
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 leave insurance benefits and medical
12 leave insurance benefits. A subsequent benefit year is the one-
13 year period following a preceding benefit year, beginning either
14 with the first:

15 (1) Day of the first week of family leave and medical
16 leave with respect to which the individual files a



1 subsequent claim for family leave insurance benefits
2 and medical leave insurance benefits; or

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

10 "Covered individual" means:

11 (1) Any person who:

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

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

20 (2) Meets the administrative requirements outlined in this
21 chapter and in rules adopted under this chapter; and



1 (3) Submits a claim.

2 "Department" means the department of labor and industrial
3 relations.

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

11 "Director" means the director of labor and industrial
12 relations.

13 "Domestic partner" means a person at least eighteen years
14 of age who:

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

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

20 (B) Common householding;

21 (C) Children in common;



- 1 (D) Signs of intent to marry;
- 2 (E) Shared budgeting; and
- 3 (F) The length of the personal relationship with the
- 4 covered individual; or

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

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

11 "Employer" has the same meaning as defined in section
12 387-1. "Employer" includes the State or counties or any
13 political subdivision thereof.

14 "Family leave" means leave taken pursuant to
15 section -2(a).

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

19 "Family member" means:

- 20 (1) A biological, adopted or foster child, stepchild or
- 21 legal ward, a child of a domestic partner, or a child



- 1 to whom the covered individual stands in loco
2 parentis;
- 3 (2) A biological, adoptive or foster parent, stepparent or
4 legal guardian of a covered individual or a covered
5 individual's spouse or domestic partner or a person
6 who stood in loco parentis when the covered individual
7 or the covered individual's spouse or domestic partner
8 was a minor child;
- 9 (3) A person to whom the covered individual is legally
10 married under the laws of any state, or a domestic
11 partner of a covered individual; or
- 12 (4) A grandparent, grandchild or sibling (whether a
13 biological, adoptive, foster, or step relationship) of
14 the covered individual, the covered individual's
15 designated person, the covered individual's spouse or
16 domestic partner, or the spouse or domestic partner of
17 a covered individual's sibling.

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



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

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

6 "Next of kin" has the same meaning as defined in section
7 101(17) of the federal Family and Medical Leave Act of 1993 (29
8 U.S.C. 2611(17)).

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

20 "Qualifying service member" means:



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



1 duty on active duty in the armed forces and manifested
2 before or after the member was discharged or released
3 from service.

4 "Retaliatory personnel action" means denial of any right
5 guaranteed under this chapter, including but not limited to any
6 demotion, discharge, reduction of hours, suspension, threat, or
7 any other adverse action against an employee for the exercise of
8 any right guaranteed in this chapter, or reporting or
9 threatening to report an employee's suspected citizenship or
10 immigration status or the suspected citizenship or immigration
11 status of a family member of the employee to a federal or state
12 agency. "Retaliatory personnel action" includes interference
13 with or punishment for, in any manner, participating in or
14 assisting an investigation, proceeding, or hearing under this
15 chapter.

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



1 "State average weekly wage" has the same meaning as defined
2 in section 386-1.

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

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

18 (1) Qualifies as a covered individual; and

19 (2) Meets one of the following requirements:

20 (A) Because of birth, adoption, or placement through
21 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 described 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 a benefit year shall be twelve weeks.

6 (b) The maximum number of weeks during which medical leave
7 insurance benefits are payable in a 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 leave and
11 medical leave claim is filed or the family leave and medical
12 leave begins, whichever is later, and subsequent payments shall
13 be made every two weeks thereafter. The department shall notify
14 the claimant of any additional information required to complete
15 or cure their 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 leave and medical leave, if anticipation of the
18 family leave and medical leave is possible. Claims shall be
19 filed within ninety days after the commencement of the need for
20 family leave and medical leave or as soon thereafter as may be
21 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 average weekly wage;

10 (2) Sixty-six per cent of wages that exceed fifty per cent
11 of the state average weekly wage but is no more than
12 one hundred per cent of the state average weekly wage;
13 and

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

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

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



1 of family leave insurance benefits and medical leave insurance
2 benefits.

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

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

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

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



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

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

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

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



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

4 § -7 **Leave and employment protection.** (a) Any covered
5 individual who exercises the covered individual's right to
6 family leave insurance benefits and medical leave insurance
7 benefits shall, upon the expiration of that leave, be entitled
8 to be restored by the employer to the position held by the
9 covered individual when the leave commenced, or to a position
10 with equivalent seniority, status, employment benefits, pay, and
11 other terms and conditions of employment, including but not
12 limited to fringe benefits and service credits that the covered
13 individual had been entitled to at the commencement of leave;
14 provided that job duties and hours in the new position need not
15 be identical to the previously-held position, but the employer
16 shall make a reasonable effort to make them similar, at the
17 employee's request.

18 (b) During any medical leave taken pursuant to
19 section -2, the employer shall maintain any health care
20 benefits the covered individual had before taking the leave, to



1 the extent provided under section 393-15. Nothing in this
2 subsection shall be interpreted to modify chapter 393.

3 (c) During any family leave taken pursuant to
4 section -2, the employer shall maintain any health care
5 benefits the covered individual had before taking the leave for
6 the duration of the leave as if the covered individual had
7 continued in employment continuously from the date the covered
8 individual commenced the leave until the date the family leave
9 insurance benefits terminate; provided that the covered
10 individual shall continue to pay the covered individual's share
11 of the cost of health benefits as required before the
12 commencement of the leave.

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

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

18 § -8 **Retaliatory personnel actions prohibited.** (a) It
19 shall be unlawful for an employer or any other person to
20 interfere with, restrain, or deny the exercise of, or the
21 attempt to exercise, any right protected under this chapter.



1 (b) An employer, temporary help company, employment
2 agency, employee organization, or other person shall not take
3 retaliatory personnel action or otherwise discriminate against a
4 person because the person exercised rights protected under this
5 chapter. These rights include but are not limited to the right
6 to request, file for, apply for, or use benefits or leave
7 provided for under this chapter; communicate to the employer or
8 any other person or entity an intent to file a claim, a
9 complaint with the department or courts, or an appeal; testify,
10 plan to testify, or assist in any investigation, hearing, or
11 proceeding under this chapter, at any time, including during the
12 period in which the person receives family leave insurance
13 benefits and medical leave insurance benefits under this
14 chapter; inform any person about any employer's alleged
15 violation of this chapter; and inform any other person of the
16 other person's rights under this chapter.

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



1 (d) Protections of this section shall apply to any person
2 who mistakenly, but in good faith, alleges violations of this
3 chapter.

4 (e) This section shall be enforced as provided in
5 chapter 398.

6 § -9 **Coordination of benefits.** (a) Leave taken with
7 wage replacement under this chapter that also qualifies as leave
8 under the federal Family and Medical Leave Act of 1993 or
9 chapter 398 shall run concurrently with leave taken under the
10 federal Family and Medical Leave Act of 1993 or chapter 398.

11 (b) An employer may require that payment made pursuant to
12 this chapter be made concurrently or otherwise coordinated with
13 payment made or leave allowed under the terms of disability or
14 family care leave under a collective bargaining agreement or
15 employer policy. The employer shall give employees written
16 notice of this requirement.

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

20 (1) A collective bargaining agreement;

21 (2) An employer policy; or



1 (3) Any other law.

2 (d) An individual's right to leave under this chapter
3 shall not be diminished by a collective bargaining agreement
4 entered into or renewed, or an employer policy adopted or
5 retained, after the effective date of this chapter. Any
6 agreement by an individual to waive the individual's rights
7 under this chapter shall be void as against public policy.

8 (e) Under no circumstances shall an employee be required
9 to use, exhaust, or substitute any accrued vacation leave, sick
10 leave, or other paid time off prior to or while receiving family
11 leave insurance benefits or medical leave insurance benefits
12 under this chapter; provided that an employee may elect to
13 substitute or use any accrued vacation leave, sick leave, or
14 other paid time off while receiving family leave insurance
15 benefits or medical leave insurance benefits under this chapter
16 or paid leave pursuant to section 398-4. If that accrued
17 vacation leave, sick leave, or other paid time off is
18 compensated at the rate of an employee's usual pay, the employee
19 shall not simultaneously receive family leave insurance benefits
20 and medical leave insurance benefits under this chapter. If
21 that accrued vacation leave, sick leave, or other paid time off



1 is compensated at less than the employee's usual pay, the
2 employee shall be eligible to simultaneously receive family
3 leave insurance benefits or medical leave insurance benefits;
4 provided that the aggregate amount the employee would receive
5 does not exceed the employee's average weekly wage used by the
6 department to calculate family leave insurance benefits and
7 medical leave insurance benefits. Nothing in this subsection
8 shall require an employee to receive or use additional vacation
9 leave, sick leave, or paid time off as described in this
10 section.

11 § -10 **Notice.** (a) Each employer shall provide written
12 notice to each employee upon hiring and annually thereafter. An
13 employer shall also provide written notice to an employee when
14 the employee requests leave under this chapter, or when the
15 employer acquires knowledge that an employee's leave may be for
16 a qualifying reason under section -2(a)(2). The notice shall
17 include:

- 18 (1) The employee's right to family leave insurance
19 benefits and medical leave insurance benefits under
20 this chapter and the terms under which the benefits
21 may be used;



- 1 (2) The amount of family leave insurance benefits and
2 medical leave insurance benefits;
- 3 (3) The procedure for filing a claim for benefits;
- 4 (4) The procedure for selecting a designated person;
- 5 (5) The right to employment protection and benefits
6 continuation under section -7;
- 7 (6) A disclosure that discrimination and retaliatory
8 personnel actions against a person for requesting,
9 applying for, or using family leave insurance benefits
10 and medical leave insurance benefits are prohibited
11 under section -8; and
- 12 (7) A disclosure that the employee has a right to file a
13 complaint for violations of this chapter.
- 14 (b) An employer shall display and maintain a poster in a
15 conspicuous place accessible to employees at the employer's
16 place of business that contains the information required by this
17 section in English, Ilocano, Japanese, Tagalog, and any language
18 that is the first language spoken by at least five per cent of
19 the employer's workforce; provided that the notice has been
20 provided by the department. The director may adopt rules to



1 establish additional requirements concerning the means by which
2 employers shall provide such notice.

3 (c) Employees shall provide notice to their employers as
4 soon as practicable of their intention to take leave under this
5 chapter.

6 § -11 Appeals. (a) The director shall establish a
7 system for appeals in the case of a denial of family leave
8 insurance benefits and medical leave insurance benefits. In
9 establishing the system, the director may utilize any and all
10 procedures and appeals mechanisms established under section 383-
11 38.

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

17 (c) The director shall implement procedures to ensure
18 confidentiality of all information related to any claims filed
19 or appeals taken to the maximum extent permitted by applicable
20 laws.



1 § -12 **Erroneous payments and disqualifications for**
2 **benefits.** (a) A covered individual shall be disqualified from
3 family leave insurance benefits and medical leave insurance
4 benefits for one year if the individual is determined by the
5 director to have knowingly and wilfully made a false statement
6 or misrepresentation regarding a material fact, or knowingly and
7 wilfully failed to report a material fact, to obtain benefits
8 under this chapter.

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

20 § -13 **Elective coverage.** (a) A self-employed person,
21 including a sole proprietor, partner, or joint venturer, may



1 elect coverage under this chapter for an initial period of no
2 less than three years. The self-employed person shall file a
3 notice of election in writing with the director, as required by
4 the department. The election shall become effective on the date
5 of filing the notice. As a condition of election, the self-
6 employed person shall agree to supply any information concerning
7 income that the department deems necessary.

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

14 **§ -14 Family and medical leave insurance program.** (a)
15 By January 1, 2028, the department shall establish and
16 administer a family and medical leave insurance program and
17 begin collecting contributions as specified in this chapter. By
18 January 1, 2029, the department shall begin receiving claims and
19 paying family leave insurance benefits and medical leave
20 insurance benefits as specified in this chapter.



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

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

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

14 (e) Information contained in the files and records
15 pertaining to a covered individual under this chapter shall be
16 confidential and not open to public inspection, other than to
17 public employees in the performance of their official duties;
18 provided that the individual or an authorized representative of
19 an individual may review the records or receive specific
20 information from the records upon the presentation of the
21 individual's signed authorization.



1 (f) The director shall adopt rules pursuant to chapter 91
2 as necessary to implement this chapter.

3 § -15 **Federal and state income tax.** (a) To the extent
4 that family leave insurance benefits and medical leave insurance
5 benefits under this chapter are subject to federal income tax,
6 the department shall advise a covered individual filing a new
7 claim for family leave insurance benefits or medical leave
8 insurance benefits wholly or partially subject to federal income
9 tax, at the time of filing the claim, that:

10 (1) The Internal Revenue Service has determined that
11 family leave insurance benefits or medical leave
12 insurance benefits may be subject to federal income
13 tax;

14 (2) Requirements exist pertaining to estimated tax
15 payments;

16 (3) The covered individual may elect to have applicable
17 federal income tax deducted and withheld from the
18 covered individual's payment of benefits in the amount
19 specified in the Internal Revenue Code of 1986, as
20 amended; and



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

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

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

15 (b) Whenever in the judgment of the director of finance
16 there shall be in the trust fund an amount of funds in excess of
17 that amount deemed by the director of finance to be sufficient
18 to meet the current expenditures properly payable therefrom, the
19 director of finance shall have full power to invest, reinvest,
20 manage, contract, or sell or exchange investments acquired with
21 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 leave insurance benefits
7 and medical leave insurance benefits. Outreach information
8 shall be available in English, Ilocano, Chuukese, Marshallese,
9 Tagalog, Spanish, and other languages spoken by more than five
10 per cent of the students in the department of education's
11 English learner program.

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

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



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

3 PART II

4 SECTION 3. Chapter 392, Hawaii Revised Statutes, is
5 repealed.

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

8 PART III

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

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

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

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

20 (3) Direct and manage all risk management and insurance
21 programs of the State, except for employee benefits



1 insurance and workers' compensation insurance programs
2 or as otherwise provided in chapters 87A, 88, 383 to
3 386A, [~~392,~~] and 393;

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

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

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



1 solicitation by the comptroller pursuant to this
2 subsection and the broker's performance of the
3 activities in accordance with the proposal shall not
4 constitute a violation of sections 431:10-218,
5 431:13-102, and 431:13-103;

6 (7) Gather from all state agencies and maintain data
7 regarding the State's risks and casualty, property,
8 and fidelity losses;

9 (8) In conjunction with the attorney general and as
10 otherwise provided by this chapter, compromise or
11 settle claims cognizable under chapter 662;

12 (9) Provide technical services in risk management and
13 insurance to state agencies;

14 (10) Be authorized to establish a captive insurance company
15 pursuant to article 19 of chapter 431 to effectuate
16 the purposes of this chapter; and

17 (11) Do all other things appropriate to the development of
18 sound risk management practices and policies for the
19 State."

20 SECTION 6. Section 103D-310, Hawaii Revised Statutes, is
21 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 302D-26, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The State shall afford administrative, support, and
19 instructional employees in charter schools full participation in
20 the State's systems for retirement, workers' compensation,
21 unemployment insurance, [~~temporary disability insurance,~~] paid



1 family and medical leave, and health benefits in accordance with
2 the qualification requirements for each."

3 SECTION 8. Section 373L-2, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Registration information required by this section
6 shall include:

- 7 (1) The name or names under which the professional
8 employer organization conducts or will conduct
9 business;
- 10 (2) The address of the principal place of business of the
11 professional employer organization and the address of
12 each office that the professional employer
13 organization maintains in this State;
- 14 (3) The professional employer organization's general
15 excise tax number;
- 16 (4) A copy of the certificate of authority to transact
17 business in this State issued by the director of
18 commerce and consumer affairs pursuant to title 23 or
19 title 23A, if applicable;
- 20 (5) A list, organized by jurisdiction, of each name under
21 which the professional employer organization has



- 1 operated in the preceding five years, including any
2 alternative names; names of predecessors; and, if
3 known, names of successor business entities;
- 4 (6) A statement of ownership, which shall include the name
5 of each person who, individually or acting in concert
6 with any other person or persons, owns or controls,
7 directly or indirectly, twenty-five per cent or more
8 of the equity interests of the professional employer
9 organization;
- 10 (7) A statement of management, which shall include the
11 name of any person who serves as president or chief
12 executive officer or who otherwise has the authority
13 to act as a senior executive officer of the
14 professional employer organization;
- 15 (8) Proof of valid workers' compensation coverage in
16 compliance with all laws of this State;
- 17 (9) Proof of compliance with [~~the Hawaii temporary~~
18 ~~disability insurance law;~~] chapter ;
- 19 (10) Proof of compliance with the Hawaii prepaid health
20 care act;



- 1 (11) Proof of compliance with the Hawaii employment
2 security law, including payment of any applicable
3 employer liability pursuant to chapter 383;
- 4 (12) The name, address, and phone number of the financial
5 institution utilized by the professional employer
6 organization for payroll purposes that operates and
7 maintains branches in the State;
- 8 (13) The name of each client company that is party to a
9 professional employer agreement with a professional
10 employer organization which shall be provided to the
11 department on a form approved by the department within
12 twenty-one business days of the initiation of the
13 agreement and within twenty-one business days of the
14 termination of the agreement; and
- 15 (14) A copy of the Internal Revenue Service Form W-3,
16 Transmittal of Wage and Tax Statements, that was most
17 recently filed with the federal government, and which
18 shall be used for obtaining a bond or irrevocable
19 letter of credit pursuant to section 373L-3."

20 SECTION 9. Section 373L-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~+~~§373L-6~~+~~ **Responsibility of professional employer**
2 **organizations.** During the term of the agreement between a
3 professional employer organization and its client company, the
4 professional employer organization shall be deemed the employer
5 for all covered employees for purposes of complying with all
6 laws relating to unemployment insurance, workers' compensation,
7 ~~[temporary disability insurance,]~~ paid family and medical leave,
8 and prepaid health care coverage and the professional employer
9 organization shall provide written notification to each covered
10 employee of this responsibility."

11 SECTION 10. Section 393-3, Hawaii Revised Statutes, is
12 amended by amending the definition of "wages" to read as
13 follows:

14 ""Wages" means all remuneration for services from whatever
15 source, including commissions, bonuses, and tips and gratuities
16 paid directly to any individual by a customer of the
17 individual's employer, and the cash value of all remuneration in
18 any medium other than cash.

19 The director may issue ~~[regulations]~~ rules for the
20 reasonable determination of the cash value of remuneration in
21 any medium other than cash.



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

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

11 SECTION 11. Section 398-1, Hawaii Revised Statutes, is
12 amended by amending the definition of "sick leave" to read as
13 follows:

14 ""Sick leave":

15 (1) Means accrued increments of compensated leave provided
16 by an employer to an employee for use by the employee
17 for any of the following reasons:

18 (A) The employee is physically or mentally unable to
19 perform the employee's duties due to illness,
20 injury, or a medical condition of the employee;



1 (B) The absence is for the purpose of obtaining
2 professional diagnosis or treatment for a medical
3 condition of the employee; or

4 (C) The absence is for other medical reasons of the
5 employee, such as pregnancy or obtaining a
6 physical examination; and

7 (2) Shall not include any insurance benefit, workers'
8 compensation benefit, unemployment compensation due to
9 illness or disability, or [~~temporary disability~~]
10 medical leave insurance benefit."

11 SECTION 12. Section 398-4, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) An employer who provides sick leave for employees
14 shall permit an employee to use the employee's accrued and
15 available sick leave for purposes of this chapter[; ~~provided~~
16 ~~that an employee shall not use more than ten days per year for~~
17 ~~this purpose, unless an express provision of a valid collective~~
18 ~~bargaining agreement authorizes the use of more than ten days of~~
19 ~~sick leave for family leave purposes. Nothing in this section~~
20 ~~shall require an employer to diminish an employee's accrued and~~
21 ~~available sick leave below the amount required pursuant to~~



1 ~~section 392-41; provided that any sick leave in excess of the~~
2 ~~minimum statutory equivalent for temporary disability benefits~~
3 ~~as determined by the department may be used for purposes of this~~
4 ~~chapter]."~~

5 SECTION 13. Section 431:10-244, Hawaii Revised Statutes,
6 is amended to read as follows:

7 "**§431:10-244 Filing procedure for contracts approved by**
8 **commissioner.** Each insurance contract requiring approval by the
9 commissioner pursuant to this code[, ~~section 392-48,~~] or section
10 386-124 and each contract certified by the insurer to be in
11 conformity with this code shall be accompanied by a \$20 fee
12 payable to the commissioner, which shall be deposited into the
13 commissioner's education and training fund."

14 PART IV

15 SECTION 14. Section 378-71, Hawaii Revised Statutes, is
16 amended by repealing the definition of "health care provider".

17 [~~"Health care provider" means a physician as defined under~~
18 ~~section 386-1."~~]

19 PART V

20 SECTION 15. If any provision of this Act, or the claim
21 thereof to any person or circumstance, is held invalid, the



1 invalidity does not affect other provisions or claims of the Act
2 that can be given effect without the invalid provision or claim,
3 and to this end the provisions of this Act are severable.

4 SECTION 16. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 17. This Act shall take effect on July 1, 3000;
7 provided that parts II, III, and IV shall take effect on the
8 earlier of January 1, 2029, or the start of the department of
9 labor and industrial relations receiving claims and paying
10 family leave insurance benefits and medical leave insurance
11 benefits as specified under chapter , Hawaii Revised
12 Statutes, as enacted by this Act.



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. (HD2)

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

