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# A BILL FOR AN ACT

RELATING TO PAID FAMILY LEAVE.

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

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by  
3 adding a new chapter to be appropriately designated and to read  
4 as follows:

5 "CHAPTER

6 PAID FAMILY AND MEDICAL LEAVE

7 § -1 **Definitions.** As used in this chapter, unless the  
8 context clearly requires otherwise:

9 "Benefit year" means the one-year period beginning with the  
10 first day of the calendar week for which the individual files a  
11 valid claim for family and medical leave insurance benefits. A  
12 subsequent benefit year is the one-year period following a  
13 preceding benefit year, beginning either with the first:

14 (1) Day of the first week of family and medical leave with  
15 respect to which the individual files a subsequent  
16 claim for family and medical leave insurance benefits;  
17 or



1           (2) Workday following the expiration of the preceding  
2           benefit year if a need for family and medical leave  
3           for which family and medical leave insurance benefits  
4           are payable during the last week of the preceding  
5           benefit year continues and the individual is eligible  
6           for further benefit payments.

7           "Covered individual" means:

8           (1) Any person who:

9                 (A) Has been working for an employer for at least  
10                fourteen weeks during each of which the  
11                individual has received remuneration in any form  
12                and earned wages of at least \$5,040, during the  
13                fifty-two weeks immediately prior to paid leave  
14                granted under this chapter; or

15                (B) Is self-employed, elects coverage, and meets the  
16                requirements of section       -13;

17           (2) Meets the administrative requirements outlined in this  
18           chapter and in rules adopted thereunder; and

19           (3) Submits a claim.

20           "Department" means the department of labor and industrial  
21 relations.



1 "Designated person" means any individual related by blood  
2 or whose association with the covered individual is the  
3 equivalent of a family relationship. A covered individual may  
4 choose one designated person per benefit year, and the  
5 designated person may be identified by the covered individual at  
6 the time the covered individual requests the leave or files a  
7 claim.

8 "Director" means the director of labor and industrial  
9 relations.

10 "Domestic partner" means a person at least eighteen years  
11 of age who:

12 (1) Is dependent upon the covered individual for support  
13 as shown by either unilateral dependence or mutual  
14 interdependence that is evidenced by a nexus of  
15 factors including but not limited to:

16 (A) Common ownership of real or personal property;

17 (B) Common householding;

18 (C) Children in common;

19 (D) Signs of intent to marry;

20 (E) Shared budgeting; and



1 (F) The length of the personal relationship with the  
2 covered individual; or

3 (2) Has registered as the domestic partner of the covered  
4 individual with any registry of domestic partnerships  
5 maintained by the employer of either party, or in any  
6 state, county, city, town, or village in the United  
7 States.

8 "Employee" includes any individual employed by an employer.

9 "Employer" shall have the same meaning as that term is  
10 defined in section 387-1; provided that "employer" shall include  
11 the State or counties or any political subdivision thereof.

12 "Family leave" means leave taken pursuant to section -  
13 2(a).

14 "Family leave insurance benefits" means the benefits  
15 provided under the terms of this chapter to a covered individual  
16 while the covered individual is on family leave.

17 "Family member" means:

18 (1) A biological, adopted or foster child, stepchild or  
19 legal ward, a child of a domestic partner, or a child  
20 to whom the covered individual stands in loco  
21 parentis;



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

7 (3) A person to whom the covered individual is legally  
8 married under the laws of any state, or a domestic  
9 partner of a covered individual; or

10 (4) A grandparent, grandchild or sibling (whether a  
11 biological, foster, adoptive or step relationship) of  
12 the covered individual, the covered individual's  
13 designated person, the covered individual's spouse or  
14 domestic partner, or the spouse or domestic partner of  
15 a covered individual's sibling.

16 "Health care provider" means any person licensed under  
17 federal or state law to provide medical or emergency services,  
18 including but not limited to doctors, nurses, and emergency room  
19 personnel, or certified midwives.

20 "Medical leave" means leave taken pursuant to section -  
21 2 (b) .



1 "Medical leave insurance benefits" means the benefits  
2 provided under the terms of this chapter to a covered individual  
3 while the covered individual is on medical leave.

4 "Next of kin" shall have the same meaning as that term is  
5 defined in section 101(17) of the federal Family and Medical  
6 Leave Act (29 U.S.C. 2611(17)).

7 "Qualifying exigency" means leave based on a need arising  
8 out of a covered individual's family member's active duty  
9 service or notice of an impending call or order to active duty  
10 in the armed forces, including but not limited to providing for  
11 the care or other needs of the military member's child or other  
12 family member, making financial or legal arrangements for the  
13 military member, attending counseling, attending military events  
14 or ceremonies, spending time with the military member during a  
15 rest and recuperation leave or following return from deployment,  
16 or making arrangements following the death of the military  
17 member.

18 "Qualifying service member" means:

19 (1) A member of the armed forces, including a member of  
20 the national guard or reserves, who is:



- 1 (A) Undergoing medical treatment, recuperation, or
- 2 therapy;
- 3 (B) Otherwise in outpatient status; or
- 4 (C) Is otherwise on the temporary disability retired
- 5 list for a serious injury or illness that was
- 6 incurred by the member in the line of duty on
- 7 active duty in the armed forces, or a serious
- 8 injury or illness that existed before the
- 9 beginning of the member's active duty and was
- 10 aggravated by service in the line of duty on
- 11 active duty in the armed forces; or
- 12 (2) A former member of the armed forces, including a
- 13 former member of the national guard or reserves, who
- 14 is undergoing medical treatment, recuperation, or
- 15 therapy for a serious injury or illness that was
- 16 incurred by the member in line of duty on active duty
- 17 in the armed forces, or a serious injury or illness
- 18 that existed before the beginning of the member's
- 19 active duty and was aggravated by service in line of
- 20 duty on active duty in the armed forces and manifested



1           before or after the member was discharged or released  
2           from service.

3           "Retaliatory personnel action" means denial of any right  
4 guaranteed under this chapter, including but not limited to any  
5 threat, discharge, suspension, demotion, reduction of hours, any  
6 other adverse action against an employee for the exercise of any  
7 right guaranteed in this chapter, or reporting or threatening to  
8 report an employee's suspected citizenship or immigration status  
9 or the suspected citizenship or immigration status of a family  
10 member of the employee to a federal or state agency.

11 "Retaliatory personnel action" includes interference with or  
12 punishment for, in any manner, participating in or assisting an  
13 investigation, proceeding, or hearing under this chapter.

14           "Serious health condition" is an illness, injury,  
15 impairment, pregnancy, recovery from childbirth, organ donation,  
16 termination of pregnancy, or physical or mental condition that  
17 involves inpatient care in a hospital, hospice, or residential  
18 medical care facility, or continuing treatment by a health care  
19 provider.

20           "State average weekly wage" shall have the same meaning as  
21 that term is defined in section 386-1.



1 "Wages" means all remuneration for services from whatever  
2 source, including commissions, bonuses, tips or gratuities  
3 received in the course of employment from others than the  
4 employer to the extent that they are customary and expected in  
5 that type of employment and reported to the employer for payroll  
6 tax deduction purposes, and the cash value of all remuneration  
7 in any medium other than cash. The director may issue  
8 regulations for the reasonable determination of the cash value  
9 of remuneration in any medium other than cash. The director  
10 shall issue regulations regarding the determination of wages for  
11 those who elect coverage pursuant to section -13. For the  
12 purposes of this chapter, "wages" does not include the amount of  
13 any payment specified in section 383-11.

14 § -2 **Eligibility of benefits.** (a) Beginning January 1,  
15 2029, family leave insurance benefits shall be payable to an  
16 individual who:

17 (1) Qualifies as a covered individual; and

18 (2) Meets one of the following requirements:

19 (A) Because of birth, adoption, or placement through  
20 foster care, is caring for a new child during the



- 1 first year after the birth, adoption, or
- 2 placement;
- 3 (B) Is caring for a family member with a serious
- 4 health condition;
- 5 (C) Is caring for a qualifying service member who is
- 6 the individual's next of kin;
- 7 (D) Is a victim of domestic abuse, sexual assault, or
- 8 stalking who needs leave for medical attention;
- 9 mental health care or other counseling; victim
- 10 services, including legal services; court
- 11 appearances; or relocation for themselves or a
- 12 family member; or
- 13 (E) Has a qualifying exigency.
- 14 (b) Beginning January 1, 2029, medical leave insurance
- 15 benefits shall be payable to an individual who:
- 16 (1) Qualifies as a covered individual; and
- 17 (2) Has a serious health condition that makes the covered
- 18 individual unable to perform the functions of the
- 19 covered individual's position, except accident or
- 20 disease connected with or resulting from employment as



1 defined in section 386-3 or any other applicable  
2 workers' compensation law.

3 § -3 Duration of benefits. (a) The maximum number of  
4 weeks during which family leave insurance benefits are payable  
5 in an benefit year shall be twelve weeks.

6 (b) The maximum number of weeks during which medical leave  
7 insurance benefits are payable in an benefit year shall be  
8 twenty-six weeks.

9 (c) The first payment of benefits shall be made to a  
10 covered individual within two weeks after the family and medical  
11 leave claim is filed or the family and medical leave begins,  
12 whichever is later, and subsequent payments shall be made every  
13 two weeks thereafter. The department shall notify the claimant  
14 of any additional information required to complete or cure their  
15 claim within five business days of filing a claim.

16 (d) Claims may be filed up to forty-five days in advance  
17 of the family and medical leave, if anticipation of the family  
18 and medical leave is possible. Claims shall be filed within  
19 ninety days after the commencement of the need for family and  
20 medical leave or as soon thereafter as may be reasonable.



1           §   -4   **Amount of benefits.**   (a)   Subject to the maximum  
2 weekly benefit amount pursuant to subsection (b), the weekly  
3 benefit shall be calculated by adding the amounts obtained by  
4 applying the following percentage to a covered individual's  
5 average weekly wage during the twelve months preceding  
6 submission of the claim or the average weekly wage during the  
7 time the covered individual worked, if less than twelve months:

8           (1)   Ninety per cent of wages that are equal to or less  
9                than fifty per cent of the State's average weekly  
10              wage;

11          (2)   Sixty-six per cent of wages that exceed fifty per cent  
12                of the State's average weekly wage but is not more  
13                than one hundred per cent; and

14          (3)   Fifty-five per cent of wages that exceed one hundred  
15                per cent of the State's average weekly wage.

16          (b)   In no case shall the weekly benefit amount exceed the  
17 state average weekly wage.

18          (c)   Family and medical leave insurance benefits shall not  
19 be payable to the covered individual until the individual  
20 accumulates at least eight hours of family and medical leave  
21 insurance benefits.



1           **§ -5 Contributions.** (a) Payroll contributions shall be  
2 authorized in order to finance the payment of benefits under and  
3 for administration and operation of the family and medical leave  
4 insurance program.

5           (b) Beginning January 1, 2028, payroll contributions shall  
6 be paid by employers and employees in an amount to be determined  
7 by the department, based on a per cent of employee wages. The  
8 department shall be responsible for evaluating and determining  
9 on an annual basis the amount of payroll contributions necessary  
10 to finance the family and medical leave insurance benefits  
11 program.

12           (c) An employer may deduct and withhold contributions from  
13 each employee of up to fifty per cent of the amount of payroll  
14 contribution determined by the department.

15           (d) An employer with five or more employees shall remit  
16 one hundred per cent of the amount of payroll contribution  
17 determined by the department to the family and medical leave  
18 trust fund.

19           (e) An employer with fewer than five employees shall remit  
20 fifty per cent of the amount of payroll contribution determined  
21 by the department to the family and medical leave trust fund.



1 (f) A self-employed individual who is electing coverage  
2 under section -13 shall remit fifty per cent of the amount of  
3 payroll contribution determined by the department to the family  
4 and medical leave trust fund.

5 § -6 **Reduced leave schedule.** (a) A covered individual  
6 shall be entitled, at the option of the covered individual, to  
7 take paid family and medical leave on an intermittent or reduced  
8 leave schedule. Family and medical leave insurance benefits for  
9 intermittent or reduced leave schedules shall be prorated.

10 (b) The covered individual shall provide the employer with  
11 prior notice of the schedule on which the covered individual  
12 will be taking the leave, to the extent practicable. Paid  
13 family and medical leave taken under this section shall not  
14 result in a reduction of the total amount of leave to which an  
15 employee is entitled beyond the amount of leave actually taken.

16 (c) Nothing in this section shall be construed to entitle  
17 a covered individual to more leave than allowed under  
18 section -3.

19 § -7 **Leave and employment protection.** (a) Any covered  
20 individual who exercises the covered individual's right to  
21 family and medical leave insurance benefits shall, upon the



1 expiration of that leave, be entitled to be restored by the  
2 employer to the position held by the covered individual when the  
3 leave commenced, or to a position with equivalent seniority,  
4 status, employment benefits, pay, and other terms and conditions  
5 of employment, including but not limited to fringe benefits and  
6 service credits that the covered individual had been entitled to  
7 at the commencement of leave; provided that job duties and hours  
8 in the new position need not be identical to the previously-held  
9 position, but the employer shall make a reasonable effort to  
10 make them similar, at the employee's request.

11 (b) During any medical leave taken pursuant to  
12 section -2, the employer shall maintain any health care  
13 benefits the covered individual had prior to taking such leave,  
14 to the extent provided under section 393-15. Nothing in this  
15 subsection shall be interpreted to modify chapter 393.

16 (c) During any family leave taken pursuant to section -  
17 2, the employer shall maintain any health care benefits the  
18 covered individual had prior to taking such leave for the  
19 duration of the leave as if the covered individual had continued  
20 in employment continuously from the date the covered individual  
21 commenced the leave until the date the family leave insurance



1 benefits terminate; provided that the covered individual shall  
2 continue to pay the covered individual's share of the cost of  
3 health benefits as required prior to the commencement of the  
4 leave.

5 (d) Nothing in this section shall be construed to conflict  
6 with chapter 393 or title 29 United States Code section 1144  
7 (b) (5) (A) or to modify chapter 393.

8 (e) This section shall be enforced as provided in  
9 chapter 398.

10 § -8 **Retaliatory personnel actions prohibited.** (a) It  
11 shall be unlawful for an employer or any other person to  
12 interfere with, restrain, or deny the exercise of, or the  
13 attempt to exercise, any right protected under this chapter.

14 (b) An employer, temporary help company, employment  
15 agency, employee organization, or other person shall not take  
16 retaliatory personnel action or otherwise discriminate against a  
17 person because the person exercised rights protected under this  
18 chapter. These rights include but are not limited to the right  
19 to request, file for, apply for, or use benefits or leave  
20 provided for under this chapter; communicate to the employer or  
21 any other person or entity an intent to file a claim, a



1 complaint with the department or courts, or an appeal; testify,  
2 plan to testify, or assist in any investigation, hearing, or  
3 proceeding under this chapter, at any time, including during the  
4 period in which the person receives family and medical leave  
5 insurance benefits under this chapter; inform any person about  
6 any employer's alleged violation of this chapter; and inform any  
7 other person of the other person's rights under this chapter.

8 (c) It shall be unlawful for an employer's absence control  
9 policy to count paid family and medical leave taken under this  
10 chapter as an absence that may lead to or result in discipline,  
11 discharge, demotion, suspension, or any other adverse action.

12 (d) Protections of this section shall apply to any person  
13 who mistakenly, but in good faith, alleges violations of this  
14 chapter.

15 (e) This section shall be enforced as provided in  
16 chapter 398.

17 **§ -9 Coordination of benefits.** (a) Leave taken with  
18 wage replacement under this chapter that also qualifies as leave  
19 under the federal Family and Medical Leave Act or chapter 398  
20 shall run concurrently with leave taken under the federal Family  
21 and Medical Leave Act or chapter 398.



1           (b) An employer may require that payment made pursuant to  
2 this chapter be made concurrently or otherwise coordinated with  
3 payment made or leave allowed under the terms of disability or  
4 family care leave under a collective bargaining agreement or  
5 employer policy. The employer shall give employees written  
6 notice of this requirement.

7           (c) This chapter does not diminish an employer's  
8 obligation to comply with any of the following that provide more  
9 generous leave:

- 10           (1) A collective bargaining agreement;
- 11           (2) An employer policy; or
- 12           (3) Any other law.

13           (d) An individual's right to leave under this chapter may  
14 not be diminished by a collective bargaining agreement entered  
15 into or renewed, or an employer policy adopted or retained,  
16 after the effective date of this chapter. Any agreement by an  
17 individual to waive the individual's rights under this chapter  
18 is void as against public policy.

19           (e) Under no circumstances shall an employee be required  
20 to use, exhaust, or substitute any accrued vacation leave, sick  
21 leave, or other paid time off prior to or while receiving family



1 and medical leave insurance benefits under this chapter;  
2 provided that an employee may elect to substitute or use any  
3 accrued vacation leave, sick leave, or other paid time off while  
4 receiving family or medical leave insurance benefits under this  
5 chapter or paid leave pursuant to section 398-4. If that  
6 accrued vacation leave, sick leave, or other paid time off is  
7 compensated at the rate of an employee's usual pay, the employee  
8 shall not simultaneously receive family and medical leave  
9 insurance benefits under this chapter. If that accrued vacation  
10 leave, sick leave, or other paid time off is compensated at less  
11 than the employee's usual pay, the employee shall be eligible to  
12 simultaneously receive family and medical leave insurance  
13 benefits; provided that the aggregate amount the employee would  
14 receive does not exceed the employee's average weekly wage used  
15 by the department to calculate family and medical leave  
16 insurance benefits. Nothing in this subsection shall require an  
17 employee to receive or use additional vacation leave, sick  
18 leave, or paid time off as described in this section.

19       **§ -10 Notice.** (a) Each employer shall provide written  
20 notice to each employee upon hiring and annually thereafter. An  
21 employer shall also provide written notice to an employee when



1 the employee requests leave under this chapter, or when the  
2 employer acquires knowledge that an employee's leave may be for  
3 a qualifying reason under section -2(a)(2). Such notice  
4 shall include:

- 5 (1) The employee's right to family and medical leave  
6 insurance benefits under this chapter and the terms  
7 under which the benefits may be used;
- 8 (2) The amount of family and medical leave insurance  
9 benefits;
- 10 (3) The procedure for filing a claim for benefits;
- 11 (4) The procedure for selecting a designated person;
- 12 (5) The right to employment protection and benefits  
13 continuation under section -7;
- 14 (6) That discrimination and retaliatory personnel actions  
15 against a person for requesting, applying for, or  
16 using family and medical leave insurance benefits is  
17 prohibited under section -8; and
- 18 (7) That the employee has a right to file a complaint for  
19 violations of this chapter.

20 (b) An employer shall display and maintain a poster in a  
21 conspicuous place accessible to employees at the employer's



1 place of business that contains the information required by this  
2 section in English, Ilocano, Tagalog, Japanese, and any language  
3 that is the first language spoken by at least five per cent of  
4 the employer's workforce; provided that the notice has been  
5 provided by the department. The director may adopt rules to  
6 establish additional requirements concerning the means by which  
7 employers shall provide such notice.

8 (c) Employees shall provide notice to their employers as  
9 soon as practicable of their intention to take leave under this  
10 chapter.

11 § -11 Appeals. (a) The director shall establish a  
12 system for appeals in the case of a denial of family and medical  
13 leave insurance benefits. In establishing the system, the  
14 director may utilize any and all procedures and appeals  
15 mechanisms established under section 383-38.

16 (b) Judicial review of any decision with respect to family  
17 and medical leave insurance benefits shall be permitted in a  
18 court of competent jurisdiction after an aggrieved party has  
19 exhausted all administrative remedies established by the  
20 director.



1 (c) The director shall implement procedures to ensure  
2 confidentiality of all information related to any claims filed  
3 or appeals taken to the maximum extent permitted by applicable  
4 laws.

5 § -12 **Erroneous payments and disqualifications for**  
6 **benefits.** (a) A covered individual shall be disqualified from  
7 family and medical leave insurance benefits for one year if the  
8 individual is determined by the director to have knowingly and  
9 wilfully made a false statement or misrepresentation regarding a  
10 material fact, or knowingly and wilfully failed to report a  
11 material fact, to obtain benefits under this chapter.

12 (b) If family and medical leave insurance benefits are  
13 paid erroneously or as a result of misrepresentation, or if a  
14 claim for family and medical leave insurance benefits is  
15 rejected after benefits are paid, the department may seek  
16 repayment of benefits and penalties from the recipient. The  
17 amount of penalty shall not be greater than one hundred fifty  
18 per cent of the amount of benefits paid erroneously to the  
19 recipient. The director shall exercise the director's  
20 discretion to waive, in whole or in part, the amount of any



1 payments and penalties where the recovery would be against  
2 equity and good conscience.

3       §   -13   **Elective coverage.** (a) A self-employed person,  
4 including a sole proprietor, partner, or joint venturer, may  
5 elect coverage under this chapter for an initial period of not  
6 less than three years. The self-employed person shall file a  
7 notice of election in writing with the director, as required by  
8 the department. The election shall become effective on the date  
9 of filing the notice. As a condition of election, the self-  
10 employed person shall agree to supply any information concerning  
11 income that the department deems necessary.

12       (b) A self-employed person who has elected coverage may  
13 withdraw from coverage within thirty days after the end of the  
14 three-year period of coverage, or at other times as the director  
15 may prescribe by rule, by filing written notice with the  
16 director. The withdrawal shall take effect no sooner than  
17 thirty days after filing the notice.

18       §   -14   **Family and medical leave insurance program.** (a)  
19 By January 1, 2028, the department shall establish and  
20 administer a family and medical leave insurance program and  
21 begin collecting contributions as specified in this chapter. By



1 January 1, 2029, the department shall begin receiving claims and  
2 paying family and medical leave insurance benefits as specified  
3 in this chapter.

4 (b) The department shall establish reasonable procedures  
5 and forms for filing claims for benefits under this chapter and  
6 shall specify the necessary supporting documentation to support  
7 a claim for benefits, including any documentation required from  
8 a health care provider for proof of a serious health condition  
9 and any documentation required by the department to meet the  
10 eligibility requirements for family leave.

11 (c) The department shall notify the employer within five  
12 business days of a claim being filed pursuant to this chapter.

13 (d) The department shall use information sharing and  
14 integration technology to facilitate the disclosure of relevant  
15 information or records so long as the covered individual  
16 consents to the disclosure as required under state law.

17 (e) Information contained in the files and records  
18 pertaining to a covered individual under this chapter shall be  
19 confidential and not open to public inspection, other than to  
20 public employees in the performance of their official duties;  
21 provided that the individual or an authorized representative of



1 an individual may review the records or receive specific  
2 information from the records upon the presentation of the  
3 individual's signed authorization.

4 (f) The director shall adopt rules as necessary to  
5 implement this chapter.

6 § -15 **Federal and state income tax.** (a) To the extent  
7 that family and medical leave insurance benefits under this  
8 chapter are subject to federal income tax, the department shall  
9 advise a covered individual filing a new claim for family and  
10 medical leave insurance benefits wholly or partially subject to  
11 federal income tax, at the time of filing the claim, that:

- 12 (1) The Internal Revenue Service has determined that  
13 family and medical leave insurance benefits may be  
14 subject to federal income tax;
- 15 (2) Requirements exist pertaining to estimated tax  
16 payments;
- 17 (3) The individual may elect to have applicable federal  
18 income tax deducted and withheld from the individual's  
19 payment of benefits in the amount specified in the  
20 Internal Revenue Code of 1986, as amended; and



1 (4) The individual is permitted to change a previously  
2 elected withholding status.

3 (b) Family and medical leave insurance benefits under this  
4 chapter shall not be subject to state income tax.

5 § -16 Family and medical leave trust fund. (a) There  
6 is established in the treasury of the State as a trust fund,  
7 separate and apart from all public moneys or funds of the State,  
8 a family and medical leave trust fund, which shall be  
9 administered by the department exclusively for the purposes of  
10 this chapter. All contributions pursuant to this chapter shall  
11 be paid into the trust fund and all benefits payable pursuant to  
12 this chapter shall be paid from the trust fund. All moneys in  
13 the trust fund shall be mingled and undivided.

14 (b) Whenever in the judgment of the director of finance  
15 there shall be in the trust fund an amount of funds in excess of  
16 that amount deemed by the director of finance to be sufficient  
17 to meet the current expenditures properly payable therefrom, the  
18 director of finance shall have full power to invest, reinvest,  
19 manage, contract, or sell or exchange investments acquired with  
20 the excess funds in the manner prescribed by law.



1 (c) On January 1, 2026, or as soon as possible thereafter,  
2 the director of finance shall transfer \$ from the  
3 general fund to the family and medical leave trust fund to cover  
4 the start-up costs to administer this chapter before and during  
5 the first year of payroll contributions. Such costs may include  
6 but not limited to hiring and employing personnel to perform  
7 functions relating to the establishment and administration of  
8 the family and medical leave trust fund, project administration  
9 and outreach, and procurement of information technology and data  
10 systems to develop and implement the administrative  
11 infrastructure necessary to implement this chapter. All  
12 contracting shall be done in accordance with state law with  
13 regard to procurement of services from an outside vendor.

14 (d) No later than December 31, 2030, the department shall  
15 repay the loan of \$ received pursuant to subsection  
16 (c).

17 **§ -17 Reports.** Beginning January 1, 2030, the  
18 department shall report to the legislature by April 1 of each  
19 year on projected and actual program participation in the family  
20 and medical leave insurance program and include the criteria  
21 listed in section -2(a)(2), gender of beneficiary, premium



1 rates, fund balances, outreach efforts, and, for leaves taken  
2 under section -2(a)(2)(B), family members for whom leave was  
3 taken to provide care.

4 § -18 **Public education.** The department shall conduct a  
5 public education campaign to inform employees and employers  
6 regarding the availability of family and medical leave insurance  
7 benefits. Outreach information shall be available in English,  
8 Ilocano, Chuukese, Marshallese, Tagalog, Spanish, and other  
9 languages spoken by more than five per cent of the students in  
10 the department of education's English learner program.

11 § -19 **Sharing technology.** The department may use state  
12 data collection and technology to the extent possible and to  
13 integrate the program with existing state policies.

14 § -20 **Severability.** If any provision of this chapter or  
15 its claim to any person or circumstance is held invalid, the  
16 invalidity shall not affect other provisions or claims of the  
17 chapter which can be given effect without the invalid provision  
18 or claim, and to this end the provisions of this chapter are  
19 declared to be severable."

20 SECTION 2. The department shall adopt all rules necessary  
21 for implementation of this part by January 1, 2027.



1 PART II

2 SECTION 3. Chapter 392, Hawaii Revised Statutes, is  
3 repealed.

4 SECTION 4. Subpart B of part VI of chapter 378, Hawaii  
5 Revised Statutes, is repealed.

6 PART III

7 SECTION 5. Section 41D-2, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) The comptroller, through the risk manager, shall:

10 (1) Have discretion to purchase casualty insurance for the  
11 State or state agencies, including those employees of  
12 the State who, in the comptroller's discretion, may be  
13 at risk and shall be responsible for the acquisition  
14 of all casualty insurance;

15 (2) Have discretion to purchase property insurance for the  
16 State or state agencies and shall acquire all property  
17 insurance;

18 (3) Direct and manage all risk management and insurance  
19 programs of the State, except for employee benefits  
20 insurance and workers' compensation insurance programs



1 or as otherwise provided in chapters 87A, 88, 383 to  
2 386A, [~~392~~7] and 393;

3 (4) Consult with state agencies to determine what  
4 property, casualty, and other insurance policies are  
5 presently in force or are sought by the state agencies  
6 and to make determinations about whether to continue  
7 subscribing to insurance policies. In the event that  
8 the risk manager's determination is not satisfactory  
9 to the state agency, the state agency may have the  
10 risk manager's decision reviewed by the comptroller.  
11 In this case, the comptroller's decision shall be  
12 final;

13 (5) Consolidate and combine state insurance coverages, and  
14 purchase excess insurance when, in the comptroller's  
15 discretion, it is appropriate to do so;

16 (6) Acquire risk management, investigative, claims  
17 adjustment, actuarial, and other services, except  
18 attorney's services, as may be required for the sound  
19 administration of this chapter; provided that a broker  
20 submitting a proposal in response to a fixed fee  
21 solicitation by the comptroller pursuant to this



- 1 subsection and the broker's performance of the  
2 activities in accordance with the proposal shall not  
3 constitute a violation of sections 431:10-218,  
4 431:13-102, and 431:13-103;
- 5 (7) Gather from all state agencies and maintain data  
6 regarding the State's risks and casualty, property,  
7 and fidelity losses;
- 8 (8) In conjunction with the attorney general and as  
9 otherwise provided by this chapter, compromise or  
10 settle claims cognizable under chapter 662;
- 11 (9) Provide technical services in risk management and  
12 insurance to state agencies;
- 13 (10) Be authorized to establish a captive insurance company  
14 pursuant to article 19 of chapter 431 to effectuate  
15 the purposes of this chapter; and
- 16 (11) Do all other things appropriate to the development of  
17 sound risk management practices and policies for the  
18 State."

19 SECTION 6. Section 103D-310, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:



1           "(c) All offerors, upon award of contract, shall comply  
2 with all laws governing entities doing business in the State,  
3 including chapters 237, 383, 386, [~~392~~] and 393. Offerors  
4 shall produce documents to the procuring officer to demonstrate  
5 compliance with this subsection. Any offeror making a false  
6 affirmation or certification under this subsection shall be  
7 suspended from further offerings or awards pursuant to section  
8 103D-702. The procuring officer shall verify compliance with  
9 this subsection for all contracts awarded pursuant to sections  
10 103D-302, 103D-303, 103D-304, and 103D-306, and for contracts  
11 and procurements of \$2,500 or more awarded pursuant to section  
12 103D-305; provided that the attorney general may waive the  
13 requirements of this subsection for contracts for legal services  
14 if the attorney general certifies in writing that comparable  
15 legal services are not available in this State."

16           SECTION 7. Section 393-3, Hawaii Revised Statutes, is  
17 amended by amending the definition of "wages" to read as  
18 follows:

19           ""Wages" means all remuneration for services from whatever  
20 source, including commissions, bonuses, and tips and gratuities  
21 paid directly to any individual by a customer of the



1 individual's employer, and the cash value of all remuneration in  
2 any medium other than cash.

3       The director may issue [~~regulations~~] rules for the  
4 reasonable determination of the cash value of remuneration in  
5 any medium other than cash.

6       If the employee does not account to the employee's employer  
7 for the tips and gratuities received and is engaged in an  
8 occupation in which the employee customarily and regularly  
9 receives more than \$20 a month in tips, the combined amount  
10 received by the employee from the employee's employer and from  
11 tips shall be deemed to be at least equal to the wage required  
12 by chapter 387 or a greater sum as determined by regulation of  
13 the director.

14       "Wages" does not include the amount of any payment  
15 specified in section 383-11 [~~or 392-22~~] or chapter 386."

16       SECTION 8. Section 398-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18       "(c) An employer who provides sick leave for employees  
19 shall permit an employee to use the employee's accrued and  
20 available sick leave for purposes of this chapter[~~; provided~~  
21 ~~that an employee shall not use more than ten days per year for~~



1 ~~this purpose, unless an express provision of a valid collective~~  
2 ~~bargaining agreement authorizes the use of more than ten days of~~  
3 ~~sick leave for family leave purposes. Nothing in this section~~  
4 ~~shall require an employer to diminish an employee's accrued and~~  
5 ~~available sick leave below the amount required pursuant to~~  
6 ~~section 392-41; provided that any sick leave in excess of the~~  
7 ~~minimum statutory equivalent for temporary disability benefits~~  
8 ~~as determined by the department may be used for purposes of this~~  
9 ~~chapter]."~~

10 SECTION 9. Section 431:10-244, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§431:10-244 Filing procedure for contracts approved by**  
13 **commissioner.** Each insurance contract requiring approval by the  
14 commissioner pursuant to this code[~~, section 392-48,~~] or section  
15 386-124 and each contract certified by the insurer to be in  
16 conformity with this code shall be accompanied by a \$20 fee  
17 payable to the commissioner, which shall be deposited into the  
18 commissioner's education and training fund."

19 PART IV



1 SECTION 10. Chapter 378, Hawaii Revised Statutes, is  
2 amended by amending the title of part VI, subpart C, to read as  
3 follows:

4 "~~C.~~ B. REASONABLE ACCOMMODATIONS IN THE WORKPLACE"

5 SECTION 11. Section 378-71, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By repealing the definition of "child".

8 [~~"Child" means an individual who is a biological, adopted,  
9 or foster son or daughter; a stepchild; or a legal ward of an  
10 employee."~~]

11 2. By repealing the definition of "course of conduct".

12 [~~"Course of conduct" means acts over any period of time of  
13 repeatedly maintaining a visual or physical proximity to a  
14 person or conveying verbal or written threats, including threats  
15 conveyed through electronic communications or threats implied by  
16 conduct."~~]

17 3. By repealing the definition of "electronic  
18 communications".

19 [~~"Electronic communications" includes communications via  
20 telephone, mobile phone, computer, e-mail, video recorder, fax  
21 machine, telex, or pager."~~]



1 4. By repealing the definition of "health care provider".  
2 [~~"Health care provider" means a physician as defined under~~  
3 ~~section 386-1."~~]

4 PART V

5 SECTION 12. If any provision of this Act, or the claim  
6 thereof to any person or circumstance, is held invalid, the  
7 invalidity does not affect other provisions or claims of the Act  
8 that can be given effect without the invalid provision or claim,  
9 and to this end the provisions of this Act are severable.

10 SECTION 13. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 14. This Act shall take effect on July 1, 3000;  
13 provided that parts II, III, and IV shall take effect on the  
14 earlier of January 1, 2029, or the start of the department of  
15 labor and industrial relations receiving claims and paying  
16 family and medical leave insurance benefits as specified under  
17 chapter .



# H.B. NO. 755 H.D. 1

**Report Title:**

Keiki Caucus; Family and Medical Leave Insurance Program; Family and Medical Leave Insurance Benefits; Department of Labor and Industrial Relations

**Description:**

By 1/1/2028, requires the Department of Labor and Industrial Relations to establish a family and medical leave insurance program and begin collecting payroll contributions to finance payment of benefits. By 1/1/2029, requires the Department to start receiving claims and paying benefits under the program. Specifies eligibility requirements and employee protections under the program. Effective 7/1/3000. (HD1)

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

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