

House File 2631 - Introduced

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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 2026, is amended to read as follows:

3 h. The department of workforce development, created in
4 section 84A.1, which has primary responsibility for administering
5 the laws relating to unemployment compensation insurance, job
6 placement and training, the family leave and medical insurance
7 program, and related matters.

8 Sec. 2. Section 84A.1, subsection 1, Code 2026, is amended to
9 read as follows:

10 1. The department of workforce development is created to
11 administer the laws of this state relating to unemployment
12 compensation insurance, and job placement and training, and the
13 family leave and medical leave insurance program.

14 Sec. 3. NEW SECTION. **96A.1 Short title.**

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

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

18 As used in this chapter, unless the context otherwise
19 requires:

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

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

28 3. "*Department*" means the department of workforce
29 development.

30 4. "*Director*" means the director of the department of
31 workforce development.

32 5. "*Domestic abuse*" includes domestic abuse as defined in
33 section 236.2 and domestic abuse assault as defined in section
34 708.2A.

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

1 state for wages by an employer. "Employee" also includes a
2 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 the
9 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 of
12 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 7. "Employer" means the same as defined in 91A.2. "Employer"
21 includes a temporary staffing agency or employment agency.

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

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

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

34 b. To bond with the employee's child after the child's birth,
35 or with a child under the age of eighteen placed with the

1 employee for adoption or foster care.

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

6 d. Because the employee or a family member has been a victim
7 of crime, provided the leave is to do one or more of the
8 following:

9 (1) Seek medical attention for the employee or family member
10 to recover from physical or psychological injury or disability
11 caused by having been a victim of crime.

12 (2) Obtain services or counseling from a victim
13 services organization, licensed social worker, marital and
14 family therapist, mental health counselor, psychologist, or
15 psychiatrist.

16 (3) Seek relocation or change of residence due to having been
17 a victim of crime.

18 (4) Take legal action, including reporting the crime to law
19 enforcement and preparing for or participating in any civil or
20 criminal legal proceeding related to or resulting from having
21 been a victim of crime.

22 (5) Obtain other services to ensure the safety of the
23 employee or family member or the employee's home or vehicle.

24 10. "Family member" means a child, parent, or spouse of an
25 employee.

26 11. "Gross earnings" means the same as defined in section
27 85.61.

28 12. "Health care provider" means a physician or other health
29 care practitioner licensed, accredited, registered, or certified
30 to perform specified health care services consistent with state
31 law.

32 13. "In loco parentis" means an individual who has day-to-day
33 responsibilities to care for or financially support a child.

34 14. "Inpatient care" means an overnight stay in a hospital,
35 hospice, or residential medical care facility, including any

1 period of incapacity, or any subsequent treatment in connection
2 with such inpatient care.

3 15. "Medical leave" means a leave from work taken by an
4 employee made necessary by the employee's own serious health
5 condition.

6 16. "Other violent crime" means a crime causing, meant to
7 cause, or threatening to cause personal injury to a person.

8 17. "Parent" means a biological, adoptive, step, or foster
9 father or mother, or any other individual who stands in loco
10 parentis to an employee or who stood in loco parentis when the
11 employee was a child. "Parent" does not include a parent-in-law.

12 18. "Period of incapacity" means an inability to work,
13 attend school, or perform other regular daily activities due
14 to a serious health condition, treatment of a serious health
15 condition, or recovery from a serious health condition.

16 19. "Premium" or "premiums" means the payments required by
17 section 96A.12 and paid to the department for deposit in the
18 family and medical leave insurance account pursuant to section
19 96A.22.

20 20. "Public employer" means the state of Iowa, its
21 boards, commissions, agencies, departments, and its political
22 subdivisions including school districts and other special purpose
23 districts.

24 21. "Serious health condition" means an illness, injury,
25 impairment, physical condition, or mental condition that involves
26 inpatient care in a hospital, hospice, medical care facility, or
27 continued treatment or continuing supervision by a health care
28 provider.

29 22. "Spensible weekly earnings" means the amount remaining
30 after payroll taxes are deducted from an employee's gross weekly
31 earnings.

32 23. "Spouse" means the person with whom an individual has
33 entered into marriage as defined or recognized under state law
34 for purposes of marriage in the state in which the marriage
35 was entered into or, in the case of a marriage entered into

1 outside of any state, if the marriage is valid in the place
2 where the marriage was entered into and the marriage could have
3 been entered into in at least one state, including a common law
4 marriage.

5 24. "Stalking" means the same as described in section 708.11.

6 25. "Victim of crime" means a victim of domestic abuse,
7 sexual abuse, stalking, other violent crime, or the surviving
8 family member of a murder victim.

9 26. "Wages" means the same as defined in section 91A.2.

10 Sec. 5. NEW SECTION. **96A.3 Benefit eligibility.**

11 An employee is eligible for family leave and medical leave as
12 provided in this chapter after working for a covered employer for
13 both a minimum of twelve consecutive months immediately preceding
14 the employee's request for leave and a minimum of one thousand
15 two hundred fifty hours during that twelve-consecutive-month
16 period.

17 Sec. 6. NEW SECTION. **96A.4 Leave entitlement for a defined
18 twelve-month period.**

19 1. An employee is entitled to a maximum of twelve weeks
20 of family leave during a defined period of twelve consecutive
21 months.

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

28 3. An employee is entitled to a maximum combined total of
29 paid family leave and medical leave of twelve weeks during a
30 defined period of twelve consecutive months.

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

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

35 The defined period of twelve consecutive months for

1 calculation of an eligible employee's family leave or medical
2 leave entitlement begins on any of the following:

3 1. The date of birth of the employee's child, or the date
4 of placement of a child for adoption or foster care with the
5 employee.

6 2. The first day of family leave that the employee takes for
7 a family member's serious health condition or a family member's
8 qualifying exigency or for the employee or family member being a
9 victim of crime.

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

11 Sec. 8. NEW SECTION. **96A.6 Disqualification from leave**
12 **entitlement.**

13 An eligible employee is disqualified for family leave or
14 medical leave benefits under this chapter for any of the
15 following reasons:

16 1. An absence due to the employee's willful intention to
17 injure or cause a sickness to the employee or to the employee's
18 family member.

19 2. An injury or sickness caused by the employee engaging in
20 an illegal act.

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

23 Sec. 9. NEW SECTION. **96A.7 Employee notice to employer of**
24 **intent to take leave.**

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

29 2. If the birth of a child or placement of a child for
30 adoption or foster care with an employee requires leave to
31 begin in less than thirty calendar days, the employee shall
32 provide written notice to the employer as far in advance as is
33 practicable.

34 3. If leave for a family member's serious health condition
35 or an employee's serious health condition is foreseeable based

1 on planned medical treatment, the employee shall do all of the
2 following:

3 a. Make a reasonable effort to schedule such medical
4 treatment, subject to the recommendation of the employee's or
5 family member's health care provider as appropriate, to not
6 unduly disrupt the operations of the employer.

7 b. Provide the employer with not less than thirty calendar
8 days prior written notice of the employee's intention to take
9 leave for a family member's serious health condition or the
10 employee's serious health condition.

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

15 Sec. 10. NEW SECTION. **96A.8 Weekly claim, certification,**
16 **and verification.**

17 Beginning January 1, 2031, family leave or medical leave
18 insurance benefits are payable to an employee during a period in
19 which the employee is unable to perform the employee's regular or
20 customary work because the employee is on family leave or medical
21 leave if the employee meets all of the following requirements:

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

24 2. The employee meets the eligibility requirements pursuant
25 to section 96A.3 or the elective coverage requirements pursuant
26 to section 96A.14.

27 3. The employee consents to the disclosure of information or
28 records that may be deemed private or confidential under state
29 or federal law. Disclosure of such information and records
30 by another state agency or an employer to the department shall
31 be solely for purposes related to the administration of this
32 chapter. Information and records disclosed by an employee under
33 this chapter shall not be public records as defined in section
34 22.1.

35 4. The employee authorizes the health care provider of the

1 employee's family member or of the employee, as applicable, to
2 complete a certification of a serious health condition in a form
3 as required by the director.

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

6 6. The employee provides documentation of a family member's
7 qualifying exigency or the crime of which the employee or family
8 member was a victim if requested by the employee's employer.

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

11 Family leave or medical leave insurance benefits shall be
12 payable to an eligible employee following a waiting period
13 consisting of the first seven calendar days of the employee's
14 leave. However, no such waiting period applies to a leave for
15 the birth or placement of a child with an eligible employee.

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

17 1. The basis for the calculation of a leave benefit amount
18 shall be the weekly earnings of an eligible employee on the day
19 the leave is granted. "Weekly earnings" means the gross earnings
20 of an employee to which the employee would have been entitled had
21 the employee worked the employee's customary hours for the full
22 pay period in which the employee is on family leave or medical
23 leave. Weekly earnings shall be computed as follows, rounded to
24 the nearest dollar, for an employee who is paid on the following
25 basis:

26 a. On a weekly pay period basis, the weekly earnings are the
27 weekly gross earnings.

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

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

33 d. On a monthly pay period basis, the weekly earnings are the
34 monthly gross earnings multiplied by twelve and then divided by
35 fifty-two.

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

3 f. On a daily or hourly basis, or by the output of an
4 employee, the weekly earnings shall be computed by dividing
5 by thirteen the earnings, including shift differential pay but
6 not including overtime or premium pay, of the employee earned
7 in the last completed period of thirteen consecutive calendar
8 weeks immediately preceding the start day of the leave. If the
9 employee was absent from employment for personal reasons during
10 part of the thirteen calendar weeks preceding the leave, the
11 employee's weekly earnings shall be the amount the employee would
12 have earned had the employee worked when work was available to
13 other employees of the employer in a similar occupation. A week
14 that does not fairly reflect the employee's customary earnings
15 shall be replaced by the closest previous week with earnings that
16 fairly represent the employee's customary earnings.

17 2. If on the date that an employee's leave begins the
18 employee's hourly earnings cannot be ascertained, the earnings
19 for the purpose of calculating the benefit amount shall be the
20 usual earnings for similar services where such services are
21 rendered by paid employees.

22 3. If an employee earns either no wages, or less than the
23 usual weekly earnings of a regular full-time adult laborer in the
24 line of work in which the employee is working in that locality,
25 the weekly earnings shall be one-fiftieth of the total earnings
26 that the employee has earned from all employment during the
27 twelve consecutive calendar months immediately preceding the date
28 that the employee's leave begins.

29 4. The weekly leave benefit amount payable to an employee
30 for any one week shall be eighty percent of the employee's
31 spendable weekly earnings, but shall not exceed an amount equal
32 to two hundred percent of the statewide average weekly wage as
33 calculated by the department pursuant to section 96.1A and in
34 effect on the date that the employee's leave commences. However,
35 the weekly leave benefit amount shall be a minimum equal to the

1 lesser of the weekly leave benefit amount of a person whose gross
2 weekly earnings are thirty-five percent of the statewide average
3 weekly wage, or to the spendable weekly earnings of the employee.

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

6 1. The department shall send the first benefit payment to
7 an employee within ten calendar days after the first properly
8 completed weekly claim from the employee is received by the
9 department. Subsequent payments shall be sent at least biweekly
10 to an eligible employee if a properly completed weekly claim from
11 the employee is received by the department.

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

20 3. If the department or the employee's employer contests an
21 employee's eligibility for benefits after the employee begins
22 receiving benefits, the employee shall continue to be paid
23 benefits conditionally for any weeks for which the employee
24 files a claim for benefits. The employee's right to retain
25 such benefit payments shall be conditioned upon the department's
26 finding that the employee is eligible for such benefit payments.

27 a. At an employee's request, the department shall hold
28 conditional benefit payments until the department resolves the
29 employee's eligibility status.

30 b. Payment shall be issued promptly for any withheld benefit
31 payments if the department determines that an employee is
32 eligible for benefits.

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

1 Sec. 14. NEW SECTION. **96A.12 Funding the family leave and**
2 **medical leave insurance program.**

3 1. Beginning on January 1, 2030, and ending December 31,
4 2031, the department shall assess for each employee in employment
5 with a covered employer a premium rate of four-tenths of one
6 percent of the employee's wages based on the amount of the wages,
7 subject to subsection 6.

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

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

12 2. For calendar year 2032 and subsequent calendar years the
13 director shall determine the percentage of paid claims related to
14 family leave benefits and the percentage of paid claims related
15 to medical leave benefits and adjust the premium rates set in
16 subsection 1 by the proportional share of claims paid for both
17 types of leave.

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

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

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

31 6. The director shall annually set a maximum limit on the
32 amount of an employee's wages that are subject to a premium
33 assessment under this section that is equal to the contribution
34 and benefit base for the calendar year as determined by the
35 United States social security administration for purposes of 26

1 U.S.C. §3121(a).

2 7. For calendar year 2032 and subsequent calendar years, the
3 total premium rate shall be based on the family leave and medical
4 leave insurance account balance ratio as of September 30 of the
5 previous year. The director shall calculate the account balance
6 ratio by dividing the balance of the family leave and medical
7 leave insurance account by the total wages paid by covered
8 employers. The division shall be carried to the fourth decimal
9 place with the remaining fraction disregarded unless it amounts
10 to five hundred thousandths or more in which case the fourth
11 decimal place shall be rounded to the next higher digit. If the
12 family leave and medical leave insurance account balance ratio
13 is any of the following percentages, the premium shall be the
14 following percentage of an employee's wages subject to a premium
15 assessment:

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

18 b. If the ratio is one-tenth of one percent to nineteen
19 hundredths of one percent, the premium shall be five-tenths of
20 one percent.

21 c. If the ratio is two-tenths of one percent to twenty-nine
22 hundredths of one percent, the premium shall be four-tenths of
23 one percent.

24 d. If the ratio is three-tenths of one percent to thirty-nine
25 hundredths of one percent, the premium shall be three-tenths of
26 one percent.

27 e. If the ratio is four-tenths of one percent to forty-nine
28 hundredths of one percent, the premium shall be two-tenths of one
29 percent.

30 f. If the ratio is five-tenths of one percent or greater, the
31 premium shall be one-tenth of one percent.

32 8. Beginning January 1, 2032, if the account balance ratio
33 calculated in subsection 7 is below five hundredths of one
34 percent, the director shall assess a solvency surcharge at
35 the lowest rate necessary to provide revenue to pay for the

1 administrative and benefit costs of family leave and medical
2 leave insurance for the calendar year. The solvency surcharge
3 shall be at least one-tenth of one percent and no more than
4 six-tenths of one percent and shall be added to the total premium
5 rate assessed to each employee of a covered employer for family
6 leave and medical leave benefits.

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

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

18 Sec. 15. NEW SECTION. **96A.13 Conditional waiver of premium**
19 **for out-of-state employee.**

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

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

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

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

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

33 3. If the employee physically works in the state for one
34 thousand two hundred fifty hours or more in any consecutive
35 twelve-month period, the conditional waiver shall expire and

1 the employer and employee shall be responsible for all premiums
2 pursuant to section 96A.12 for the consecutive twelve-month
3 period in which the employee worked one thousand two hundred
4 fifty hours or more. Upon submission of the premiums by the
5 employer to the department, the employee shall be credited for
6 the hours worked during that consecutive twelve-month period and
7 shall be eligible for benefits under this chapter.

8 Sec. 16. NEW SECTION. **96A.14 Self-employed persons elective**
9 **participation in the family leave and medical leave insurance**
10 **program.**

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

15 2. For benefits payable beginning January 1, 2032, a
16 self-employed person may elect to participate in the family leave
17 and medical leave insurance program under this chapter if the
18 self-employed person meets all of the following requirements:

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

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

23 c. The self-employed person must participate in both family
24 leave and medical leave.

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

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

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

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

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

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

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

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

24 b. To be restored to an equivalent position with equivalent
25 employment benefits, pay, and other terms and conditions of
26 employment.

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

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

35 4. This section shall not be construed to entitle a restored

1 employee to any of the following:

2 a. The accrual of any seniority or employment benefits during
3 any period of leave.

4 b. Any right, benefit, or position of employment other than
5 any right, benefit, or position of employment to which the
6 employee would have been entitled had the employee not taken
7 leave.

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

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

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

19 b. The employer notifies the employee of the intent of the
20 employer to deny restoration on such basis at the time the
21 employer determines such basis exists.

22 c. The employee is on leave and elects not to return
23 to employment after receiving the employer's notice of the
24 employer's intent not to restore the employee.

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

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

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

1 such.

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

4 1. Pursuant to rules adopted by the director, an employer
5 shall submit reports and furnish information related to the
6 family leave and medical leave insurance program to the director.

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

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

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

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

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

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

34 In any week an employee is eligible to receive benefits under
35 chapter 85, 85A, 85B, or 96, or any other applicable state

1 or federal unemployment compensation, workers' compensation, or
2 disability insurance laws, the employee is disqualified from
3 receiving family leave or medical leave insurance benefits under
4 this chapter.

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

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

11 Sec. 23. NEW SECTION. **96A.21 Department to administer**
12 **family leave and medical leave insurance program and conduct**
13 **outreach.**

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

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

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

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

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

33 a. Eligibility requirements.

34 b. The application process.

35 c. How weekly benefits are calculated and the minimum and

1 maximum weekly benefit amount.

2 d. Restoration rights.

3 e. Nondiscrimination rights.

4 f. Confidentiality.

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

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

11 Sec. 24. NEW SECTION. **96A.22 Family leave and medical leave**
12 **insurance account — report.**

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

16 2. The director shall deposit all receipts from premiums
17 imposed pursuant to sections 96A.12, 96A.13, and 96A.14 into the
18 account. Expenditures from the account shall be used only for
19 the purposes of the family leave and medical leave insurance
20 program and only as authorized by the director.

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

24 4. The director shall submit an annual report to the general
25 assembly by January 1 on the financial condition of the account
26 and whether the premium rates and benefit levels are appropriate
27 to fully fund and maintain the solvency of the account.

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

29 The director shall adopt rules pursuant to chapter 17A to
30 implement and administer this chapter.

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

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

34

EXPLANATION

35

The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

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

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

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

31 The bill disqualifies an employee from family leave and
32 medical leave benefits under circumstances detailed in the bill.

33 An employee must provide a minimum of 30 days' notice
34 to an employer of the employee's intent to take leave. If
35 circumstances require an employee's leave to begin in less than

1 30 days, the employee must give as much notice as is practicable.
2 If an eligible employee requests medical leave or family leave,
3 the employee must make a reasonable effort to schedule their own,
4 or their family member's, medical treatment to not unduly disrupt
5 the employer's operations.

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

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

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

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

34 The bill provides that the program shall be funded via
35 employee and employer contributions. Beginning on January 1,

1 2030, and ending on December 31, 2031, the department must assess
2 a covered employer a premium rate of four-tenths of 1 percent of
3 an employee's weekly wages, subject to a maximum as determined by
4 the director based on the maximum wages subject to taxation for
5 social security. One-third of the premium is to be used to fund
6 family leave insurance benefits and two-thirds of the premium is
7 to be used to fund medical leave benefits. A covered employer
8 may deduct up to 45 percent of the medical leave premium and 45
9 percent of the family leave premium from an employee's wage. The
10 employer must pay the remaining 55 percent of both the medical
11 leave and family leave premiums, and may elect to pay all or
12 any portion of its employees' share of such premiums. Beginning
13 January 1, 2032, the premium rate shall be calculated by the
14 director based on the family leave and medical leave insurance
15 account balance ratio as of September 30 of the previous calendar
16 year. The premium rate is adjusted based on the balance ratio as
17 detailed in the bill.

18 On September 30 of each year, the bill requires the department
19 to average the number of employees reported by an employer over
20 the last four completed calendar quarters to determine if the
21 employer is a covered employer for the next 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 as
25 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 the
30 employee subsequently works 1,250 or more hours within the state,
31 the employer and employee are responsible for all premiums that
32 should have been collected.

33 Self-employed persons may elect to participate in the program
34 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 years.

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

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

26 The bill provides that a family leave and medical leave
27 insurance account shall be created in the custody of the
28 treasurer of state. The director shall deposit all premiums
29 collected from employers into such account and the account can
30 only be used for the program as authorized by the director. The
31 bill requires the director to submit an annual report to the
32 general assembly on the financial condition of the account and
33 whether the premium rates and benefit levels are appropriate to
34 fully fund and maintain the solvency of the account.

35 The bill requires the director to adopt rules to implement and

1 administer the provisions of the bill. The director may take any
2 action under the director's authority to enforce compliance with
3 the bill.

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