96A.21 Department to administer
35 family leave and medical leave insurance program and conduct**

1 **outreach.**

2 1. The director shall establish and administer the family
3 leave and medical leave insurance program and disburse family
4 leave and medical leave benefits to an eligible employee as
5 specified in this chapter.

6 2. The director shall establish procedures and forms for
7 an employee to file an application for benefits under this
8 chapter.

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

12 4. Information and records pertaining to an employee under
13 this chapter that are maintained by the department shall
14 be confidential and shall only be available to department
15 personnel in the performance of official duties.

16 5. The director shall develop and implement an outreach
17 program to ensure that employers and employees are aware of
18 the family leave and medical leave insurance program and are
19 aware of the leave benefits available to eligible employees.
20 Outreach information shall explain in an easy-to-understand
21 format all of the following:

22 a. Eligibility requirements.

23 b. The application process.

24 c. How weekly benefits are calculated and the minimum and
25 maximum weekly benefit amount.

26 d. Restoration rights.

27 e. Nondiscrimination rights.

28 f. Confidentiality.

29 g. The relationship between employment protection, leave
30 from employment, wage replacement benefits under this chapter
31 and other laws, and employer policies.

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

35 **Sec. 24. NEW SECTION. 96A.22 Family leave and medical leave**

1 **insurance account.**

2 1. The family leave and medical leave insurance account
3 is created as a separate account in the state treasury in the
4 custody of the treasurer of state.

5 2. The director shall deposit all receipts from premiums
6 imposed pursuant to sections 96A.12, 96A.13, and 96A.14 into
7 the account. Expenditures from the account shall be used
8 only for the purposes of the family leave and medical leave
9 insurance program and only as authorized by the director.

10 3. All premiums deposited in the account shall remain in
11 the account until expended pursuant to the requirements of this
12 chapter.

13 **Sec. 25. NEW SECTION. 96A.23 Rules.**

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

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

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

19 **Sec. 27. DIRECTOR ANALYSIS OF FUNDING THE FAMILY LEAVE
20 AND MEDICAL LEAVE INSURANCE PROGRAM AND REPORT TO THE GENERAL
21 ASSEMBLY.** The director of the department of workforce
22 development shall conduct an analysis of the family leave
23 and medical leave insurance program as funded pursuant to
24 section 96A.12, as enacted in this Act, and of the benefits
25 paid pursuant to section 96A.10, as enacted in this Act. The
26 director shall determine if the premium rates and benefit
27 levels are appropriate to fully fund and maintain the solvency
28 of the family leave and medical leave insurance account.

29 The director shall submit the director's findings to the
30 general assembly pursuant to section 7A.11 no later than
31 January 14, 2022.

32 **EXPLANATION**

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

35 This bill relates to a family leave and medical leave

1 insurance program (program), administered by the director of
2 the department of workforce development, that provides for
3 paid, job-protected leave for certain family leave and medical
4 leave reasons for eligible employees of specified employers.

5 An employee is eligible for family leave and medical leave
6 after working for a covered employer, as defined in the bill,
7 for a minimum of 12 consecutive months and a minimum of 1,250
8 hours during the 12 consecutive-month period immediately
9 preceding the employee's request for leave. "Family leave" and
10 "medical leave" are defined in the bill. Family leave includes
11 leave to care for an immediate family member with a serious
12 health condition, to bond with a newborn child or adopted or
13 foster child, or for a qualifying exigency for a family member
14 as permitted under the federal Family and Medical Leave Act of
15 1993, as amended (FMLA). Medical leave includes leave due to
16 the employee's own serious health condition. "Serious health
17 condition" is defined in the bill.

18 The bill provides that an eligible employee may not receive
19 more than 12 weeks of family leave, 12 weeks of medical leave,
20 or 16 weeks of combined family and medical leave in a defined
21 consecutive 12-month period. The defined consecutive 12-month
22 period begins on the date of the birth of a child or placement
23 of a child for adoption or foster care with an eligible
24 employee, or on the first date that an eligible employee takes
25 either family leave or medical leave. The minimum duration of
26 leave an eligible employee may take is eight consecutive hours.

27 The bill disqualifies an employee from family leave and
28 medical leave benefits under circumstances detailed in the
29 bill.

30 An employee must provide a minimum of 30 days' notice
31 to an employer of the employee's intent to take leave. If
32 circumstances require an employee's leave to begin in less
33 than 30 days, the employee must give as much notice as is
34 practicable. If an eligible employee requests medical leave
35 or family leave, the employee must make a reasonable effort to

1 schedule their own, or their family member's medical treatment,
2 to not unduly disrupt the employer's operations.

3 The bill requires an eligible employee to file a claim
4 for benefits as required by the director. The employee
5 must consent to the disclosure of private or confidential
6 information to and from the department, and the employee's
7 employer, for administration of the leave. The bill specifies
8 that such information is not a public record pursuant to Code
9 section 22.1. The employee must attest that the employee has
10 provided notice of intent to take leave to the employee's
11 employer. The employee must also authorize the employee's,
12 or the employee's family member's health care provider, to
13 complete a certification of a serious health condition.

14 The bill provides for a seven-day waiting period before
15 benefits are payable. There is no waiting period for benefits
16 for leave for the birth of a child or placement of a child for
17 adoption or foster care.

18 The basis for the calculation of the amount of a family
19 leave or medical leave benefit is an eligible employee's weekly
20 earnings as defined in the bill. The weekly leave benefit
21 amount payable to an employee is detailed in the bill.

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

32 The bill provides that the program shall be funded via
33 employee and employer contributions. Beginning on January 1,
34 2024, and ending on December 31, 2025, the department must
35 assess a covered employer a premium rate of four-tenths of one

1 percent of an employee's weekly wages, subject to a maximum as
2 determined by the director based on the maximum wages subject
3 to taxation for social security. One-third of the premium
4 is to be used to fund family leave insurance benefits and
5 two-thirds of the premium is to be used to fund medical leave
6 benefits. A covered employer may deduct up to 45 percent of
7 the medical leave premium and 45 percent of the family leave
8 premium from an employee's wage. The employer must pay the
9 remaining 55 percent of both the medical leave and family
10 leave premiums, and may elect to pay all or any portion of its
11 employees' share of such premiums. Beginning January 1, 2026,
12 the premium rate shall be calculated by the director based on
13 the family leave and medical leave insurance account balance
14 ratio as of September 30 of the previous calendar year. The
15 premium rate is adjusted based on the balance ratio as detailed
16 in the bill.

17 On September 30 of each year, the bill requires the
18 department to average the number of employees reported by an
19 employer over the last four completed calendar quarters to
20 determine if the employer is a covered employer for the next
21 calendar year.

22 The bill requires a covered employer to collect all assessed
23 premiums and surcharges from the employer's employees through
24 payroll deduction and to remit all premiums to the department
25 as required by the director.

26 An employer may apply for, and the director must grant, a
27 waiver of premiums for an employee who is located physically
28 outside of the state and not expected to work in the state for
29 1,250 or more hours in any consecutive 12-month period. If
30 the employee subsequently works 1,250 or more hours within
31 the state, the employer and employee are responsible for all
32 premiums that should have been collected.

33 Self-employed persons may elect to participate in the
34 program as detailed in the bill.

35 An eligible employee who takes family leave or medical leave

1 is entitled to restoration of employment equal to but not
2 greater than that provided by FMLA. The bill provides that if
3 required under FMLA, an employer must maintain any existing
4 health benefits during an employee's leave. If the employer
5 and employee normally share the cost of such, the employee is
6 responsible for paying the employee's share of the costs.

7 A covered employer must submit reports as required by the
8 director and maintain employment records for each employee
9 from which the director may obtain information related to an
10 employee's leave. Such records must be maintained for 10
11 years.

12 The bill provides that family leave or medical leave shall
13 be in addition to leave required under state or federal law
14 for sickness or temporary disability due to pregnancy or
15 childbirth. The bill requires family leave or medical leave
16 taken under this program to be taken concurrently with leave
17 taken under FMLA. A covered employer may allow an employee
18 to choose to use either accrued sick or vacation benefits, or
19 family leave and medical leave benefits. An employee cannot
20 receive family or medical leave benefits at the same time the
21 employee is receiving state or federal unemployment, workers'
22 compensation, or disability benefits. The bill prohibits
23 discrimination on the basis of any state or federally protected
24 category.

25 The bill requires the director to administer the program and
26 to provide outreach to ensure that employers and employees are
27 aware of the program and the benefits available under such.

28 The bill provides that a family leave and medical leave
29 insurance account shall be created in the custody of the
30 treasurer of state. The director shall deposit all premiums
31 collected from employers into such account and the account can
32 only be used for the program as authorized by the director.

33 The bill requires the director to adopt rules as necessary
34 to implement and administer the provisions of the bill. The
35 director may take any action under the director's authority to

1 enforce compliance with the bill.

2 Code section 84A.1(1) is amended to require the department
3 of workforce development to administer the laws relating to the
4 program.

5 The director is required to analyze the funding of the
6 program and the benefits payable from the program's account.
7 The director shall determine if the premium rates and the
8 benefit levels are appropriate to fully fund and maintain the
9 solvency of the program. The director must submit the findings
10 to the general assembly no later than January 14, 2022.