AN ACT

Establishing the Family and Medical Leave Insurance Program and
the Family and Medical Leave Insurance Fund; conferring
powers and imposing duties on the Department of Labor and
Industry; and imposing penalties.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1
PRELIMINARY PROVISIONS

Section 101. Short title.
This act shall be known and may be cited as the Family and Medical Leave Insurance Act.

Section 102. Legislative intent.
The General Assembly finds and declares as follows:

1. Paid family and medical leave insurance promotes the physical and emotional health of children and their families.
2. Paid family and medical leave insurance has a positive impact on economic stability and ensures competitive viability for all businesses, but particularly smaller
The establishment of a paid family and medical leave insurance program is essential to public health, safety and welfare.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Application year." The 12-month period beginning on the first day of the calendar week in which an individual files a claim for family and medical leave insurance benefits.

"Benefits." The monetary allowances payable to a covered individual as family and medical leave insurance during an approved family and medical leave under the program in accordance with this act.

"Board." The Family and Medical Leave Insurance Advisory Board established under section 509.

"Claim." The filing of a written application with the department for the receipt of benefits.

"Covered individual." An employee, or a self-employed person who elects coverage in accordance with section 503, who meets the following requirements, as applicable:

(1) Is currently employed in this Commonwealth or was previously employed in this Commonwealth within 120 days of separation from employment.

(2) Meets the employment and income eligibility requirements specified in section 303.

(3) Meets the requirements of this act as to the receipt of benefits.

(4) Submits a claim that is approved by the department.
"Covered service member." A current or former member of the armed forces of the United States, including a current or former member of a reserve component of the armed forces of the United States or the Pennsylvania National Guard, who meets any of the following requirements:

(1) Is undergoing medical treatment, recuperation or therapy.

(2) Is otherwise in outpatient status.

(3) Is on the temporary disability retired list for a serious injury or illness incurred in the line of duty on active duty in the armed forces of the United States or a serious injury or illness that existed before the beginning of the member's active duty that was aggravated by service in the line of duty on active duty in the armed forces of the United States, a reserve component of the armed forces of the United States or the Pennsylvania National Guard.

"Department." The Department of Labor and Industry of the Commonwealth.

"Employee." An individual who is employed by an employer doing business in this Commonwealth.

"Employer." An employer as defined in section 103 of the Workers' Compensation Act.

"Family." Includes any of the following:

(1) A biological child, adopted or foster child, stepchild or legal ward, a child of a domestic partner or a child to whom an employee stands in loco parentis, regardless of age.

(2) A biological parent, foster parent, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who
stood in loco parentis when the employee or the employee's
spouse or domestic partner was a minor child.

(3) An individual to whom the employee is legally
married under the laws of any state or a domestic partner of
an employee as registered under the laws of any state or
political subdivision.

(4) A grandparent, grandchild or sibling whether of a
biological, foster, adoptive or step relationship, of the
employee or the employee's spouse or domestic partner.

(5) An individual for whom the employee is responsible
for providing or arranging care, including helping that
individual obtain diagnostic, preventive, routine or
therapeutic health treatment.

(6) Any other individual whose close association with
the employee is the equivalent of an immediate family
relationship.

"Family and medical leave insurance." Benefits approved and
payable to covered individuals under the program.

"Fund." The Family and Medical Leave Insurance Fund
established under section 506.

"Health care provider." A health care center or a person,
including a corporation, university or other educational
institution licensed or approved by the Commonwealth to provide
health care or professional medical services, including a
physician, a certified nurse midwife, a mental health care
provider, a hospital, a nursing home, a birth center or any
other person determined by the department to be providing health
care services.

"Leave." The allotted amount of time approved by the
department for the receipt of benefits under this act.
"Medical certification." Written certification from a health care provider on a form prepared by the department that verifies the serious health condition prompting the filing of a claim and receipt of benefits by a covered individual under this act.

"Program." The Family and Medical Leave Insurance Program established under section 301.

"Qualifying exigency leave." Leave for the family member of a military member deployed at home or abroad for the purposes specified in 29 CFR 825.126 (relating to leave because of a qualifying exigency).

"Secretary." The Secretary of Labor and Industry of the Commonwealth.

"Serious health condition." An illness, injury, impairment, pregnancy, recovery from childbirth or physical or mental condition as described in 29 U.S.C. § 2611(11) (relating to definitions).

"Statewide average weekly wage." The average amount of weekly wages as determined by the department on an annual basis for each calendar year in accordance with the Workers' Compensation Act, which shall be posted on the department's publicly accessible Internet website.


CHAPTER 3

FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

Section 301. Family and Medical Leave Insurance Program.

(a) Establishment of program and payment of benefits.
Within one year of the effective date of this paragraph, the department shall establish the Family and Medical Leave Insurance Program.

No later than two years following the establishment of the program, the department shall pay family and medical leave insurance benefits as specified in this act.

(b) Required documentation.--The department shall establish reasonable procedures and forms for filing a claim under this act, the documentation necessary to support a claim and any certification required from a health care provider for proof of a serious health condition.

(c) Notice of approved claim.--In addition to the notice provided to an employer by an employee under section 501(d), the department shall notify the employer within five business days of an approved claim for benefits under this act.

(d) Information sharing.--Information sharing and integration technology to facilitate the disclosure of relevant information or records shall be used as practicable subject to consent and disclosure requirements under State law.

(e) Confidentiality.--Information contained in the files and records pertaining to an individual filing a claim under this act are confidential and shall not be open to public inspection other than to public employees in the performance of their official duties.

(f) Cooperation among departments.--To properly effectuate the provisions of this act, all departments and agencies under the jurisdiction of the Governor shall fully cooperate with the department and provide assistance and support as needed to ensure the timely and efficient delivery of benefits under this act.
Section 302. Powers and duties of department.

(a) Administration of act.--The department shall be responsible for the administration of this act and the fund. Administration of the program for purposes of this section and section 506 shall include acquisition, development and operational costs related to information technology, infrastructure and personnel needed to process claims and issue benefits under this act.

(b) Powers and duties.--To fulfill its responsibilities under this act, the department shall have the following powers and duties:

(1) Calculate and set the amount of benefits payable to a covered individual as specified in section 305 initially and on an annual basis thereafter.

(2) Provide information to employees and employers on the amount to be deducted as employee payroll premium contributions as specified in section 306 initially and every year thereafter.

(3) Develop and prepare the written notices that employers must distribute and provide to their employees in accordance with section 501. The form of the notices shall be posted on the department's publicly accessible Internet website.

(4) Prepare and provide the medical certification form referenced in section 303(d) on the department's publicly accessible Internet website.

(5) Prepare and provide the necessary forms for filing and acknowledging a benefits claim and for providing notice of benefits approval to both employers and covered individual employees.
(6) Develop the abstract for employer posting of notice
in the workplace under section 501, which shall be available
on the department's publicly accessible Internet website.
(7) Prepare and provide the employee complaint form on
the department's publicly accessible Internet website.
(8) Develop any and all forms necessary to ensure
implementation of this act.
(9) Develop procedures to investigate and resolve
complaints under this act.
(10) Conduct an ongoing public outreach campaign to
inform employers and employees about the availability of the
program and the process for filing a benefits claim.
(11) Promulgate regulations as necessary to administer
this act.
(12) Issue an annual report under section 507.
(c) Enforcement of act.--The secretary shall establish a
system for an administrative complaint and appeals process in
the case of a denial of family and medical leave insurance
benefits and all violations assessed under this act. In
establishing the appeals system, the department may utilize
procedures and appeals mechanisms established under the
Unemployment Compensation Law. Procedures to ensure
confidentiality of all information related to any claims filed
or appeals taken shall be implemented in accordance with
applicable laws.
Section 303. Eligibility for family and medical leave insurance
benefits.
(a) Basis for receipt of benefits.--No later than two years
following establishment of the program, benefits under this act
shall be payable to a covered individual who files an approved
claim based on any of the following:

(1) Because of birth, adoption or placement through foster care, is caring for a new child during the first year after the birth, adoption or placement of that child.

(2) Is caring for a family member with a serious health condition.

(3) Has a serious health condition, including pregnancy, that renders the covered individual unable to perform the functions of the individual's position.

(4) In a declared public health emergency, is caring for a family member with a serious health condition.

(5) Is caring for a family member who is a covered service member due to a qualifying exigency leave in accordance with the terms of 29 U.S.C. Ch. 28 (relating to family and medical leave).

(b) Employment and income eligibility requirements.--To be eligible to file a benefits claim, a covered individual must have:

(1) Worked at least 18 weeks during the 12-month period prior to submitting a claim.

(2) Earned at least $2,718 in income during the 12-month period prior to submitting a claim. This earned income rate shall be adjusted annually by the department based on the Pennsylvania Unemployment Insurance Financial Eligibility Rules.

(c) Interaction with the Workers' Compensation Act and the Unemployment Compensation Law.--To file a benefits claim and receive benefits under this act, a covered individual cannot receive benefits for the same day under the Workers' Compensation Act or the Unemployment Compensation Law.
An individual seeking benefits under this act shall submit a claim to the department providing the required documentation to support a claim for benefits, including any necessary medical certification.

A covered individual shall obtain a medical certification confirming a serious health condition under subsection (a)(2), (3) and (4) that justify the filing of a claim and the receipt of benefits under this act and shall make that information available to the department on the form prescribed by the department. Any completed medical certification form regarding a covered individual shall be entitled to the protections of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

Upon receipt of all necessary documentation to support a claim for benefits from a covered individual, the department shall determine eligibility for benefits under this act within five business days.

(a) Maximum leave duration of 20 weeks.--The maximum number of weeks during which benefits are payable under section 303(a)(1) or (3) in an application year is 20 weeks.

(b) Maximum leave duration of 12 weeks.--The maximum number of weeks during which benefits are payable under section 303(a)(2), (4) or (5) in an application year is 12 weeks.

(c) Total maximum duration.--The duration of leave under subsections (a) and (b) combined cannot exceed a total number of 20 weeks in any one application year regardless of reason.

(d) Initial payment of benefits.--The first payment of benefits shall be made to a covered individual no later than one
Section 305. Amount of benefits.

(a) Calculation of benefits.—The benefits payable to a covered individual shall be calculated as follows:

(1) the portion of a covered individual's average weekly wage that is equal to or less than 50% of the Statewide average weekly wage shall be replaced at a rate of 90%; and

(2) the portion of a covered individual's average weekly wage that exceeds 50% of the Statewide average weekly wage shall be replaced at a rate of 50%.

(b) Limitation.—In no case shall the weekly benefits payable to a covered individual be more than the Statewide average weekly wage.

(c) Adjustment of benefits calculation.—The department shall adjust the maximum family and medical leave insurance benefit cap established in subsection (a) annually based on the Statewide average weekly wage and shall transmit notice of the revised family and medical leave insurance benefit rates to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin on an annual basis.

(d) Limit on taking of benefits and nonsequential leave.—Under this section and section 307, benefits are not payable for less than eight hours of leave taken in one work week.
(a) Payment into the program.--All persons employed in this Commonwealth shall be required to contribute to the program for the purpose of financing the program.

(b) Commencement of payroll premium contributions.--Payroll premium contributions into the fund for the purpose of financing the program shall commence at least one year prior to the payment of any benefits from the fund to covered individuals.

(c) Calculation of payroll premium contributions.--The amount payable through employee payroll premium contributions shall be set at 0.588% of an individual employee's wages to initiate payments into the program. The following apply:

   (1) Every year thereafter, the department shall evaluate and determine the amount of payroll premium contributions and maximum employee contribution necessary to finance and adequately support the program.

   (2) The premium contribution rate shall be the rate necessary to obtain a total amount of premium contributions equal to 125% of the benefits which were paid for the periods of leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the fund during the last preceding full fiscal year, less the amount of net assets remaining in the fund as of December 31 of the immediately preceding calendar year.

   (3) The payroll premium contribution rate shall be posted on the department's publicly accessible Internet website.

(d) Notification to employers.--The department shall notify the Department of Revenue to advise employers of the amount payable through employee payroll premium contributions.

(e) Penalty for failure to withhold.--An employer who fails
to withhold payroll premium contributions in accordance with this act shall be subject to those penalties enforceable through the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for failure to properly withhold wages for income tax and sales and use tax purposes.

Section 307. Reduced leave schedule.

(a) Taking of nonsequential leave.--A covered individual shall be entitled to utilize the leave authorized under section 304, at the option of the covered individual, to take leave on an intermittent or reduced leave schedule in which all of the leave authorized under this act is not taken sequentially.

Family and medical leave insurance benefits for intermittent or reduced leave schedules shall be prorated.

(b) Impact on duration of leave.--Nonsequential leave taken under this section shall not result in a reduction in the total amount of family and medical leave to which a covered individual is entitled beyond the amount of leave actually taken.

(c) Total amount of leave allowed.--Nothing in this section shall be construed to enable a covered individual to take more leave than allowed under section 304.

Section 308. Employment protections.

(a) Restoration of employment position.--Any covered individual who takes leave in accordance with this act shall, upon the expiration of that leave, be restored by the employer to the position previously held by the covered individual when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay and other terms and conditions of employment.

(b) Health care benefits maintained.--For the duration of a leave approved under this act, the employer shall maintain any

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health care benefits the covered individual had prior to taking leave as if the covered individual had continued in employment continuously from the date leave was commenced until the date the leave terminates. A covered individual shall continue to pay the covered individual's share of the cost of health benefits as required prior to the commencement of the leave.

(c) Interference with benefits.--It shall be unlawful for an employer or any other person to interfere with, restrain or deny the exercise of, or the attempt to exercise, any protection afforded under this act.

(d) Retaliation prohibited.--An employer, temporary help company, employment agency, employee organization or other person shall not take retaliatory personnel action or otherwise discriminate against a person because the person took any action in accordance with this act, including:

(1) Applying for or using benefits or taking leave under this act.

(2) Communicating to the employer or any other person or entity an intent to file and act on a claim, a complaint or an appeal with the department or a court of competent jurisdiction.

(e) Consideration of absence.--It shall be unlawful for an employer to count leave taken under this act as an absence that may lead to or result in a retaliatory personnel action.

(f) Good faith protection.--Protections under this section shall apply to any person who mistakenly but in good faith alleges a violation of this act.

(g) Definition.--As used in this section, the term "retaliatory personnel action" includes any threat, discipline, discharge, suspension, demotion, reduction of hours or any other
adverse action taken against an employee for exercising the
rights and protections afforded by this act. The term also
includes interference with or punishment for participating in or
acting on a complaint or appeal under this act.

Section 309. Coordination of benefits.

(a) Leave concurrent with Federal law.--Leave taken under
this act that also qualifies as leave under 29 U.S.C. Ch. 28
(relating to family and medical leave) shall run concurrently
with leave taken under 29 U.S.C. Ch. 28.

(b) Coordination with other paid leave.--An employee may
elect to utilize paid leave available under any other Federal or
State law, collective bargaining agreement or employer policy
prior to receiving benefits under this act. Employers shall
provide employees with written notice of the opportunity to make
the election, and inform employees how leave will be coordinated
absent any election.

(c) Employer's obligation.--This act does not diminish an
employer's obligation to comply with any of the following that
provides more generous leave:

(1) A collective bargaining agreement.

(2) An employer policy.

(3) Any other Federal or State law.

(d) Prohibition on subsequent collective bargaining
agreement or employer policy.--An individual's right to leave
and the payment of benefits under this act may not be diminished
by a collective bargaining agreement entered into or renewed, or
an employer policy adopted or retained, after the effective date
of this subsection. An agreement by an individual to waive the
individual's rights under this act is void as against public
policy.
(e) Impact on Workers' Compensation Act.—Nothing in this act shall be construed to impact the provisions of the Workers' Compensation Act with regard to work-related injuries.

(f) Impact on Public Employe Relations Act.—Nothing in this act shall be construed to supersede or preempt the rights, remedies and procedures afforded to employees or labor organizations under Federal or State law, including the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or any provision of a collective bargaining agreement negotiated between an employer and an exclusive representative of the employees in accordance with the Public Employe Relations Act.

CHAPTER 5
ADMINISTRATION AND PROCEDURES

Section 501. Notice.

(a) Employer notice to employees.—Upon initial hiring of an employee, and annually thereafter, an employer shall provide written notice of the requirements of this act using the notices prepared and posted by the department under section 302.

(b) Employer acknowledgment of leave request.—Using the form prepared by the department under section 302, an employer shall provide written acknowledgment to an employee when the employee requests leave under this act. The acknowledgment shall include:

(1) An explanation of the employee's right to benefits under this act and the terms for its use.

(2) The amount of benefits.

(3) The procedure for filing a benefits claim with the department.

(4) Provisions on job protection and benefits
continuation under section 308.

(5) The prohibition on employer discrimination and retaliatory personnel action against a person for requesting, applying for or using leave as provided in section 308.

(6) The employee’s ability to file a complaint for violations of this act.

(c) Public display of notice.--Using the abstract for employer posting available on the department’s publicly accessible Internet website, an employer shall display and maintain a poster in a conspicuous place accessible to employees at the employer's place of business that contains the information required by this section in English and Spanish, with consideration to the inclusion of other significant languages spoken in the workplace.

(d) Employee notice to employer.--When the need for leave is known to the employee at least 15 days in advance, the employee shall provide written or verbal notice to the employer of the need and schedule for taking leave at least 15 days prior to taking leave. The employee shall make a reasonable effort to schedule leave in a manner that does not unduly disrupt the operations of the employer. For all other absences, the employee shall notify the employer as soon as practicable, including if the need arises immediately before or after the employee has reported for work.

Section 502. Erroneous payments and disqualification for benefits.

(a) Employee disqualification.--A covered individual is disqualified from receiving benefits for one year if the individual is determined by the department to have willfully made a false statement or misrepresentation regarding a material
(b) Incorrect payment of benefits.--If benefits under this act are paid:

(1) ERRONEOUSLY WITHOUT FAULT OR FOR A CLAIM THAT IS SUBSEQUENTLY REJECTED AFTER BENEFITS ARE PAID, the department may seek repayment through a reasonable reduction in any future benefits due the recipient.

(2) AS A RESULT OF WILLFUL MISREPRESENTATION BY THE recipient, the recipient shall be liable to repay a sum equal to the amount of benefits derived through that willful misrepresentation and the recipient shall be further disqualified for benefits as specified in subsection (a).

Section 503. Elective coverage.

(a) Self-employed option.--A self-employed person, including a sole proprietor, partner or participant in a joint venture, may elect coverage under this act for an initial period of not less than three years upon meeting all of the following requirements:

(1) Filing a notice of election in writing with the department, effective on the date of filing the notice.

(2) Supplying all income information that the department deems necessary.

(3) Compliance with all eligibility, employment and income requirements specified in section 303.

(b) Withdrawal from coverage.--A self-employed person who has elected coverage may withdraw from coverage within 30 days after the end of the three-year period of coverage, or at other times as the department may prescribe. Upon filing written notice with the department, the self-employed person's
withdrawal from coverage shall take effect no later than 30 days 
after filing the notice of withdrawal.

Section 504. Violations.

An employer that violates the requirements of sections 308, 309 or 501 shall be subject to the penalties as specified in 29 
U.S.C. § 2617 (relating to enforcement).

Section 505. Judicial review.

Judicial review of any decision regarding the denial of 
benefits or an appeal of any violation of this act shall be 
permitted in a court of competent jurisdiction after a party 
aggrieved thereby has exhausted all administrative remedies 
established by the department.

Section 506. Family and Medical Leave Insurance Fund.

(a) Fund established.--The Family and Medical Leave 
Insurance Fund is established as a nonlapsing fund in the State 
Treasury.

(b) Deposit of money.--Money from employee payroll premium 
contributions paid under section 306 and any financial penalties 
imposed under this act shall be deposited into the fund and used 
by the department for the administration of the program and the 
payment of benefits to covered individuals.

(c) Continuing appropriation.--All money deposited in the 
fund and all interest accrued is appropriated to the department 
on a continuing basis to administer the program and provide 
benefits under this act.

(d) Limitations on fund.--

(1) No administrative action shall prevent the deposit 
of money into the fund in the fiscal year in which the money 
is received.

(2) The fund may only be used for the program authorized
under this act. Money in the fund may not be transferred or
diverted to any other purpose by administrative action.
(e) Other deposits.--The department may deposit into the
fund any other money received for the purposes specified in this
act.
Section 507. Annual report.
(a) Annual report.--
(1) No later than September 1, 2027, and each September
1 thereafter, the department shall submit a report to the
chairperson and minority chairperson of the Labor and
Industry Committee of the Senate and the chairperson and
minority chairperson of the Labor and Industry Committee of
the House of Representatives.
(2) Each report under paragraph (1) shall include:
(i) Actual program participation by category as
delineated in subparagraph (ii), including total number
of leaves taken.
(ii) Beneficiary gender for leaves taken.
(iii) Types of family members for whom leave was
taken to provide care.
(iv) Payroll premium contribution rate calculations
for the current and previous calendar year and projected
rate calculations for the next three calendar years.
(v) Projected program participation over the next
three calendar years.
(vi) Account balances.
(vii) The scope and success of outreach efforts.
(viii) Recommendations for improvements to the
program.
(b) Public posting of annual report.--The department shall
make the report available on the department's publicly accessible Internet website. Monthly data should also be made available online.

Section 508. Public education.

(a) Outreach campaign.--

(1) The department shall conduct a public education campaign to inform employees and employers regarding the availability of family and medical leave benefits under this act.

(2) The department shall allocate at least $500,000 from the fund annually to pay for a public education program that informs employees about benefits and eligibility under this act.

(3) Outreach information shall be available in English, Spanish and other languages as determined by the department.

(b) Community outreach.--The department may utilize outreach money to identify and assist appropriate community organizations in educating hard-to-reach populations or industries, including low-income employees, employees and employers in industries that do not typically provide paid family leave and employees and employers whose primary language is not English.

Section 509. Board.

(a) Establishment.--The department shall establish the Family and Medical Leave Insurance Advisory Board to assist in the implementation of the program and ensure effective public outreach regarding the availability of benefits under this act.

(b) Composition.--The board shall be composed of the following:

(1) The secretary or a designee, who shall serve as the chairperson.
(2) The State Treasurer or a designee.

(3) The chairperson and minority chairperson of the Labor and Industry Committee of the Senate or a designee.

(4) The chairperson and minority chairperson of the Labor and Industry Committee of the House of Representatives or a designee.

(5) Six members appointed by the secretary representing an equal number of employers and employees who are residents of and who work within this Commonwealth.

c) Terms.--

(1) Members specified under subsection (b)(1), (2), (3) and (4) shall serve for the length of their tenure in the capacity which enabled them to become members.

(2) Members specified under subsection (b)(5) shall serve four-year terms and shall not be eligible to serve more than two full consecutive terms.

d) Quorum.--A majority of the members of the board participating in person or by video conference shall constitute a quorum.

e) Meetings.--The board shall meet at the call of the chair and shall hold meetings at least biannually.

f) Public access.--The board shall permit the public to view or listen to a board meeting through contemporaneous methods and shall make the recordings available on the department's publicly accessible Internet website.

g) Expenses.--Members shall not receive compensation but shall be reimbursed for actual expenses incurred in service of the board.

Section 510. Regulations.

The department shall promulgate regulations as necessary to
implement and administer this act. Final form regulations shall be promulgated no later than September 1, 2025.

CHAPTER 21

MISCELLANEOUS PROVISIONS

Section 2101. Effective date.

This act shall take effect in 180 days.