

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 906 Session of
2025

INTRODUCED BY ROBINSON, COLLETT, TARTAGLIONE, HUGHES,
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PICOZZI, FARRY, LAUGHLIN, KANE AND VOGEL, JUNE 30, 2025

REFERRED TO LABOR AND INDUSTRY, JUNE 30, 2025

AN ACT

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

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18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:
20 CHAPTER 1
21 PRELIMINARY PROVISIONS
22 Section 101. Short title.
23 This act shall be known and may be cited as the Pennsylvania
24 Family and Medical Leave Act.
25 Section 102. Legislative intent.
26 The General Assembly finds and declares as follows:
27 (1) Paid family and medical leave promotes the physical
28 and emotional health of children and their families.
29 (2) Paid family and medical leave has a positive impact
30 on economic stability and ensures competitive viability for

1 all businesses, but particularly smaller businesses.

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

4 Section 103. Definitions.

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

8 "Abuse of a vulnerable adult." The term includes:

9 (1) Force or threat of force of inappropriate use of
10 medications or physical or chemical restraints.

11 (2) Misuse of power or authority granted to a person
12 through a power of attorney or by a court in a guardianship
13 or conservatorship proceeding that results in unreasonable
14 confinement or restriction of liberty.

15 (3) An act of violence against, or the taking,
16 transferring, concealing, harming or disposing of, an
17 emotional support or service animal owned, possessed or held
18 by a vulnerable adult.

19 (4) The failure of a caregiver to provide goods, care or
20 services essential to avoid a clear and serious threat to the
21 physical or mental health of a vulnerable adult.

22 (5) An act or course of conduct by a caregiver against a
23 vulnerable adult or a vulnerable adult's resources, without
24 the informed consent of the vulnerable adult or with consent
25 obtained through misrepresentation, coercion or threats of
26 force, that results in monetary, personal or other benefit,
27 gain or profit for the perpetrator or monetary or personal
28 loss to the vulnerable adult.

29 (6) The desertion of a vulnerable adult by a caregiver.

30 (7) Knowingly restricting the movement or independence

1 of a vulnerable adult without the vulnerable adult's consent
2 by removing means of transportation, communication or access
3 to other activities of daily living, including removing
4 access to assistive technology, communication devices or
5 mobility aids.

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

9 "Attesting third party." A disability service organization
10 manager or coordinator, caregiver agency coordinator or manager,
11 law enforcement official, licensed health care professional,
12 licensed social worker, victim advocate or victim service
13 provider.

14 "Authorized reason for leave for a qualifying act of
15 violence." Leave for a covered individual or to assist a family
16 member whom the covered individual is caring for, to:

17 (1) Seek or obtain medical attention, rehabilitative
18 services, accessibility equipment or other treatment related
19 to a physical or mental injury or disability caused or
20 aggravated by the applicable qualifying act.

21 (2) Recover from a physical or mental injury or
22 disability caused or aggravated by the applicable qualifying
23 act.

24 (3) Seek or obtain services from a victim service
25 provider in relation to the applicable qualifying act.

26 (4) Seek or obtain mental health treatment or other
27 counseling in relation to the applicable qualifying act.

28 (5) Relocate or engage in the process of securing a new
29 residence due to the applicable qualifying act, including,
30 but not limited to, securing temporary or permanent housing

or enrolling children in a new school.

(6) Seek or obtain financial services or meet with a financial professional to address financial issues resulting from the applicable qualifying act.

(7) Seek, obtain or provide child care or care to a care-dependent adult necessary as a result of the applicable qualifying act.

(8) Seek or obtain legal services related to or resulting from the applicable qualifying act.

(9) Prepare for, participate in or attend any civil, administrative or criminal legal proceeding relating to or resulting from the applicable qualifying act.

(10) Make modifications to a home or vehicle necessary to create usability of and accessibility to the home or vehicle due to an injury sustained in a qualifying act.

(11) Seek or obtain new caregiver services.

(12) Take any other actions necessary to protect or restore physical, mental, emotional or economic well-being as a result of the applicable qualifying act.

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

"Board." The Pennsylvania Family and Medical Leave Act 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 pursuant to section 503, who meets the following requirements, as applicable:

(1) Is currently employed in this Commonwealth or was

1 previously employed in this Commonwealth within 120 days of
2 separation from employment.

3 (2) Meets the employment and income eligibility
4 requirements under section 303.

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

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

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

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

13 (1) Intentionally, knowingly or recklessly causing, or
14 attempting to cause, bodily injury, serious bodily injury or
15 sexual violence.

16 (2) Placing another individual in reasonable fear of
17 imminent serious bodily harm.

18 (3) An act of domestic and other violence as defined in
19 55 Pa. Code § 3042.3 (relating to definitions).

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

22 "Employee." An individual who is employed by an employer
23 doing business in this Commonwealth. The term includes a self-
24 employed individual.

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

27 "Family." Includes any of the following:

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

1 of age.

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

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

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

14 (5) An individual who regularly resides in the
15 employee's home or where the relationship creates an
16 expectation that the employee cares for the individual and
17 that the individual depends on the employee for care. The
18 term does not include an individual who simply resides in the
19 same home with no expectation that the employee care for the
20 individual.

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

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

25 "Health care provider." A health care center or a person,
26 including a corporation, university or other educational
27 institution licensed or approved by the Commonwealth to provide
28 health care or professional medical services, including a
29 physician, certified nurse midwife, mental health care provider,
30 hospital, nursing home, birth center or any other person

1 determined by the department to be providing health care
2 services.

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

5 "Medical certification." Written certification from a health
6 care provider on a form prepared by the department that verifies
7 the serious health condition prompting the filing of a claim and
8 receipt of benefits by a covered individual pursuant to this
9 act.

10 "Program." The Pennsylvania Family and Medical Leave Program
11 established under section 301.

12 "Qualifying act of violence." An act, conduct or pattern of
13 conduct that could constitute any of the following, regardless
14 of whether anyone is arrested or charged with committing a
15 crime:

16 (1) Domestic violence.

17 (2) Sexual violence.

18 (3) Stalking.

19 (4) Abuse of a vulnerable adult.

20 (5) An act or conduct in which a person uses force to
21 cause or attempt to cause physical or mental injury to
22 another. This does not include conduct arising out of the
23 ownership, maintenance or use of a motor vehicle, except when
24 the person engaging in the conduct intended to cause or
25 intended to threaten to cause physical or mental injury or
26 when the person engaging in the conduct was under the
27 influence of alcohol or a controlled substance.

28 (6) An act or conduct in which a person makes a
29 reasonably perceived or actual threat of physical or mental
30 injury to another. This does not include conduct arising out

1 of the ownership, maintenance or use of a motor vehicle,
2 except when the person engaging in the conduct intended to
3 cause or intended to threaten to cause physical or mental
4 injury or when the person engaging in the conduct was under
5 the influence of alcohol or a controlled substance.

6 "Qualifying exigency leave." Leave for the family member of
7 a military member deployed at home or abroad, or who has been
8 notified of an impending deployment at home or abroad, for the
9 purposes specified in 29 CFR 825.126 (relating to leave because
10 of a qualifying exigency).

11 "Retaliatory personnel action." One of the following:

12 (1) Any threat, discipline, discharge, suspension,
13 demotion, reduction of hours or any other adverse action
14 taken against an employee for exercising the rights and
15 protections afforded by this act.

16 (2) Interference with or punishment for participating in
17 or acting on a complaint or appeal under this act.

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

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

24 "Sexual violence." As defined under 42 Pa.C.S. § 62A03
25 (relating to definitions).

26 "Stalking." Conduct in which an individual either:

27 (1) engages in a course of conduct or repeatedly commits
28 acts toward another individual, including following the other
29 individual without proper authority:

30 (i) under circumstances which demonstrate either an

1 intent to place the other individual in reasonable fear
2 of bodily injury or to cause substantial emotional
3 distress to the other individual; or

4 (ii) which as a result intentionally, knowingly or
5 recklessly places the other individual in reasonable fear
6 of bodily injury or causes substantial emotional distress
7 to the other individual; or

8 (2) engages in a course of conduct or repeatedly
9 communicates to another individual:

10 (i) under circumstances which demonstrate or
11 communicate either an intent to place the other
12 individual in reasonable fear of bodily injury or to
13 cause substantial emotional distress to the other
14 individual; or

15 (ii) which as a result intentionally, knowingly or
16 recklessly places the other individual in reasonable fear
17 of bodily injury or causes substantial emotional distress
18 to the other individual.

19 "Statewide average weekly wage." The average amount of
20 weekly wages as determined by the department on an annual basis
21 for each calendar year pursuant to the Workers' Compensation
22 Act, which shall be posted on the department's publicly
23 accessible Internet website.

24 "Unemployment Compensation Law." The act of December 5, 1936
25 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
26 Compensation Law.

27 "Victim." Either of the following:

28 (1) An individual against whom a qualifying act was
29 committed.

30 (2) An individual who was physically present at the

1 scene of a qualifying act and witnessed the qualifying act,
2 who did not commit the qualifying act and who as a direct
3 result:

4 (i) suffers physical or mental injury; or

5 (ii) reasonably believes that the individual is
6 under the threat of physical harm.

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

11 "Victim service provider." An agency or organization that
12 provides services to victims. The term includes:

13 (1) A rape crisis center as defined in 42 Pa.C.S. §
14 5945.1 (relating to confidential communications with sexual
15 assault counselors).

16 (2) A domestic violence program as defined in 23 Pa.C.S.
17 § 6102(a).

18 (3) An agency or organization with a documented history
19 of providing services to victims.

20 "Vulnerable adult." An individual who is 18 years of age or
21 older, is reliant on a caregiver and is unable to protect
22 against abuse, neglect or exploitation by others because of a
23 disability or impairment.

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

26 CHAPTER 3

27 FAMILY AND MEDICAL LEAVE PROGRAM

28 Section 301. Family and Medical Leave Program.

29 (a) Establishment of program.--

30 (1) Within one year of the effective date of this

1 section, the department shall establish the Pennsylvania
2 Family and Medical Leave Program.

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

7 (b) Required documentation.--The department shall establish
8 reasonable procedures and forms for filing a claim under this
9 act, the documentation necessary to support a claim and any
10 certification required from a health care provider for proof of
11 a serious health condition or any certification required from a
12 victim of a qualifying act of violence.

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

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

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

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

1 act.

2 Section 302. Powers and duties of department.

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

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

13 (1) Calculate and set the amount of benefits payable to
14 a covered individual under section 305 initially and on an
15 annual basis thereafter.

16 (2) Provide information to employees and employers on
17 the amount to be deducted as employee payroll contributions
18 under section 306 initially and every year thereafter.

19 (3) Develop and prepare the written notices that
20 employers must distribute and provide to their employees
21 pursuant to section 501. The form of the notices shall be
22 posted on the department's publicly accessible Internet
23 website.

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

27 (5) Prepare and provide the necessary forms for filing
28 and acknowledging a benefits claim and for providing notice
29 of benefits approval to both employers and covered individual
30 employees.

- 1 (6) Evaluate and adjudicate claims.
- 2 (7) Evaluate and determine the amount of payroll
- 3 contributions and maximum employee contributions to ensure
- 4 fund solvency.
- 5 (8) Coordinate benefits with employers that have already
- 6 paid for benefits outside the fund.
- 7 (9) Make payments on claims.
- 8 (10) Develop the abstract for employer posting of notice
- 9 in the workplace under section 501, which shall be available
- 10 on the department's publicly accessible Internet website.
- 11 (11) Prepare and provide the employee complaint form on
- 12 the department's publicly accessible Internet website.
- 13 (12) Develop forms necessary to ensure implementation of
- 14 this act.
- 15 (13) Develop procedures to investigate and resolve
- 16 complaints under this act.
- 17 (14) Conduct an ongoing public outreach campaign to
- 18 inform employers and employees about the availability of the
- 19 program and the process for filing a benefits claim.
- 20 (15) Promulgate regulations as necessary to administer
- 21 this act.
- 22 (16) Issue an annual report under section 507.

23 (c) Enforcement of act.--The secretary shall establish a
24 system for an administrative complaint and appeals process in
25 the case of a denial of family and medical leave benefits,
26 denial of a waiver under section 310, denial of family and
27 medical leave benefits provided through a private plan under
28 section 310 and all violations assessed under this act. The
29 system for administrative complaints and appeals process shall
30 be established by regulations promulgated by the department.

1 Procedures to ensure confidentiality of all information related
2 to any claims filed or appeals taken shall be implemented in
3 accordance with applicable laws.

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

5 (a) Basis for receipt of benefits.--No later than two years
6 following the establishment of the program, benefits under this
7 act shall be payable to a covered individual who files an
8 approved claim based on any of the following:

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

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

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

17 (4) Due to a qualifying exigency leave.

18 (5) Is a victim of a qualifying act of violence or has a
19 family member who is a victim of a qualifying act of violence
20 and is taking leave for an authorized reason for leave for a
21 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 have:

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

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

Unemployment Compensation Act.

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

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

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

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

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

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

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

(d) 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 may not receive benefits for the same day under the Workers' Compensation Act or the Unemployment Compensation Law.

(e) Filing of benefits claim.--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 or certification of a qualifying act of violence.

(f) Medical certification.--

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

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

14 (g) Qualifying act of violence certification.--

15 (1) The department may require that an employee, within
16 a reasonable period after the absence, provide documentation
17 that the employee or the employee's family member is a victim
18 of a qualifying act of violence. The employee may satisfy the
19 certification requirement by providing to the department any
20 of the 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 is a victim of a
27 qualifying act of violence;

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

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

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

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

17 (3) The department shall not require that the employee
18 provide a certification that explains the details of the
19 qualifying act of violence. The department may not require a
20 disclosure of the details relating to a qualifying act of
21 violence or the details of an employee's or employee's family
22 member's medical condition as a condition of providing leave
23 under this act.

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

27 (i) requested or consented to in writing by the
28 employee; or

29 (ii) otherwise required by applicable Federal or
30 State law in which case the department shall provide the

employee notice prior to any authorized disclosure.

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

(i) Regulations.--The department shall promulgate regulations to provide for an adjudication process under this act.

(j) Determination of eligibility.--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 20 business days.

Section 304. Duration of benefits.

(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 may not 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 week:

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

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

(e) Payment of benefits.--After the initial payment of

benefits, subsequent payments shall be made weekly thereafter
for the duration of the approved leave.

Section 305. Amount of benefits.

(a) Calculation of benefits.--

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

(i) 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

(ii) 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%.

(2) The calculation of a covered individual's average
weekly wage shall be as follows:

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

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

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

(iv) If at the time the leave commences the wages
are fixed by any manner not provided under this
subsection, the average weekly wage shall be calculated
by dividing by 13 the total wages earned in the employ of
the employer in each of the highest three of the last

1 four consecutive periods of 13 calendar weeks in the 52
2 weeks immediately preceding the leave period, and by
3 averaging the total amounts earned during these three
4 periods.

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

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

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

1 (3) As used in this subsection, the terms "average
2 weekly wage" and "total wages" shall include board and
3 lodging received from the employer and gratuities reported to
4 the United States Internal Revenue Service by or for the
5 employee for Federal income tax purposes. The terms shall not
6 include:

7 (i) Amounts deducted by the employer under the
8 contract of hiring for labor furnished or paid for by the
9 employer and necessary for the performance of the
10 contract by the employee.

11 (ii) Deductions from wages due to the employer for
12 rent and supplies necessary for the employee's use in the
13 performance of labor.

14 (iii) Fringe benefits, including employer payments
15 for or contributions to a retirement, pension, health and
16 welfare, life insurance, Social Security or any other
17 plan for the benefit of the employee or the employee's
18 dependents.

19 (4) The amount of any bonus, incentive or vacation
20 payment earned on an annual basis shall be excluded from the
21 calculations under paragraph (2)(i), (ii), (iii), (iv), (v)
22 or (vi). Those payments, if any, shall instead be divided by
23 52 and the amount shall be added to the average weekly wage
24 otherwise calculated under paragraph (2)(i), (ii), (iii),
25 (iv), (v) or (vi).

26 (5) If an employee is working under concurrent contracts
27 with two or more employers, the wages from all employers
28 shall be considered.

29 (b) Limitation.--

30 (1) In no case shall the weekly benefits payable to a

covered individual be more than the Statewide average weekly wage.

(2) The application of the Statewide average weekly wage on a claim shall begin on the date that the basis for the receipt of benefits under section 303(a) arises.

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

(c) Adjustment of benefits calculation.--The department shall adjust the maximum family and medical leave 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 benefit rates to the Legislative Reference Bureau for publication in the next available issue of 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.

Section 306. Contributions.

(a) Payment into the program.--All persons employed in this Commonwealth, except persons employed by an employer issued a waiver under section 310, shall be required to contribute to the program for the purpose of financing the program.

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

(c) Calculation of payroll contributions.--The amount payable through employee payroll contributions shall be set at a

percentage of an individual employee's wages to initiate payments into the program. The following shall apply:

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

(2) Every year thereafter, the department shall evaluate and determine the amount of payroll contributions and maximum employee contributions necessary to finance and adequately support the program. The rate shall not exceed 1% of an individual employee's wages.

(3) The payroll 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 contributions.

(e) Penalty for failure to withhold.--Except for an employer issued a waiver under section 310, an employer who fails to withhold payroll 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.

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

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

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

10 Section 308. Employment protections.

11 (a) Restoration of employment position.--A covered
12 individual who takes leave pursuant to this act shall, upon the
13 expiration of that leave, be restored by the employer to the
14 position previously held by the covered individual when the
15 leave commenced, or to a position with equivalent seniority,
16 status, employment benefits, pay and other terms and conditions
17 of employment.

18 (b) Health care benefits maintained.--For the duration of a
19 leave approved under this act, the employer shall maintain any
20 health care benefits the covered individual had prior to taking
21 leave as if the covered individual had continued in employment
22 continuously from the date leave was commenced until the date
23 the leave terminates. A covered individual shall continue to pay
24 the covered individual's share of the cost of health benefits as
25 required prior to the commencement of the leave.

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

30 (d) Retaliation prohibited.--An employer, temporary help

1 company, employment agency, employee organization or other
2 person may not take retaliatory personnel action or otherwise
3 discriminate against a person because the person took any action
4 in accordance with this act, including:

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

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

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

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

17 Section 309. Coordination of benefits.

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

22 (b) Coordination with other paid leave.--An employee may
23 elect to utilize paid leave available under any other Federal or
24 State law, collective bargaining agreement or employer policy
25 prior to receiving benefits under this act, provided that the
26 paid leave does not conflict with Federal law. Employers shall
27 provide employees with written notice of the opportunity to make
28 the election and inform employees how leave will be coordinated
29 absent any election.

30 (c) Employer's obligation.--This act does not diminish an

1 employer's obligation to comply with any of the following that
2 provide more generous leave:

3 (1) A collective bargaining agreement.

4 (2) An employer policy.

5 (3) Any other Federal or State law.

6 (d) Prohibition on subsequent collective bargaining
7 agreement or employer policy.--An individual's right to leave
8 and the payment of benefits under this act may not be diminished
9 by a collective bargaining agreement entered into or renewed, or
10 an employer policy adopted or retained, after the effective date
11 of this subsection. Any agreement by an individual to waive the
12 individual's rights under this act is void as against public
13 policy.

14 (e) Impact on Workers' Compensation Act.--Nothing in this
15 act shall be construed to impact the provisions of the Workers'
16 Compensation Act with regard to work-related injuries.

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

26 Section 310. Employer waiver to use private plan.

27 (a) Waiver.--An employer may apply to the department for a
28 waiver to waive the employer's obligations under this chapter
29 with a private plan. The application shall be submitted on a
30 form and in a manner prescribed by the department. The

1 department shall approve a private plan and issue a waiver under
2 this section if, in accordance with subsection (b), a private
3 plan confers all of the same rights, protections and benefits
4 provided to employees under this chapter and if the employer
5 provides evidence of a self-funded plan or insurance policy in
6 effect and has a certificate of authority to transact insurance
7 under section 208 of the act of May 17, 1921 (P.L.789, No.285),
8 known as The Insurance Department Act of 1921. The private plan
9 shall provide:

10 (1) Benefits to a covered individual under section
11 303(a)(1) and (3) for the maximum number of weeks required
12 under section 304(a) in a benefit year.

13 (2) Benefits to a covered individual under section
14 303(a)(2), (4) and (5) for the maximum number of weeks
15 required under section 304(b) in a benefit year.

16 (3) Covered individuals, in the aggregate, at least the
17 maximum number of weeks of benefits in a benefit year as
18 provided under section 304(c).

19 (4) A weekly wage replacement rate for each week of
20 benefits of at least the amount required by section 305(a).

21 (5) A maximum weekly benefit rate for each week of
22 benefits of at least the amount specified in section 305(c).

23 (6) Payment of benefits in accordance with section
24 303(f) and (g).

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

28 (8) For the adjustment of the maximum weekly benefit cap
29 in accordance with the notice published annually in the
30 Pennsylvania Bulletin under section 305(c).

1 (9) That no additional conditions or restrictions on the
2 use of leave or benefits beyond those explicitly authorized
3 by this act or regulations promulgated under this act shall
4 be imposed.

5 (10) An employee covered under the private plan who is
6 eligible to receive benefits under this act, with benefits
7 under the private plan.

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

12 (b) Additional employer duties.--To be eligible for a waiver
13 under subsection (a), an employer shall meet all of the
14 following requirements:

15 (1) If the private plan is in the form of self-
16 insurance, an employer must furnish a bond running to the
17 Commonwealth, issued by an entity authorized to transact
18 surety business in this Commonwealth under Article VI(e) of
19 the act of May 17, 1921 (P.L.682, No.284), known as The
20 Insurance Company Law of 1921. The form of surety shall be on
21 a form approved by the department and in an amount required
22 by the department.

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

25 (3) If the private plan provides for insurance, the
26 forms of the policy must be issued by an approved insurer.

27 (4) An employer that provides a private plan under this
28 section shall provide each employee with a notice of the
29 availability of the program. The notice shall be provided to
30 each employee within five days of approval of a waiver, upon

hire and annually thereafter.

(c) Documentation to be submitted upon approval.--Upon approval of an application for a waiver:

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

(2) If a waiver is based on the employer having a self-funded plan, the employer shall provide satisfactory evidence of maintenance of the form of surety as required by the department under subsection (b) (1).

(d) Termination of waiver.--If the secretary finds that the terms and conditions of a private plan granted a waiver under this section have been violated, the department may terminate the waiver. The department shall notify an employer if the department terminated the employer's waiver. A cause for termination under this subsection may include one or more of the following:

(1) Failure to pay benefits.

(2) Failure to pay benefits timely and in a manner consistent with this act.

(3) Failure to maintain an adequate security deposit.

(4) Misuse of private plan trust funds.

(5) Failure to submit reports as required by regulations promulgated by the department.

(6) Failure to comply with this section or regulations promulgated by the department.

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

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

(2) Applicable enforcement procedures and the appeals process for benefits by an insurance policy shall be subject to review as outlined in the insurance policy.

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

CHAPTER 5

ADMINISTRATION AND PROCEDURES

Section 501. Notice.

(a) Employer notice to employees.--Except for an employer that has been issued a waiver under section 310, 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) An explanation of how benefits will be calculated.

(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 alleging a violation 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 30 days in advance, the employee shall provide written or verbal notice to the employer of the need and schedule for taking leave at least 30 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

fact, or willfully failed to report a material fact, to obtain benefits under this act.

(b) Incorrect payment of benefits.--

(1) If benefits under this act are paid erroneously without fault, or for a claim that is subsequently rejected after benefits are paid, the department may seek repayment through a reduction in future benefits due the recipient subject to the following:

(i) Recoupment from future benefits shall not exceed one-third of the maximum benefit amount due to the recipient for any week.

(ii) Recoupment from future benefits shall not occur more than three years after the incorrect payment of benefits.

(2) If benefits under this act are paid as a result of willful misrepresentation by the recipient, the recipient shall:

(i) Be liable to repay a sum equal to the amount of benefits derived through that willful misrepresentation.

(ii) Be subject to a penalty in the amount of 50% of the benefits paid as a result of the misrepresentation.

(iii) Be disqualified for benefits as described under subsection (a).

(c) Proof of wages.--During the appeals process, if determination or proof of wages is a factor in a disqualification or incorrect payment of benefits, a covered employee's proof of wages may be proven:

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

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

1 (3) by testimony of the covered employee, if found
2 credible by the judge during a hearing under section 505.
3 Section 503. Elective coverage.

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

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

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

13 (3) Compliance with all eligibility, employment and
14 income requirements under section 303.

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

22 Section 504. Violations.

23 An employer who violates the requirements of section 308, 309
24 or 501 shall be subject to the penalties under 29 U.S.C. § 2617
25 (relating to enforcement).

26 Section 505. Judicial review.

27 Judicial review of any decision regarding the denial of
28 benefits or an appeal of any violation of this act shall be
29 permitted in Commonwealth Court as required under 42 Pa.C.S. §
30 763 (relating to direct appeals from government agencies) after

1 a party aggrieved thereby has exhausted all administrative
2 remedies established by the department.

3 Section 506. Family and Medical Leave Fund.

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

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

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

15 (d) Limitations on fund.--

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

19 (2) The fund may only be used for the program authorized
20 under this act. Money in the fund cannot be transferred or
21 diverted to any other purpose by administrative action.

22 (e) Other deposits.--The department may deposit into the
23 fund any other funds received for the purposes under this act.

24 Section 507. Annual report.

25 (a) Annual report.--No later than September 1, 2028, and
26 each September 1 thereafter, the department shall submit a
27 report to the chairperson and minority chairperson of the Labor
28 and Industry Committee of the Senate and the chairperson and
29 minority chairperson of the Labor and Industry Committee of the
30 House of Representatives, that includes:

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

4 (2) Beneficiary gender for leaves taken.

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

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

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

12 (6) Account balances.

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

14 (8) Recommendations for improvements to the program.

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

19 Section 508. Public education.

20 (a) Outreach campaign.--

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

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

29 (3) Outreach information shall be available in English,
30 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. Advisory board.

(a) Establishment.--The department shall establish the Pennsylvania Family and Medical Leave Act 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 of board.--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 Insurance Commissioner or a designee.

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

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

(6) 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), (4) and (5) shall serve for the length of the member's tenure in the underlying capacity.

1 (2) Members appointed under subsection (a)(6) shall
2 serve four-year terms and shall not be eligible to serve more
3 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 an advisory board meeting through
11 contemporaneous methods and shall make the recordings available
12 on the 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 subsection.

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

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Effective date.

20 This act shall take effect in 180 days.