
A BILL FOR AN ACT

RELATING TO FAMILY LEAVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's working
2 families are not adequately supported during times of caregiving
3 and illness. While the federal Family and Medical Leave Act of
4 1993 allows twelve weeks of unpaid leave to employees who have
5 worked at a business that employs fifty or more employees, the
6 majority of Hawaii's workforce cannot afford to take unpaid
7 leave to care for a child or an elderly family member with a
8 serious health condition. Hawaii law offers only a modest four-
9 week extension of unpaid leave and this applies only to Hawaii's
10 few large employers with more than one hundred employees.

11 The legislature further finds that only eleven per cent of
12 workers in the United States have access to paid family leave
13 through their employers. Women, as primary caregivers of
14 infants, children, and elderly parents, are affected
15 disproportionately by the unavailability of paid family and
16 medical leave. In Hawaii, 247,000 people serve as family
17 caregivers. Hawaii has the fastest growing population of



1 individuals over the age of sixty-five in the nation, and that
2 number is expected to grow by eighty-one per cent by the year
3 2030. Of those who would benefit from paid family leave, nearly
4 one-third would take those leave benefits to care for an ill
5 spouse or elderly parent. In short, most workers, at some
6 point, will need to take time off to care for an ill family
7 member, but very few can afford it.

8 The purpose of this Act is to establish paid family leave
9 and lay the groundwork to implement a paid family leave
10 framework of laws and policies so that all employees can access
11 leave benefits during times when they need to provide care for a
12 family member.

13 SECTION 2. Chapter 398, Hawaii Revised Statutes, is
14 amended by adding a new section to part I to be appropriately
15 designated and to read as follows:

16 "§398- Paid family leave special fund. (a) There is
17 established a paid family leave special fund into which shall be
18 deposited the following moneys:

- 19 (1) Appropriations by the legislature to the special fund;
- 20 (2) Gifts, donations, and grants from public agencies and
21 private persons; and



1 (3) Money contributed by employers and employees as a
2 condition of paid family leave implementation
3 established by the paid family leave implementation
4 board under Act _____, Session Laws of Hawaii 2018.

5 All interest earned or accrued on moneys deposited in the fund
6 shall become part of the fund. The fund shall be administered
7 by the department; provided that the department may contract
8 with a public or private agency to provide the day-to-day
9 management of the fund.

10 (b) Subject to legislative authorization, the department
11 may expend moneys from the fund:

- 12 (1) For permanent and temporary staff positions; and
- 13 (2) To cover administrative and operational costs of
14 implementing any legislative requirement to establish
15 paid family leave for all workers in the State.

16 (c) The money deposited into the fund and the interest
17 earned shall not revert to the unrestricted fund balance of the
18 general fund at the end of the fiscal year, or at any time."

19 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) Except as provided in this section, and
2 notwithstanding any other law to the contrary, from time to
3 time, the director of finance, for the purpose of defraying the
4 prorated estimate of central service expenses of government in
5 relation to all special funds, except the:

6 (1) Special out-of-school time instructional program fund
7 under section 302A-1310;

8 (2) School cafeteria special funds of the department of
9 education;

10 (3) Special funds of the University of Hawaii;

11 (4) State educational facilities improvement special fund;

12 (5) Convention center enterprise special fund under
13 section 201B-8;

14 (6) Special funds established by section 206E-6;

15 (7) Aloha Tower fund created by section 206J-17;

16 (8) Funds of the employees' retirement system created by
17 section 88-109;

18 (9) Hawaii hurricane relief fund established under chapter
19 431P;

20 (10) Hawaii health systems corporation special funds and
21 the subaccounts of its regional system boards;



- 1 (11) Tourism special fund established under section
- 2 201B-11;
- 3 (12) Universal service fund established under section
- 4 269-42;
- 5 (13) Emergency and budget reserve fund under section
- 6 328L-3;
- 7 (14) Public schools special fees and charges fund under
- 8 section 302A-1130;
- 9 (15) Sport fish special fund under section 187A-9.5;
- 10 [+](16) [+](16) Neurotrauma special fund under section 321H-4;
- 11 [+](17) [+](17) Glass advance disposal fee established by section
- 12 342G-82;
- 13 [+](18) [+](18) Center for nursing special fund under section
- 14 304A-2163;
- 15 [+](19) [+](19) Passenger facility charge special fund established by
- 16 section 261-5.5;
- 17 [+](20) [+](20) Solicitation of funds for charitable purposes special
- 18 fund established by section 467B-15;
- 19 [+](21) [+](21) Land conservation fund established by section 173A-5;
- 20 [+](22) [+](22) Court interpreting services revolving fund under
- 21 section 607-1.5;



- 1 [+] (23) [+] Trauma system special fund under section 321-22.5;
- 2 [+] (24) [+] Hawaii cancer research special fund;
- 3 [+] (25) [+] Community health centers special fund;
- 4 [+] (26) [+] Emergency medical services special fund;
- 5 [+] (27) [+] Rental motor vehicle customer facility charge special
- 6 fund established under section 261-5.6;
- 7 [+] (28) [+] Shared services technology special fund under section
- 8 27-43;
- 9 [+] (29) [+] Automated victim information and notification system
- 10 special fund established under section 353-136;
- 11 [+] (30) [+] Deposit beverage container deposit special fund under
- 12 section 342G-104;
- 13 [+] (31) [+] Hospital sustainability program special fund under
- 14 [+] section 346G-4 [+];
- 15 [+] (32) [+] Nursing facility sustainability program special fund
- 16 under [+] section 346F-4 [+];
- 17 [+] (33) [+] Hawaii 3R's school improvement fund under section
- 18 302A-1502.4;
- 19 [+] (34) [+] After-school plus program revolving fund under section
- 20 302A-1149.5; [~~and~~



1 +] (35) [+]Civil monetary penalty special fund under section
2 321-30.2 [7]; and
3 (36) Paid family leave special fund under section 398- ,
4 shall deduct five per cent of all receipts of all other special
5 funds, which deduction shall be transferred to the general fund
6 of the State and become general realizations of the State. All
7 officers of the State and other persons having power to allocate
8 or disburse any special funds shall cooperate with the director
9 in effecting these transfers. To determine the proper revenue
10 base upon which the central service assessment is to be
11 calculated, the director shall adopt rules pursuant to chapter
12 91 for the purpose of suspending or limiting the application of
13 the central service assessment of any fund. No later than
14 twenty days prior to the convening of each regular session of
15 the legislature, the director shall report all central service
16 assessments made during the preceding fiscal year."

17 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Each special fund, except the:

- 20 (1) Special out-of-school time instructional program fund
- 21 under section 302A-1310;



- 1 (2) School cafeteria special funds of the department of
- 2 education;
- 3 (3) Special funds of the University of Hawaii;
- 4 (4) State educational facilities improvement special fund;
- 5 (5) Special funds established by section 206E-6;
- 6 (6) Aloha Tower fund created by section 206J-17;
- 7 (7) Funds of the employees' retirement system created by
- 8 section 88-109;
- 9 (8) Hawaii hurricane relief fund established under chapter
- 10 431P;
- 11 (9) Convention center enterprise special fund established
- 12 under section 201B-8;
- 13 (10) Hawaii health systems corporation special funds and
- 14 the subaccounts of its regional system boards;
- 15 (11) Tourism special fund established under section
- 16 201B-11;
- 17 (12) Universal service fund established under section
- 18 269-42;
- 19 (13) Emergency and budget reserve fund under section
- 20 328L-3;



1 (14) Public schools special fees and charges fund under
2 section 302A-1130;

3 (15) Sport fish special fund under section 187A-9.5;

4 [+](16) [+](16) Neurotrauma special fund under section 321H-4;

5 [+](17) [+](17) Center for nursing special fund under section
6 304A-2163;

7 [+](18) [+](18) Passenger facility charge special fund established by
8 section 261-5.5;

9 [+](19) [+](19) Court interpreting services revolving fund under
10 section 607-1.5;

11 [+](20) [+](20) Trauma system special fund under section 321-22.5;

12 [+](21) [+](21) Hawaii cancer research special fund;

13 [+](22) [+](22) Community health centers special fund;

14 [+](23) [+](23) Emergency medical services special fund;

15 [+](24) [+](24) Rental motor vehicle customer facility charge special
16 fund established under section 261-5.6;

17 [+](25) [+](25) Shared services technology special fund under section
18 27-43;

19 [+](26) [+](26) Nursing facility sustainability program special fund
20 established pursuant to [+](26) section 346F-4 [+](26);



1 [+](27) [+]Automated victim information and notification system
 2 special fund established under section 353-136;
 3 [+](28) [+]Hospital sustainability program special fund under
 4 [+]section 346G-4 [~~+~~and];
 5 [+](29) [+]Civil monetary penalty special fund under section
 6 321-30.2 [~~+~~]; and
 7 (30) Paid family leave special fund under section 398- ,
 8 shall be responsible for its pro rata share of the
 9 administrative expenses incurred by the department responsible
 10 for the operations supported by the special fund concerned."

11 SECTION 5. (a) By January 1, 2020, the department of
 12 labor and industrial relations shall select a paid family leave
 13 model and adopt rules that establish and codify paid family
 14 leave for all workers in the State.

15 (b) The department may adopt interim rules, which shall be
 16 exempt from chapter 91, Hawaii Revised Statutes, to effectuate
 17 the purposes of this Act; provided that the interim rules shall
 18 remain in effect until July 1, 2022, or until rules are adopted
 19 pursuant to subsection (a), whichever occurs sooner.

20 (c) Selection of a paid family leave model shall give
 21 preference to:



- 1 (1) Universal coverage;
- 2 (2) Ease of filing claims;
- 3 (3) Speed of receiving benefits;
- 4 (4) Minimal administrative costs;
- 5 (5) Data collection capabilities; and
- 6 (6) Speed of implementation.

7 (d) The rules shall establish a paid family leave program
8 that at a minimum includes:

- 9 (1) A minimum of weeks of paid leave;
- 10 (2) Paid family leave coverage for all employees of all
11 employers that employ one or more employees;
- 12 (3) A system of progressive wage replacement to allow low-
13 income workers to receive a higher percentage of their
14 weekly earnings than average or high-wage workers; and
- 15 (4) Job protection to ensure that utilization of paid
16 family leave does not adversely impact employment.

17 (e) The paid family leave program shall begin collecting
18 payments from employers and employees by July 1, 2021, and shall
19 process payments by July 1, 2022.

20 SECTION 6. (a) There is established a paid family leave
21 implementation board within the department of labor and



1 industrial relations for administrative purposes only to assist
2 the department in establishing paid family leave for all workers
3 in the State, pursuant to this Act.

4 (b) The paid family leave implementation board shall
5 comprise the following individuals or their designees:

- 6 (1) The governor's chief of staff, who shall serve as
7 chairperson;
- 8 (2) The director of labor and industrial relations;
- 9 (3) The director of human resources development; who shall
10 serve as a nonvoting member;
- 11 (4) The comptroller; who shall serve as a nonvoting
12 member;
- 13 (5) An insurance representative;
- 14 (6) The chairperson of the senate committee on labor, or a
15 successor committee with jurisdiction over labor; who
16 shall serve as a nonvoting member; and
- 17 (7) The chairperson of the house of representatives
18 committee on labor and public employment, or a
19 successor committee with jurisdiction over labor; who
20 shall serve as a nonvoting member.



1 (c) The following persons shall be appointed as members of
2 the board:

3 (1) One representative of a business employing one hundred
4 or more employees, to be appointed by the governor;

5 (2) One representative of a business employing between
6 fifty and one hundred employees, to be appointed by
7 the speaker of the house of representatives;

8 (3) One representative of a business employing fifty or
9 fewer employees, to be appointed by the president of
10 the senate;

11 (4) One representative of the insurance industry, to be
12 appointed by the president of the senate;

13 (5) One representative of the medical or public health
14 community, to be appointed by the speaker of the house
15 of representatives;

16 (6) One representative of a labor union in the State, to
17 be appointed by the president of the senate;

18 (7) One representative of a labor union in the State, to
19 be appointed by the speaker of the house of
20 representatives;



- 1 (8) One member representing paid family leave advocates,
2 to be appointed by the president of the senate;
- 3 (9) One member representing paid family leave advocates,
4 to be appointed by the Hawaii state commission on the
5 status of women;
- 6 (10) One member representing paid family leave advocates,
7 to be appointed by the speaker of the house of
8 representatives;
- 9 (11) One member representing human resources
10 administrators, to be appointed by the director of
11 labor and industrial relations; and
- 12 (12) One member representing a nonprofit budget and policy
13 center, to be appointed by the governor.
- 14 (d) The paid family leave implementation board shall
15 develop an analysis and implementation plan for providing
16 workers with family leave insurance benefits during times when a
17 worker is required to take leave to care for a family member.
18 No later than January 1, 2020, and upon adoption of rules
19 establishing paid family leave, the paid family leave
20 implementation board shall develop and adopt recommendations to
21 assist businesses complying with paid family leave that may



1 include but not be limited to tax credits or deductions or
2 grants for the hiring of temporary workers through the
3 development of a supplemental fund.

4 (e) All executive branch departments and agencies shall
5 participate and engage in data-sharing agreements for the
6 purposes of this Act, to commence no later than twenty days
7 prior to the convening of the regular session of 2019.

8 (f) The legislative reference bureau shall conduct a
9 study, including an actuarial analysis, on the items enumerated
10 in subsection (g) (1), (2), (3), (4), and (6).

11 (g) No later than twenty days prior to the regular session
12 of 2019, the paid family leave implementation board shall submit
13 a report to the legislature that includes:

14 (1) A comparative analysis of potential paid family leave
15 models to cover all workers, including but not limited
16 to social insurance and temporary disability insurance
17 expansion, including a breakdown of the costs for
18 implementing and sustaining each model, review of
19 other state leave models, and review of current
20 temporary disability insurance usage and other state
21 temporary disability insurance models;



- 1 (2) Models that shall consider progressive wage
- 2 replacement and job protection;
- 3 (3) A multi-year budget for establishing a paid family
- 4 leave insurance program;
- 5 (4) A timeline for implementing paid family leave,
- 6 including benchmarks and deliverables;
- 7 (5) A schedule for ongoing audits;
- 8 (6) Findings and other recommendations, including
- 9 recommendations for ongoing regulation and additional
- 10 funding resources; and
- 11 (7) Proposed legislation, if any.
- 12 (h) No later than twenty days prior to the regular
- 13 sessions of 2020, 2021, 2022, 2023, and 2024 the paid family
- 14 leave implementation board shall submit a report to the
- 15 legislature that includes:
- 16 (1) Updates to the analysis and implementation plan, as
- 17 necessary;
- 18 (2) The progress of the department of labor and industrial
- 19 relations in meeting its obligations under this Act;
- 20 (3) Additional findings and recommendations, if any; and
- 21 (4) Proposed legislation, if any.



1 (i) The paid family leave implementation board shall cease
2 to exist on January 1, 2024.

3 SECTION 7. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2018-2019 to be
6 deposited into the paid family leave special fund.

7 SECTION 8. There is appropriated out of the paid family
8 leave special fund the sum of \$ or so much thereof as
9 may be necessary for fiscal year 2018-2019 for one full-time
10 equivalent (1.0 FTE) program manager to support the paid family
11 leave implementation board and for the expenses of the paid
12 family leave implementation board and the department of labor
13 and industrial relations in establishing paid family leave for
14 all workers by January 1, 2020; provided that the department of
15 labor and industrial relations may contract for services to
16 complete the report as required under section 4(g) of this Act.

17 The sum appropriated shall be expended by the department of
18 labor and industrial relations for the purposes of this Act.

19 SECTION 9. There is appropriated out of the paid family
20 leave special fund the sum of \$ or so much thereof as
21 may be necessary for fiscal year 2018-2019 for the legislative



1 reference bureau to conduct a study, including an actuarial
2 analysis, pursuant to section 6(f) of this Act; provided that
3 the legislative reference bureau may contract for services to
4 complete the study as required under this Act.

5 The sum appropriated shall be expended by the legislative
6 reference bureau for the purposes of this Act.

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2030;
10 provided that sections 2, 3, 4, 7, 8, and 9 shall take effect on
11 July 1, 2018.



Report Title:

Paid Family Leave; DLIR; Insurance; Board; Report; Appropriation

Description:

Requires the Department of Labor and Industrial Relations to establish paid family leave for all workers by January 1, 2020. Authorizes DLIR to adopt interim rules. Establishes the Paid Family Leave Implementation Board to assist DLIR and report to the Legislature. Requires the Legislative Reference Bureau to conduct a study, including an actuarial analysis, on aspects of implementing paid family leave. Establishes a Paid Family Leave Special Fund. Appropriates funds. Takes effect on 7/1/2030.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

