

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 181 Session of 2023

INTRODUCED BY D. MILLER, BENHAM, SCHLOSSBERG, DELLOSO, SIEGEL, GUENST, HARKINS, SANCHEZ, VENKAT, MADDEN, BURGOS, GALLOWAY, FIEDLER, KRAJEWSKI, FREEMAN, STURLA, KINKEAD, FRANKEL, OTTEN, O'MARA, HOHENSTEIN, WEBSTER, BOROWSKI, McNEILL, KHAN, D. WILLIAMS, T. DAVIS, DALEY, WARREN, SHUSTERMAN, ISAACSON, TOMLINSON, WAXMAN, GREEN, DONAHUE, BRENNAN, KIM, FLEMING, MUNROE, SALISBURY, BULLOCK, BOYLE, RABB, CEPHAS, YOUNG, SOLOMON, SCOTT, BRIGGS, KAZEEM, MAYES, KENYATTA AND CURRY, MARCH 8, 2023

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 13, 2023

AN ACT

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

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21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:
23
24 CHAPTER 1
25 PRELIMINARY PROVISIONS
26 Section 101. Short title.
27 This act shall be known and may be cited as the Family and
28 Medical Leave Act.
29 Section 102. Legislative intent.
30 The General Assembly finds and declares as follows:
31 (1) Paid family and medical leave promotes the physical

1 and emotional health of children and their families.

2 (2) Paid family and medical leave has a positive impact
3 on economic stability and ensures competitive viability for
4 all businesses, but particularly smaller businesses.

5 (3) The establishment of a paid family and medical leave
6 program is essential to public health, safety and welfare.

7 Section 103. Definitions.

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

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

14 "Attesting third party." A law enforcement official,
15 licensed health care professional, licensed social worker,
16 victim advocate or victim service provider.

17 "Authorized reason for leave for a qualifying act of
18 violence." Any of the following:

19 (1) To seek or obtain medical attention, rehabilitative
20 services, accessibility equipment or other treatment related
21 to a physical or mental injury or disability caused or
22 aggravated by the applicable qualifying act of violence.

23 (2) To recover from a physical or mental injury or
24 disability caused or aggravated by the applicable qualifying
25 act of violence.

26 (3) To seek or obtain services from a victim service
27 provider in relation to the applicable qualifying act of
28 violence.

29 (4) To seek or obtain mental health treatment or other
30 counseling in relation to the applicable qualifying act of

1 violence.

2 (5) To relocate or engage in the process of securing a
3 new residence due to the applicable qualifying act of
4 violence, including securing temporary or permanent housing
5 or enrolling children in a new school.

6 (6) To seek or obtain financial services or meet with a
7 financial professional to address financial issues resulting
8 from the applicable qualifying act of violence.

9 (7) To seek, obtain or provide child care or care to a
10 care-dependent adult necessary as a result of the applicable
11 qualifying act of violence.

12 (8) To seek or obtain legal services related to or
13 resulting from the applicable qualifying act of violence.

14 (9) To prepare for, participate in or attend a civil,
15 administrative or criminal legal proceeding relating to or
16 resulting from the applicable qualifying act of violence.

17 (10) To make modifications to a home or vehicle
18 necessary to create usability of and accessibility to the
19 home or vehicle due to an injury sustained in a qualifying
20 act of violence.

21 (11) To take any other action necessary to protect or
22 restore physical, mental, emotional or economic well-being as
23 a result of the applicable qualifying act of violence.

24 "Benefits." The monetary allowances payable to a covered
25 individual for family and medical leave during an approved
26 family and medical leave under the program in accordance with
27 this act.

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

30 "Claim." The filing of a written application with the

1 department for the receipt of benefits.

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

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

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

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

12 (4) Submits a claim that is approved by the department.

13 "Covered service member." A current or former member of the
14 armed forces of the United States, including a current or former
15 member of a reserve component of the armed forces of the United
16 States or the Pennsylvania National Guard, who meets any of the
17 following requirements:

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

20 (2) Is otherwise in outpatient status.

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

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

1 "Domestic violence." The occurrence of any of the following
2 acts between family or household members as defined in 23
3 Pa.C.S. § 6102(a) (relating to definitions):

4 (1) Intentionally, knowingly or recklessly causing, or
5 attempting to cause, bodily injury, serious bodily injury or
6 sexual violence.

7 (2) Placing another individual in reasonable fear of
8 imminent serious bodily harm.

9 (3) An act of domestic and other violence as defined in
10 55 Pa. Code § 3041.3 (relating to definitions).

11 (4) The infliction of false imprisonment under 18
12 Pa.C.S. § 2903 (relating to false imprisonment).

13 "Eligible employee." An employee who meets the requirements
14 of section 303(b)(1) and (2).

15 "Employee." An individual who is employed by an employer
16 doing business in this Commonwealth. The term includes a self-
17 employed individual.

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

20 "Family." Includes any of the following:

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

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

30 (3) An individual to whom the employee is legally

1 married under the laws of any state or a domestic partner of
2 an employee as registered under the laws of any state or
3 political subdivision.

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

7 (5) An individual who regularly resides in the
8 employee's home or where the relationship creates an
9 expectation that the employee cares for the individual and
10 that the individual depends on the employee for care. The
11 term does not include an individual who simply resides in the
12 same home with no expectation that the employee care for the
13 individual.

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

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

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

26 "Leave." The allotted amount of time approved by the
27 department for the receipt of benefits under this act.

28 "Medical certification." Written certification from a health
29 care provider on a form prepared by the department that verifies
30 the serious health condition prompting the filing of a claim and

1 receipt of benefits by a covered individual under this act.

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

4 "Qualifying act of violence." An act, conduct or pattern of
5 conduct that could constitute any of the following, regardless
6 of whether anyone is arrested or charged with committing a
7 crime:

8 (1) Domestic violence.

9 (2) Sexual violence.

10 (3) Stalking.

11 (4) An act or conduct in which a person uses force to
12 cause or attempt to cause physical or mental injury to
13 another. For purposes of this paragraph, the act or conduct
14 does not include an act or conduct arising out of the
15 ownership, maintenance or use of a motor vehicle, except when
16 the person engaging in the act or conduct:

17 (i) intended to cause, or intended to threaten to
18 cause, physical or mental injury; or

19 (ii) was under the influence of alcohol or a
20 controlled substance.

21 (5) An act or conduct in which a person makes a
22 reasonably perceived or actual threat of physical or mental
23 injury to another. For purposes of this paragraph, the act or
24 conduct does not include an act or conduct arising out of the
25 ownership, maintenance or use of a motor vehicle, except when
26 the person engaging in the act or conduct:

27 (i) intended to cause, or intended to threaten to
28 cause, physical or mental injury; or

29 (ii) was under the influence of alcohol or a
30 controlled substance.

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

5 "Retaliatory personnel action." As follows:

6 (1) Any threat, discipline, discharge, suspension,
7 demotion, reduction of hours or other adverse action taken
8 against an employee for exercising the rights and protections
9 afforded by this act.

10 (2) The term includes interference with or punishment
11 for participating in or acting on a complaint or appeal under
12 this act.

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

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

19 "Sexual violence." As defined in 42 Pa.C.S. § 62A03
20 (relating to definitions).

21 "Stalking." Conduct in which an individual does any of the
22 following:

23 (1) Engages in a course of conduct or repeatedly commits
24 acts toward another individual, including following the other
25 individual without proper authority:

26 (i) under circumstances which demonstrate either an
27 intent to place the other individual in reasonable fear
28 of bodily injury or to cause substantial emotional
29 distress to the other individual; or

30 (ii) which, as a result, intentionally, knowingly or

1 recklessly places the other individual in reasonable fear
2 of bodily injury or causes substantial emotional distress
3 to the other individual.

4 (2) Engages in a course of conduct or repeatedly
5 communicates to another individual:

6 (i) under circumstances which demonstrate or
7 communicate either an intent to place the other
8 individual in reasonable fear of bodily injury or to
9 cause substantial emotional distress to the other
10 individual; or

11 (ii) which, as a result, intentionally, knowingly or
12 recklessly places the other individual in reasonable fear
13 of bodily injury or causes substantial emotional distress
14 to the other individual.

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

20 "Unemployment Compensation Law." The act of December 5, 1936
21 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
22 Compensation Law.

23 "Victim." Any of the following:

24 (1) An individual against whom a qualifying act of
25 violence was committed.

26 (2) An individual who was physically present at the
27 scene of a qualifying act of violence and witnessed the
28 qualifying act of violence, who did not commit the qualifying
29 act of violence and who as a direct result:

30 (i) suffers physical or mental injury; or

1 (ii) reasonably believes that the individual is
2 under the threat of physical harm.

3 "Victim advocate." An individual, whether paid or serving as
4 a volunteer, who provides services to victims under the auspices
5 or supervision of a victim service provider, a court or law
6 enforcement or prosecution agency.

7 "Victim service provider." As follows:

8 (1) An agency or organization that provides services to
9 victims.

10 (2) The term includes:

11 (i) A rape crisis center as defined in 42 Pa.C.S. §
12 5945.1(a) (relating to confidential communications with
13 sexual assault counselors).

14 (ii) A domestic violence program as defined in 23
15 Pa.C.S. § 6102(a).

16 (iii) An agency or organization with a documented
17 history of providing services to victims.

18 "Workers' Compensation Act." The act of June 2, 1915
19 (P.L.736, No.338), known as the Workers' Compensation Act.

20 CHAPTER 3

21 FAMILY AND MEDICAL LEAVE PROGRAM

22 Section 301. Family and Medical Leave Program.

23 (a) Establishment of program and payment of benefits.--

24 (1) Within one year of the effective date of this
25 paragraph, the department shall establish the Family and
26 Medical Leave Program.

27 (2) Except as provided under section 310, no later than
28 two years following the establishment of the program, the
29 department shall pay family and medical leave benefits as
30 specified in this act.

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

7 (c) Notice of approved claim.--In addition to the notice
8 provided to an employer by an employee under section 501(d), the
9 department shall notify the employer within 10 business days of
10 an approved claim for benefits under this act.

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

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

20 (f) Cooperation among departments.--To properly effectuate
21 the provisions of this act, all departments and agencies under
22 the jurisdiction of the Governor shall fully cooperate with the
23 department and provide assistance and support as needed to
24 ensure the timely and efficient delivery of benefits under this
25 act.

26 Section 302. Powers and duties of department.

27 (a) Administration of act.--The department shall be
28 responsible for the administration of this act and the fund.
29 Administration of the program for purposes of this section and
30 section 506 shall include acquisition, development and

1 operational costs related to information technology,
2 infrastructure and personnel needed to process claims and issue
3 benefits under this act.

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

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

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

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

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

22 (5) Prepare and provide the necessary forms for filing
23 and acknowledging a benefits claim and for providing notice
24 of benefits approval to both employers and covered individual
25 employees.

26 (6) Evaluate and adjudicate claims.

27 (7) Evaluate and determine the amount of payroll
28 contributions and maximum employee contributions to ensure
29 fund solvency.

30 (8) Coordinate benefits with employers that have already

1 paid for benefits outside of the fund.

2 (9) Make payments on claims.

3 (10) Develop the abstract for employer posting of notice
4 in the workplace under section 501, which shall be available
5 on the department's publicly accessible Internet website.

6 (11) Prepare and provide the employee complaint form on
7 the department's publicly accessible Internet website.

8 (12) Develop all forms necessary to ensure
9 implementation of this act.

10 (13) Develop procedures to investigate and resolve
11 complaints under this act.

12 (14) Conduct an ongoing public outreach campaign to
13 inform employers and employees about the availability of the
14 program and the process for filing a benefits claim.

15 (15) Promulgate regulations as necessary to administer
16 this act.

17 (16) Issue an annual report under section 507.

18 (c) Enforcement of act.--The secretary shall establish a
19 system for an administrative complaint and appeals process in
20 the case of a denial of family and medical leave benefits,
21 denial of a waiver under section 310, denial of family and
22 medical leave benefits provided through a private plan under
23 section 310 and all violations assessed under this act. The
24 system for administrative complaints and appeals process shall
25 be promulgated by the department through regulation. Procedures
26 to ensure confidentiality of all information related to any
27 claims filed or appeals taken shall be implemented in accordance
28 with applicable laws.

29 Section 303. Eligibility for family and medical leave benefits.

30 (a) Basis for receipt of benefits.--No later than two years

1 following establishment of the program, benefits under this act
2 shall be payable to a covered individual who files an approved
3 claim based on any of the following:

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

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

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

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

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

18 (6) Is a victim of a qualifying act of violence or is
19 caring for a family member who is a victim of a qualifying
20 act of violence and is taking leave for an authorized reason
21 for leave for a qualifying act of violence.

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

24 (1) Have worked at least 18 weeks during the 12-month
25 period prior to submitting a claim.

26 (2) Have earned at least \$2,718 in income during the 12-
27 month period prior to submitting a claim. The earned income
28 rate in this paragraph shall be adjusted annually by the
29 department and reflect the minimum qualifying wage to qualify
30 for benefits under the Unemployment Compensation Law.

1 (3) Not be employed by an employer that has been issued
2 a waiver under section 310.

3 (c) Proof of wages.--The fund shall not be liable for
4 payment of benefits unless the amount of wages that the covered
5 individual earned at the time of their leave is verified by
6 section 305(a)(2) or under this subsection. If a discrepancy is
7 identified by the department in verifying wages under section
8 305(a)(2), the department may request the following documents
9 from a covered individual to verify their wages:

10 (1) A check, check stub or payroll record.

11 (2) A tax return, including IRS form W-2 and form 1099,
12 or successor forms.

13 (3) Unemployment compensation records, including form
14 UC-2A.

15 (4) Bank statements or records showing regular and
16 recurring deposits.

17 (5) Written documentation created contemporaneously with
18 the payment of wages.

19 (d) Interaction with the Workers' Compensation Act and the
20 Unemployment Compensation Law.--To file a benefits claim and
21 receive benefits under this act, a covered individual may not
22 receive benefits for the same day under the Workers'
23 Compensation Act or the Unemployment Compensation Law.

24 (e) Filing of benefits claim.--An individual seeking
25 benefits under this act shall submit a claim to the department
26 providing the required documentation to support a claim for
27 benefits, including any necessary medical certification or
28 qualifying act of violence certification.

29 (f) Medical certification.--

30 (1) A covered individual shall obtain a medical

1 certification confirming a serious health condition under
2 subsection (a) (2), (3) or (4) that justifies the filing of a
3 claim and the receipt of benefits under this act and shall
4 make that information available to the department on the form
5 prescribed by the department. When possible, the department
6 shall use Federal family and medical leave forms. Any
7 completed medical certification form regarding a covered
8 individual shall be used solely for the purpose of
9 adjudicating a claim under this act.

10 (2) Confidential medical documentation may not be
11 released by the department unless written authorization is
12 provided by an employee or a covered individual.

13 (g) Qualifying act of violence certification.--The
14 department may require that an employee, within a reasonable
15 period after the absence, provide documentation that the
16 employee or family member of the employee is a victim of a
17 qualifying act of violence. The following apply:

18 (1) The employee may satisfy the certification
19 requirement by providing to the department any of the
20 following:

21 (i) A copy of a valid court order that restrains the
22 person alleged to have committed the qualifying act of
23 violence from contact with the employee or family member
24 of the employee.

25 (ii) Medical or mental health records indicating
26 that the employee or family member of the employee is a
27 victim of a qualifying act of violence.

28 (iii) A police report documenting the act of which
29 the employee or family member of the employee is a victim
30 of a qualifying act of violence.

1 (iv) Evidence that the person alleged to have
2 committed the qualifying act of violence has been charged
3 with or convicted of an act of which the employee or
4 family member of the employee is a victim.

5 (v) A written certification signed by an attesting
6 third party that affirms that the employee or family
7 member of the employee is a victim of a qualifying act of
8 violence.

9 (vi) Any other form of documentation that reasonably
10 verifies that the employee or family member of the
11 employee is a victim of a qualifying act of violence,
12 including a written statement signed by the employee or
13 an individual authorized to act on behalf of the
14 employee.

15 (2) Furnishing documentation or providing a
16 certification under this subsection shall not waive any
17 confidentiality or privilege that may exist between the
18 employee or victim and a third party.

19 (3) The department may not require:

20 (i) That the employee provide a certification that
21 explains the details of the qualifying act of violence.

22 (ii) Disclosure of details relating to a qualifying
23 act of violence or the details of the medical condition
24 of the employee or family member of the employee as a
25 condition of providing leave under this act.

26 (4) All information provided to the department under
27 this subsection shall be retained in the strictest confidence
28 by the department, except to the extent that disclosure is:

29 (i) requested or consented to in writing by the
30 employee; or

1 (ii) otherwise required by applicable Federal or
2 State law, in which case the department shall provide the
3 employee notice prior to any authorized disclosure.

4 (h) Married or domestic partners employed by the same
5 employer.--Individuals who are legally married or domestic
6 partners under the laws of any state or political subdivision
7 and employed by the same employer shall both be eligible for
8 benefits under this act, even when the leave runs concurrently.

9 (i) Promulgating regulations.--The department shall
10 promulgate regulations to provide for an eligibility
11 adjudication process under this act.

12 (j) Adjudication of claim.--Upon receipt of all necessary
13 documentation to support a claim for benefits from a covered
14 individual, the department shall determine eligibility for
15 benefits under this act within 20 business days.

16 Section 304. Duration of benefits.

17 (a) Maximum leave duration of 20 weeks.--The maximum number
18 of weeks during which benefits are payable under section 303(a)
19 (1), (3) or (6) in an application year is 20 weeks.

20 (b) Maximum leave duration of 12 weeks.--The maximum number
21 of weeks during which benefits are payable under section 303(a)
22 (2), (4) or (5) in an application year is 12 weeks.

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

26 (d) Initial payment of benefits.--The first payment of
27 benefits shall be made to a covered individual no later than one
28 week:

29 (1) after the claim is filed and approved by the
30 department; or

1 (2) from the date the leave is scheduled to commence.

2 (e) Payment of benefits.--After the initial payment of
3 benefits, subsequent payments shall be made semimonthly
4 thereafter for the duration of the approved leave.

5 Section 305. Amount of benefits.

6 (a) Calculation of benefits.--

7 (1) The benefits payable to a covered individual shall
8 be calculated as follows:

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

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

16 (2) The calculation of a covered individual's average
17 weekly wage in accordance with this subsection shall be as
18 follows:

19 (i) If at the time the leave commences the wages are
20 fixed by the week, the amount so fixed shall be the
21 average weekly wage.

22 (ii) If at the time the leave commences the wages
23 are fixed by the month, the average weekly wage shall be
24 the monthly wage so fixed multiplied by 12 and divided by
25 52.

26 (iii) If at the time the leave commences the wages
27 are fixed by the year, the average weekly wage shall be
28 the yearly wage fixed divided by 52.

29 (iv) If at the time the leave commences the wages
30 are fixed by any manner not provided in subparagraph (i),

1 (ii) or (iii), the average weekly wage shall be
2 calculated by dividing by 13 the total wages earned in
3 the employ of the employer in each of the highest three
4 of the last four consecutive periods of 13 calendar weeks
5 in the 52 weeks immediately preceding the leave period
6 and by averaging the total amounts earned during these
7 three periods.

8 (v) If the covered employee has not been employed by
9 the employer for at least three consecutive periods of 13
10 calendar weeks in the 52 weeks immediately preceding the
11 leave period, the average weekly wage shall be calculated
12 by dividing by 13 the total wages earned in the employ of
13 the employer for any completed period of 13 calendar
14 weeks immediately preceding the leave period and by
15 averaging the total amounts earned during such periods.

16 (vi) If the employee has worked less than a complete
17 period of 13 calendar weeks and does not have fixed
18 weekly wages, the average weekly wage shall be the hourly
19 wage rate multiplied by the number of hours the employee
20 was expected to work per week under the terms of
21 employment.

22 (vii) Except as provided in subparagraph (v) or
23 (vi), in occupations which are exclusively seasonal and
24 therefore cannot be carried throughout the year, the
25 average weekly wage shall be taken to be one-fifteenth of
26 the total wages which the employee has earned from all
27 occupations during the 12 calendar months immediately
28 preceding the leave, unless it be shown that during such
29 year, by reason of exceptional causes, such method of
30 calculation does not clearly provide the earnings of the

1 employee, in which case the period for calculation shall
2 be extended so far as to give a basis for the fair
3 ascertainment of average weekly earnings.

4 (viii) The terms "average weekly wage" and "total
5 wages," as used in this paragraph shall include board and
6 lodging received from the employer and gratuities
7 reported to the United States Internal Revenue Service by
8 or for the employee for Federal income tax purposes. The
9 terms shall not include amounts deducted by the employer
10 under the contract of hiring for labor furnished or paid
11 for by the employer and necessary for the performance of
12 the contract by the employee, nor shall the terms include
13 deductions from wages due to the employer for rent and
14 supplies necessary for the employee's use in the
15 performance of their labor, nor shall the terms include
16 fringe benefits, including, but not limited to, employer
17 payments for or contributions to a retirement, pension,
18 health and welfare, life insurance, Social Security or
19 any other plan for the benefit of the employee or their
20 dependents.

21 (ix) The amount of any bonus, incentive or vacation
22 payment earned on an annual basis shall be excluded from
23 the calculations under subparagraphs (i), (ii), (iii),
24 (iv), (v) and (vi). Such payments, if any, shall instead
25 be divided by 52 and the amount shall be added to the
26 average weekly wage otherwise calculated under
27 subparagraphs (i), (ii), (iii), (iv), (v) and (vi). If
28 the employee is working under concurrent contracts with
29 two or more employers, the wages from all employers shall
30 be considered as if earned from the employer liable for

1 compensation.

2 (b) Limitation.--

3 (1) In no case shall the weekly benefits payable to a
4 covered individual be more than the Statewide average weekly
5 wage.

6 (2) The application of the Statewide average weekly wage
7 on a claim shall begin on the date that the birth or a
8 serious health condition arises.

9 (3) If a claim carries over from one year into another
10 and the Statewide average weekly wage is adjusted, the most
11 recent Statewide average weekly wage shall be used in all
12 future payments.

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

20 (d) Limit on taking of benefits and nonsequential leave.--
21 Under this section and section 307, benefits are not payable for
22 less than eight hours of leave taken in one work week.

23 Section 306. Contributions.

24 (a) Payment into the program.--All persons employed in this
25 Commonwealth shall be required to contribute to the program for
26 the purpose of financing the program.

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

1 (c) Calculation of payroll contributions.--The amount
2 payable through employee payroll contributions shall be set at a
3 percentage of an individual employee's wages to initiate
4 payments into the program. The following apply:

5 (1) The payroll contribution shall be calculated using
6 an actuarial experience study that shall take into account
7 all applicable available data. The rate shall be set at an
8 amount to ensure solvency of the fund but shall not exceed 1%
9 of an individual employee's wages.

10 (2) When necessary, but at least every year thereafter,
11 the department shall evaluate and determine the amount of
12 payroll contributions and maximum employee contribution
13 necessary to finance and adequately support the program.

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

16 (4) An employer may deduct up to 50% of the contribution
17 required for an employee by this section from that employee's
18 wages and shall remit 100% of the contribution required by
19 this section from both the employer and those employees to
20 the fund, as follows:

21 (i) An employer with fewer than 15 employees may
22 deduct up to 50% of the contribution required for an
23 employee by this section from that employee's wages and
24 shall remit 50% of the contribution required by this
25 section to the fund.

26 (ii) To determine an employer's number of employees
27 under this subsection, all of an employer's employees
28 shall be counted, including full-time, part-time and
29 temporary in-State employees and all out-of-State
30 employees.

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

4 (e) Penalty for failure to withhold.--Except for an employer
5 issued a waiver under section 310, an employer who fails to
6 withhold payroll contributions in accordance with this act shall
7 be subject to those penalties enforceable through the act of
8 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
9 1971, for failure to properly withhold wages for income tax and
10 sales and use tax purposes.

11 Section 307. Reduced leave schedule.

12 (a) Taking of nonsequential leave.--A covered individual
13 shall be entitled to utilize the leave authorized under section
14 304, at the option of the covered individual, to take leave on
15 an intermittent or reduced leave schedule in which all of the
16 leave authorized under this act is not taken sequentially.
17 Family and medical leave benefits for intermittent or reduced
18 leave schedules shall be prorated.

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

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

26 Section 308. Employment protections.

27 (a) Restoration of employment position.--A covered
28 individual who takes leave in accordance with this act shall,
29 upon the expiration of that leave, be restored by the employer
30 to the position previously held by the covered individual when

1 the leave commenced, or to a position with equivalent seniority,
2 status, employment benefits, pay and other terms and conditions
3 of employment.

4 (b) Health care benefits maintained.--For the duration of a
5 leave approved under this act, the employer shall maintain any
6 health care benefits the covered individual had prior to taking
7 leave as if the covered individual had continued in employment
8 continuously from the date leave commenced until the date the
9 leave terminates. A covered individual shall continue to pay the
10 covered individual's share of the cost of health benefits as
11 required prior to the commencement of the leave.

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

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

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

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

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

30 (f) Good faith protection.--Protections under this section

1 shall apply to any person who mistakenly but in good faith
2 alleges a violation of this act.

3 Section 309. Coordination of benefits.

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

8 (b) Coordination with other paid leave.--An employee may
9 elect to utilize paid leave available under any other Federal or
10 State law, collective bargaining agreement or employer policy
11 prior to receiving benefits under this act, provided that it
12 does not conflict with Federal law. Employers shall provide
13 employees with written notice of the opportunity to make the
14 election, and inform employees how leave will be coordinated
15 absent any election.

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

19 (1) A collective bargaining agreement.

20 (2) An employer policy.

21 (3) Any other Federal or State law.

22 (d) Prohibition on subsequent collective bargaining
23 agreement or employer policy.--An individual's right to leave
24 and the payment of benefits under this act may not be diminished
25 by a collective bargaining agreement entered into or renewed, or
26 an employer policy adopted or retained, after the effective date
27 of this subsection. An agreement by an individual to waive the
28 individual's rights under this act is void as against public
29 policy.

30 (e) Impact on Workers' Compensation Act.--Nothing in this

1 act shall be construed to impact the provisions of the Workers'
2 Compensation Act with regard to work-related injuries.

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

12 Section 310. Employer waiver to use private plan.

13 (a) Waiver.--An employer may apply to the department for a
14 waiver to meet the employer's obligations under this chapter
15 through a private plan. The application shall be submitted on a
16 form and in a manner prescribed by the department. The
17 department may approve a private plan and issue a waiver under
18 this section if a private plan confers at least all of the same
19 rights, protections and benefits provided to employees under
20 this chapter and if the employer provides evidence that it has
21 in effect a self-funded plan governed under the Employee
22 Retirement Income Security Act of 1974 (Public Law 93-406, 88
23 Stat. 829) or an insurance policy issued by an entity that has a
24 certificate of authority to do the business of insurance as
25 required by section 208 of the act of May 17, 1921 (P.L.789,
26 No.285), known as The Insurance Department Act of 1921. The
27 private plan shall comply with all of the requirements under
28 this chapter, including the following:

29 (1) Benefits to a covered individual under section
30 303(a) (1), (3) and (6) for the maximum number of weeks

1 required under section 304(a) in a benefit year.

2 (2) Benefits to a covered individual under section
3 303(a)(2), (4) and (5) for the maximum number of weeks
4 required under section 304(b) in a benefit year.

5 (3) Covered individuals, in the aggregate, the maximum
6 number of weeks of benefits in a benefit year as required
7 under section 304(c).

8 (4) A weekly wage replacement rate for each week of
9 benefits of the amount required by section 305(a).

10 (5) A maximum weekly benefit for each week of benefits
11 of the amount specified in section 305(b).

12 (6) Payment of benefits in accordance with section
13 303(f) and (i).

14 (7) The allowance of leave and benefits to be taken
15 intermittently or on a reduced schedule as authorized by
16 section 307.

17 (8) For the adjustment of the maximum benefit cap in
18 accordance with the notice published annually in the
19 Pennsylvania Bulletin under section 305(c).

20 (9) That no additional conditions or restrictions on the
21 use of leave or benefits beyond those explicitly authorized
22 by this act or regulations promulgated under this act shall
23 be imposed.

24 (10) An employee covered under the private plan who is
25 eligible to receive benefits under this act, with benefits
26 under the private plan.

27 (11) That the cost to employees covered by a private
28 plan shall not be greater than the cost charged to employees
29 under section 306(c) and posted on the department's publicly
30 accessible Internet website under section 306(c)(3).

1 (12) Coverage consistent with section 303(b)(1) and (2).

2 (b) Construction.--Nothing in this act shall prohibit an
3 employer from providing benefits greater than those listed in
4 subsection (a).

5 (c) Additional employer duties.--To be eligible for a waiver
6 under subsection (a), an employer shall meet all of the
7 following requirements:

8 (1) If the private plan is in the form of self-funded
9 coverage, an employer must furnish a bond running to the
10 Commonwealth, issued by an entity authorized to transact
11 surety business in this Commonwealth under Article VI(e) of
12 the act of May 17, 1921 (P.L.682, No.284), known as The
13 Insurance Company Law of 1921. The form of surety shall be on
14 a form approved by the Insurance Department and in an amount
15 required by the department.

16 (2) The private plan shall provide for all eligible
17 employees throughout the employee's period of employment.

18 (3) An employer that provides a private plan under this
19 section shall provide each employee with a notice of the
20 availability of the program. The notice shall be provided to
21 each employee within five days of approval of a waiver, upon
22 hire and annually thereafter.

23 (d) Additional documentation to be submitted upon
24 approval.--Upon approval of an application for an exemption:

25 (1) The employer shall provide to the department all
26 reports required by regulations promulgated by the
27 department.

28 (2) If an exemption is based on the employer having a
29 self-funded plan, the employer shall provide satisfactory
30 evidence of maintenance of the form of surety as required by

1 the department under subsection (c) (1).

2 (e) Termination of waiver.--The department may terminate
3 approval to use a private plan granted under subsection (a) if
4 the secretary finds that the terms and conditions have been
5 violated or that the employer or private plan has failed to
6 confer any right, protection or benefit afforded to employees
7 under this chapter. The department shall be required to notify
8 an employer of a terminated waiver. Causes for termination of a
9 waiver shall include:

10 (1) failure to pay benefits;

11 (2) failure to pay benefits timely and in a manner
12 consistent with the program;

13 (3) failure to maintain an adequate security deposit;

14 (4) misuse of private plan trust funds;

15 (5) failure to submit any and all reports as required by
16 regulations promulgated by the department; or

17 (6) failure to comply with this section or regulations
18 promulgated by the department.

19 (f) Appeal.--If the secretary terminates a waiver for a
20 private plan under subsection (e), the employer shall have the
21 ability to appeal the decision of the secretary through the
22 regulatory process established under section 302.

23 (g) Protections and enforcement.--An employee covered under
24 a private plan shall retain all employee protections under
25 section 308 and enforcement procedures and the appeals process
26 under section 302(c). The following shall apply:

27 (1) Applicable enforcement procedures and the appeals
28 process for benefits by an employer-funded plan shall be
29 subject to an appeal under section 302(c).

30 (2) Applicable enforcement procedures and the appeals

1 process for benefits by an insurance policy shall be subject
2 to review as outlined in the policy of insurance and
3 applicable insurance law.

4 (3) If all appeals under the policy of insurance have
5 been exhausted, an individual may appeal to the department on
6 a form and in a manner prescribed by the department.

7 CHAPTER 5

8 ADMINISTRATION AND PROCEDURES

9 Section 501. Notice.

10 (a) Employer notice to employees.--Except for an employer
11 that has been issued a waiver under section 310, upon initial
12 hiring of an employee, and annually thereafter, an employer
13 shall provide written notice of the requirements of this act
14 using the notices prepared and posted by the department under
15 section 302.

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

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

23 (2) The amount of benefits.

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

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

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

1 (6) The employee's ability to file a complaint alleging
2 a violation of this act.

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

11 (d) Employee notice to employer.--When the need for leave is
12 known to the employee at least 30 days in advance, the employee
13 shall provide written or verbal notice to the employer of the
14 need and schedule for taking leave at least 30 days prior to
15 taking leave. The employee shall make a reasonable effort to
16 schedule leave in a manner that does not unduly disrupt the
17 operations of the employer. For all other absences, the employee
18 shall notify the employer as soon as practicable, including if
19 the need arises immediately before or after the employee has
20 reported for work.

21 Section 502. Erroneous payments and disqualification for
22 benefits.

23 (a) Employee disqualification.--A covered individual is
24 disqualified from receiving benefits for one year if the
25 individual is determined by the department to have willfully
26 made a false statement or misrepresentation regarding a material
27 fact, or willfully failed to report a material fact, to obtain
28 benefits under this act.

29 (b) Incorrect payment of benefits.--

30 (1) If benefits under this act are paid erroneously

1 without fault or for a claim that is subsequently rejected
2 after benefits are paid, the department may seek repayment
3 through a reasonable reduction in any future benefits due the
4 recipient.

5 (2) If benefits under this act are paid as a result of
6 willful misrepresentation by the recipient, the recipient
7 shall be liable to repay a sum equal to the amount of
8 benefits derived through that willful misrepresentation and
9 the recipient shall be further disqualified for benefits as
10 specified in subsection (a).

11 (3) If family and medical leave compensation is paid to
12 a covered employee erroneously or as a result of willful
13 misrepresentation by the employee, or if a claim for family
14 and medical leave compensation is rejected after compensation
15 is paid, the department may seek repayment of benefits from
16 the employee having received the compensation and may also,
17 in the case of willful misrepresentation, seek payment of a
18 penalty in the amount of 50% of the benefits paid as a result
19 of the misrepresentation. The department may waive, in whole
20 or in part, the amount of any of the payments if the recovery
21 would be against equity and good conscience.

22 (c) Proof of wages.--During the appeals process as
23 established under section 302(c), a covered employee's proof of
24 wages may be proven:

25 (1) as provided under section 303(c);

26 (2) by testimony of the employer that is presented under
27 oath at a hearing under section 505; or

28 (3) by testimony of the covered employee, if found
29 credible by the judge during a hearing under section 505.

30 Section 503. Elective coverage.

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

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

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

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

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

19 Section 504. Violations.

20 An employer that violates the requirements of sections 308,
21 309 or 501 shall be subject to the penalties as specified in 29
22 U.S.C. § 2617 (relating to enforcement).

23 Section 505. Judicial review.

24 Judicial review of any decision regarding the denial of
25 benefits or an appeal of any violation of this act shall be
26 permitted in Commonwealth Court, as required under 42 Pa.C.S. §
27 763 (relating to direct appeals from government agencies), after
28 a party aggrieved thereby has exhausted all administrative
29 remedies established by the department.

30 Section 506. Family and Medical Leave Fund.

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

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

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

12 (d) Limitations on fund.--

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

16 (2) The fund may only be used for the program authorized
17 under this act. Money in the fund may not be transferred or
18 diverted to any other purpose by administrative action.

19 (e) Other deposits.--The department may deposit into the
20 fund any other money received for the purposes specified in this
21 act.

22 Section 507. Annual report.

23 (a) Annual report.--

24 (1) No later than September 1, 2027, and each September
25 1 thereafter, the department shall submit a report to the
26 chairperson and minority chairperson of the Labor and
27 Industry Committee of the Senate and the chairperson and
28 minority chairperson of the Labor and Industry Committee of
29 the House of Representatives.

30 (2) Each report under paragraph (1) shall include:

1 (i) Actual program participation by category as
2 delineated in subparagraph (ii), including total number
3 of leaves taken.

4 (ii) Beneficiary gender for leaves taken.

5 (iii) Types of family members for whom leave was
6 taken to provide care.

7 (iv) Payroll contribution rate calculations for the
8 current and previous calendar year and projected rate
9 calculations for the next three calendar years.

10 (v) Projected program participation over the next
11 three calendar years.

12 (vi) Account balances.

13 (vii) The scope and success of outreach efforts.

14 (viii) Recommendations for improvements to the
15 program.

16 (b) Public posting of annual report.--The department shall
17 make the report available on the department's publicly
18 accessible Internet website. Monthly data should also be made
19 available online.

20 Section 508. Public education.

21 (a) Outreach campaign.--

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

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

30 (3) Outreach information shall be available in English,

1 Spanish and other languages as determined by the department.

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

8 Section 509. Board.

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

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

15 (1) The secretary or a designee, who shall serve as the
16 chairperson.

17 (2) The State Treasurer or a designee.

18 (3) The Insurance Commissioner or a designee.

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

21 (5) The chairperson and minority chairperson of the
22 Labor and Industry Committee of the House of Representatives
23 or a designee.

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

27 (c) Terms.--

28 (1) Members specified under subsection (b) (1), (2), (3)
29 ~~and (4)~~, (4) AND (5) shall serve for the length of their <--
30 tenure in the capacity which enabled them to become members.

1 (2) Members specified under subsection ~~(b)(5)~~ (B)(6)
2 shall serve four-year terms and shall not be eligible to
3 serve more than two full consecutive terms.

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

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

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

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

16 Section 510. Regulations.

17 (a) Duty of department.--In addition to the necessary
18 regulations under sections 302(c) and 303(i), the department may
19 promulgate additional regulations as necessary to implement and
20 administer this act.

21 (b) Publication.--Proposed regulations shall be submitted to
22 the Legislative Reference Bureau for publication in the next
23 available issue of the Pennsylvania Bulletin, as required by the
24 act of July 31, 1968 (P.L.769, No.240), referred to as the
25 Commonwealth Documents Law, no later than one year after the
26 effective date of this section.

27 Section 511. Right of action.

28 (a) Civil action by employee.--An action to recover damages
29 or other appropriate civil or equitable relief for a violation
30 of section 308, 309 or 501 may be maintained against an employer

1 in a court of competent jurisdiction in the Commonwealth by one
2 or more employees.

3 (b) Fees and costs.--The court, in an action under this
4 section, shall, in addition to any judgment awarded to the
5 plaintiff, allow reasonable attorney fees and other costs of the
6 action to be paid by the defendant.

7 (c) Limitations.--An action brought by an employee under
8 subsection (a) shall terminate on the filing of a complaint by
9 the secretary in an action under subsection (d).

10 (d) Civil action by secretary.--The secretary may bring an
11 action in Commonwealth Court to recover damages and other
12 appropriate relief.

13 (e) Money recovered by secretary.--Any money recovered by
14 the secretary shall be held in a special deposit account and
15 shall be paid directly to each employee affected within 60 days
16 of receipt.

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Effective date.

20 This act shall take effect in 180 days.