
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
13 one-year period following a preceding benefit year, beginning
14 either 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) Is not a public employee and has:

13 (i) Worked for an employer for at least fourteen
14 weeks, during each of which the individual
15 received remuneration in any form; and

16 (ii) Earned wages of at least \$5,040 during the
17 fifty-two weeks immediately prior to paid
18 leave granted under this chapter;

19 (B) Is a public employee who elects coverage, meets
20 the requirements of section -13, and has:



(i) Worked for the State or a political subdivision thereof for at least fourteen weeks, during each of which the individual received remuneration in any form; and

(ii) Earned wages of at least \$5,040 during the fifty-two weeks immediately prior to paid leave granted under this chapter; or

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

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

(3) Submits a claim.

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

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



1 "Director" means the director of labor and industrial
2 relations.

3 "Domestic partner" means a person at least eighteen years
4 of age who:

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

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

10 (B) Common householding;

11 (C) Children in common;

12 (D) Signs of intent to marry;

13 (E) Shared budgeting; and

14 (F) The length of the personal relationship with the
15 covered individual; or

16 (2) Has registered as the domestic partner of the covered
17 individual with any registry of domestic partnerships
18 maintained by the employer of either party, or in any
19 state, county, city, town, or village in the United
20 States.

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



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

4 "Family leave" means leave taken pursuant to
5 section -2(a).

6 "Family leave insurance benefits" means the benefits
7 provided under the terms of this chapter to a covered individual
8 while the covered individual is on family leave.

9 "Family member" means:

10 (1) A biological, adopted, or foster child; stepchild or
11 legal ward; a child of a domestic partner; or a child
12 to whom the covered individual stands in loco
13 parentis;

14 (2) A biological, adoptive, or foster parent; stepparent;
15 or legal guardian of a covered individual or a covered
16 individual's spouse or domestic partner or a person
17 who stood in loco parentis when the covered individual
18 or the covered individual's spouse or domestic partner
19 was a minor child;



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

4 (4) A grandparent, grandchild, or sibling (whether a
5 biological, adoptive, foster, or step relationship) of
6 the covered individual; the covered individual's
7 designated person; the covered individual's spouse or
8 domestic partner; or the spouse or domestic partner of
9 a covered individual's sibling.

10 "Health care provider" means any person licensed under
11 federal or state law to provide medical or emergency services,
12 including but not limited to doctors, nurses, and emergency room
13 personnel, or certified midwives.

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

16 "Medical 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 medical leave.

19 "Next of kin" has the same meaning as defined in
20 section 101(17) of the federal Family and Medical Leave Act of
21 1993 (29 United States Code 2611(17)).



1 "Public employee" has the same meaning as defined in
2 section 76-11; provided that "public employee" includes any
3 person in the service of a jurisdiction, regardless of whether
4 the person is a civil service employee.

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

16 "Qualifying service member" means:

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

19 (A) Undergoing medical treatment, recuperation, or
20 therapy;

21 (B) Otherwise in outpatient status; or



1 (C) Is otherwise on the temporary disability retired
2 list for a serious injury or illness that was
3 incurred by the member in the line of duty on
4 active duty in the armed forces, or a serious
5 injury or illness that existed before the
6 beginning of the member's active duty and was
7 aggravated by service in the line of duty on
8 active duty in the armed forces; or

9 (2) A former member of the armed forces, including a
10 former member of the national guard or reserves, who
11 is undergoing medical treatment, recuperation, or
12 therapy for a serious injury or illness that was
13 incurred by the member in line of duty on active duty
14 in the armed forces, or a serious injury or illness
15 that existed before the beginning of the member's
16 active duty and was aggravated by service in line of
17 duty on active duty in the armed forces and manifested
18 before or after the member was discharged or released
19 from service.

20 "Retaliatory personnel action" means denial of any right
21 guaranteed under this chapter, including but not limited to any



1 demotion, discharge, reduction of hours, suspension, threat, or
2 any other adverse action against an employee for the exercise of
3 any right guaranteed in this chapter, or reporting or
4 threatening to report an employee's suspected citizenship or
5 immigration status or the suspected citizenship or immigration
6 status of a family member of the employee to a federal or state
7 agency. "Retaliatory personnel action" includes interference
8 with or punishment for, in any manner, participating in or
9 assisting an investigation, proceeding, or hearing under this
10 chapter.

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

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

19 "Wages" means all remuneration for services from whatever
20 source, including commissions, bonuses, tips or gratuities
21 received in the course of employment from others than the



1 employer to the extent that they are customary and expected in
2 that type of employment and reported to the employer for payroll
3 tax deduction purposes, and the cash value of all remuneration
4 in any medium other than cash. The director may adopt rules for
5 the reasonable determination of the cash value of remuneration
6 in any medium other than cash. The director shall adopt rules
7 regarding the determination of wages for those who elect
8 coverage pursuant to section -13. "Wages" does not include
9 the amount of any payment specified in section 383-11.

10 **§ -2 Eligibility for benefits.** (a) Beginning
11 January 1, 2030, family leave insurance benefits shall be
12 payable to an individual who:

13 (1) Qualifies as a covered individual; and

14 (2) Meets one of the following requirements:

15 (A) Because of birth, adoption, or placement through
16 foster care, is caring for a new child during the
17 first year after the birth, adoption, or
18 placement;

19 (B) Is caring for a family member with a serious
20 health condition;



(C) Is caring for a qualifying service member who is the individual's next of kin;

(D) Is a victim of domestic abuse, sexual assault, or stalking who needs leave for medical attention; mental health care or other counseling; victim services, including legal services; court appearances; or relocation for themselves or a family member; or

(E) Has a qualifying exigency.

(b) Beginning January 1, 2030, medical leave insurance benefits shall be payable to an individual who:

(1) Qualifies as a covered individual; and

(2) Has a serious health condition that makes the covered individual unable to perform the functions of the covered individual's position, except accident or disease connected with or resulting from employment as described in section 386-3 or any other applicable workers' compensation law.

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



1 (b) The maximum number of weeks during which medical leave
2 insurance benefits are payable in a benefit year shall be
3 twenty-six weeks.

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

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

17 **§ -4 Amount of benefits.** (a) Subject to the maximum
18 weekly benefit amount pursuant to subsection (b), the weekly
19 benefit shall be calculated by adding the amounts obtained by
20 applying the following percentage to a covered individual's
21 average weekly wage during the twelve months preceding



1 submission of the claim or the average weekly wage during the
2 time the covered individual worked, if less than twelve months:

3 (1) Ninety per cent of wages that are equal to or less

4 than fifty per cent of the state average weekly wage;

5 (2) Sixty-six per cent of wages that exceed fifty per cent

6 of the state average weekly wage but are no more than

7 one hundred per cent of the state average weekly wage;

8 and

9 (3) Fifty-five per cent of wages that exceed one hundred

10 per cent of the state average weekly wage.

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

13 (c) Family leave insurance benefits and medical leave
14 insurance benefits shall not be payable to the covered
15 individual until the individual accumulates at least eight hours
16 of family leave insurance benefits and medical leave insurance
17 benefits.

18 § -5 **Contributions.** (a) Payroll contributions shall be
19 authorized to finance the payment of benefits under, and for the
20 administration and operation of, the family and medical leave
21 insurance program.



1 (b) Beginning January 1, 2029, payroll contributions shall
2 be paid by employers and employees in amounts to be determined
3 by the department, based on a percentage of employee wages. The
4 department shall evaluate and determine on an annual basis the
5 amount of payroll contributions necessary to finance the family
6 and medical leave insurance program.

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

10 (d) An employer having thirty or more employees shall
11 remit one hundred per cent of the amount of the payroll
12 contribution determined by the department to the family and
13 medical leave trust fund.

14 (e) An employer having fewer than thirty employees shall
15 remit fifty per cent of the amount of the payroll contribution
16 determined by the department to the family and medical leave
17 trust fund.

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



(g) Notwithstanding any provision of this chapter to the contrary, a public employee who has not elected coverage pursuant to section -13 shall not be required to pay payroll contributions, and the employer of a public employee who has not elected coverage pursuant to section -13 shall not be required to pay payroll contributions on behalf of that public employee.

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

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



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

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

(b) During any medical leave taken pursuant to section -2, the employer shall maintain any health care benefits the covered individual had before taking the leave, to the extent provided under section 393-15.



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

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

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

16 § -8 **Retaliatory personnel actions prohibited.** (a) It
17 shall be unlawful for an employer or any other person to
18 interfere with, restrain, or deny the exercise of, or the
19 attempt to exercise, any right protected under this chapter.

20 (b) No employer, temporary help company, employment
21 agency, employee organization, or other person shall take a



1 retaliatory personnel action or otherwise discriminate against a
2 person because the person exercised rights protected under this
3 chapter. These rights include the right to:

4 (1) Request, file for, apply for, or use benefits or leave
5 provided for under this chapter;

6 (2) Communicate to the employer or any other person or
7 entity an intent to file a claim, a complaint with the
8 department or courts, or an appeal;

9 (3) Testify, plan to testify, or assist in any
10 investigation, hearing, or proceeding under this
11 chapter, at any time, including during the period in
12 which the person receives family leave insurance
13 benefits and medical leave insurance benefits under
14 this chapter;

15 (4) Inform any person about any employer's alleged
16 violation of this chapter; and

17 (5) Inform any other person of the other person's rights
18 under this chapter.

19 (c) It shall be unlawful for an employer's absence control
20 policy to count paid family leave or medical leave taken under
21 this chapter as an absence that may lead to or result in



1 discipline, discharge, demotion, suspension, or any other
2 adverse action.

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

6 (e) This section shall be enforced as provided in
7 chapter 398.

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

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

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



1 (1) A collective bargaining agreement;

2 (2) An employer policy; or

3 (3) Any other applicable law.

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

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



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

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

- 19 (1) The employee's right to family leave insurance
20 benefits and medical leave insurance benefits under



1 this chapter and the terms under which the benefits
2 may be used;

3 (2) The amount of family leave insurance benefits and
4 medical leave insurance benefits to which the employee
5 is entitled;

6 (3) The procedure for filing a claim for benefits;

7 (4) The procedure for selecting a designated person;

8 (5) The right to employment protection and benefits
9 continuation under section -7;

10 (6) A disclosure that discrimination and retaliatory
11 personnel actions against a person for requesting,
12 applying for, or using family leave insurance benefits
13 and medical leave insurance benefits are prohibited
14 under section -8; and

15 (7) A disclosure that the employee has a right to file a
16 complaint for violations of this chapter.

17 (b) An employer shall display and maintain a poster, in a
18 conspicuous place accessible to employees at the employer's
19 place of business, that presents, in English, Ilocano, Japanese,
20 Tagalog, and any language that is the first language spoken by
21 at least five per cent of the employer's workforce, the



1 information required by this section; provided that the notice
2 has been provided by the department. The director may adopt
3 rules to establish additional requirements concerning the means
4 by which employers shall provide this notice.

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

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

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

18 (c) The director shall implement procedures to ensure the
19 confidentiality of all information related to any claims filed
20 or appeals taken to the maximum extent permitted by applicable
21 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 any penalty
15 assessed shall not be greater than one hundred fifty per cent of
16 the amount of benefits paid erroneously to the recipient. The
17 director shall exercise the director's discretion to waive, in
18 whole or in part, the amount of any payments and penalties where
19 the recovery would be against equity and good conscience.

20 § -13 Elective coverage; self-employed persons; public
21 **employees.** (a) A:



1 (1) Self-employed person, including a sole proprietor,
2 partner, or joint venturer; or

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

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

18 (c) Notwithstanding any other law to the contrary, nothing
19 in this chapter shall be deemed to affect the civil service or
20 exempt status, salary range, vacation, sick leave, service
21 credit, or other right or privilege of any public worker, except



1 to the extent provided in section -9 or as otherwise
2 expressly provided in this chapter.

3 **§ -14 Family and medical leave insurance program. (a)**

4 By January 1, 2029, the department shall establish and
5 administer a family and medical leave insurance program and
6 begin collecting contributions as specified in this chapter. By
7 January 1, 2030, the department shall begin receiving claims and
8 paying family leave insurance benefits and medical leave
9 insurance benefits as specified in this chapter.

10 (b) The department shall establish reasonable procedures
11 and forms for filing claims for benefits under this chapter and
12 shall specify the necessary supporting documentation to support
13 a claim for benefits, including any documentation required from
14 a health care provider for proof of a serious health condition
15 and any documentation required by the department to meet the
16 eligibility requirements for family leave.

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

19 (d) The department shall use information sharing and
20 integration technology to facilitate the disclosure of relevant



1 information or records so long as the covered individual
2 consents to the disclosure as required under state law.

3 (e) Information contained in the files and records
4 pertaining to a covered individual under this chapter shall be
5 confidential and not open to public inspection, other than to
6 public employees in the performance of their official duties;
7 provided that the individual or an authorized representative of
8 an individual may review the records or receive specific
9 information from the records upon the presentation of the
10 individual's signed authorization.

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

13 **§ -15 Federal and state income tax.** (a) To the extent
14 that family leave insurance benefits and medical leave insurance
15 benefits under this chapter are subject to federal income tax,
16 the department shall advise a covered individual filing a new
17 claim for family leave insurance benefits or medical leave
18 insurance benefits wholly or partially subject to federal income
19 tax, at the time of filing the claim, that:

20 (1) The Internal Revenue Service has determined that
21 family leave insurance benefits or medical leave



1 insurance benefits may be subject to federal income
2 tax;

3 (2) Requirements exist pertaining to estimated tax
4 payments;

5 (3) The covered individual may elect to have applicable
6 federal income tax deducted and withheld from the
7 covered individual's payment of benefits in the amount
8 specified in the Internal Revenue Code of 1986, as
9 amended; and

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

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

15 § -16 Family and medical leave trust fund. (a) There
16 is established in the treasury of the State as a trust fund,
17 separate and apart from all public moneys or funds of the State,
18 a family and medical leave trust fund, which shall be
19 administered by the department exclusively for the purposes of
20 this chapter. All contributions made pursuant to this chapter
21 shall be paid into the trust fund and all benefits payable



1 pursuant to this chapter shall be paid from the trust fund. All
2 moneys in the trust fund shall be mingled and undivided.

3 (b) Whenever, in the judgment of the director of finance,
4 there shall be in the trust fund an amount of funds in excess of
5 the amount deemed by the director of finance to be sufficient to
6 meet the current expenditures properly payable therefrom, the
7 director of finance may invest, reinvest, manage, contract, or
8 sell or exchange investments acquired with the excess funds in
9 the manner prescribed by law.

10 (c) On January 1, 2027, or as soon as possible thereafter,
11 the director of finance shall transfer \$ from the
12 general fund to the family and medical leave trust fund as a
13 loan to cover the start-up costs of administering this chapter
14 before and during the first year of payroll contributions.
15 Costs may include hiring and employing personnel to perform
16 functions relating to the establishment and administration of
17 the family and medical leave trust fund, project administration
18 and outreach, and procurement of information technology and data
19 systems to develop and implement the administrative
20 infrastructure necessary to implement this chapter. All



1 contracting shall be done in accordance with state law with
2 regard to procurement of services from an outside vendor.

3 (d) No later than December 31, 2031, the department shall
4 repay the loan of \$ received pursuant to
5 subsection (c).

6 § -17 **Reports.** No later than April 1, 2031, and by
7 April 1 each year thereafter, the department shall submit a
8 report to the legislature on projected and actual participation
9 in the family and medical leave insurance program. The report
10 shall include for the prior year:

11 (1) Premium rates;

12 (2) An accounting and current balance of the family and
13 medical leave trust fund;

14 (3) A description of any outreach efforts and public
15 education campaigns held pursuant to section -18;
16 and

17 (4) Depersonalized data on program participants,
18 including:

19 (A) The number of persons claiming eligibility for
20 the program under each criterion in
21 section -2(a)(2);



1 (B) The gender or gender identity of program

2 beneficiaries; and

3 (C) For leaves taken under section -2(a)(2)(B),

4 the relation of the family member for whom leave

5 was taken to provide care.

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

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

17 SECTION 2. No later than January 1, 2028, the department
18 of labor and industrial relations shall:

19 (1) Adopt all rules pursuant to chapter 91, Hawaii Revised
20 Statutes, as necessary for implementation of this
21 part; and



(2) Establish policies, procedures, and any necessary forms for a public employee to elect coverage and withdraw from coverage pursuant to section -13, Hawaii Revised Statutes.

PART II

SECTION 3. Subpart B of part VI of chapter 378, Hawaii Revised Statutes, is repealed.

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

PART III

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

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

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

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



- 1 (3) Direct and manage all risk management and insurance
2 programs of the State, except for employee benefits
3 insurance and workers' compensation insurance programs
4 or as otherwise provided in chapters 87A, 88, 383 to
5 386A, [~~392,~~] and 393;
- 6 (4) Consult with state agencies to determine what
7 property, casualty, and other insurance policies are
8 presently in force or are sought by the state agencies
9 and to make determinations about whether to continue
10 subscribing to insurance policies. In the event that
11 the risk manager's determination is not satisfactory
12 to the state agency, the state agency may have the
13 risk manager's decision reviewed by the comptroller.
14 In this case, the comptroller's decision shall be
15 final;
- 16 (5) Consolidate and combine state insurance coverages, and
17 purchase excess insurance when, in the comptroller's
18 discretion, it is appropriate to do so;
- 19 (6) Acquire risk management, investigative, claims
20 adjustment, actuarial, and other services, except
21 attorney's services, as may be required for the sound



1 administration of this chapter; provided that a broker
2 submitting a proposal in response to a fixed fee
3 solicitation by the comptroller pursuant to this
4 subsection and the broker's performance of the
5 activities in accordance with the proposal shall not
6 constitute a violation of sections 431:10-218,
7 431:13-102, and 431:13-103;

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

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

14 (9) Provide technical services in risk management and
15 insurance to state agencies;

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

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



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

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

18 SECTION 7. Section 302D-26, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) The State shall afford administrative, support, and
21 instructional employees in charter schools full participation in



1 the State's systems for retirement, workers' compensation,
2 unemployment insurance, [~~temporary disability insurance,~~] paid
3 family and medical leave, and health benefits in accordance with
4 the qualification requirements for each."

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

7 "(b) Registration information required by this section
8 shall include:

9 (1) The name or names under which the professional
10 employer organization conducts or will conduct
11 business;

12 (2) The address of the principal place of business of the
13 professional employer organization and the address of
14 each office that the professional employer
15 organization maintains in this State;

16 (3) The professional employer organization's general
17 excise tax number;

18 (4) A copy of the certificate of authority to transact
19 business in this State issued by the director of
20 commerce and consumer affairs pursuant to title 23 or
21 title 23A, if applicable;



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



1 (10) Proof of compliance with the Hawaii prepaid health
2 care act;

3 (11) Proof of compliance with the Hawaii employment
4 security law, including payment of any applicable
5 employer liability pursuant to chapter 383;

6 (12) The name, address, and phone number of the financial
7 institution utilized by the professional employer
8 organization for payroll purposes that operates and
9 maintains branches in the State;

10 (13) The name of each client company that is party to a
11 professional employer agreement with a professional
12 employer organization which shall be provided to the
13 department on a form approved by the department within
14 twenty-one business days of the initiation of the
15 agreement and within twenty-one business days of the
16 termination of the agreement; and

17 (14) A copy of the Internal Revenue Service Form W-3,
18 Transmittal of Wage and Tax Statements, that was most
19 recently filed with the federal government, and which
20 shall be used for obtaining a bond or irrevocable
21 letter of credit pursuant to section 373L-3."



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

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

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

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



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

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

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

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

17 ""Sick leave":

18 (1) Means accrued increments of compensated leave provided
19 by an employer to an employee for use by the employee
20 for any of the following reasons:



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

4 (B) The absence is for the purpose of obtaining
5 professional diagnosis or treatment for a medical
6 condition of the employee; or

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

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

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

16 "(c) An employer who provides sick leave for employees
17 shall permit an employee to use the employee's accrued and
18 available sick leave for purposes of this chapter[; ~~provided~~
19 ~~that an employee shall not use more than ten days per year for~~
20 ~~this purpose, unless an express provision of a valid collective~~
21 ~~bargaining agreement authorizes the use of more than ten days of~~



~~sick leave for family leave purposes. Nothing in this section shall require an employer to diminish an employee's accrued and available sick leave below the amount required pursuant to section 392-41; provided that any sick leave in excess of the minimum statutory equivalent for temporary disability benefits as determined by the department may be used for purposes of this chapter]."~~

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

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

PART IV

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

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



1 PART V

2 SECTION 15. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$ or so
4 much thereof as may be necessary for fiscal year 2026-2027 to be
5 deposited into the family and medical leave trust fund as a loan
6 pursuant to section -16(c), Hawaii Revised Statutes.

7 SECTION 16. There is appropriated out of the family and
8 medical leave trust fund the sum of \$ or so much
9 thereof as may be necessary for fiscal year 2026-2027 to cover
10 the start-up costs of administering the family and medical leave
11 insurance program pursuant to section -16(c), Hawaii Revised
12 Statutes.

13 The sum appropriated shall be expended by the department of
14 labor and industrial relations for the purposes of this part.

15 PART VI

16 SECTION 17. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 18. This Act shall take effect on July 1, 2026;
19 provided that parts II, III, and IV shall take effect on the
20 earlier of January 1, 2030, or the start of the department of
21 labor and industrial relations receiving claims and paying



1 family leave insurance benefits and medical leave insurance
2 benefits as specified under chapter , Hawaii Revised
3 Statutes, as enacted by this Act.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. L. S.", written over a horizontal line.

JAN 27 2026



H.B. NO. 2360

Report Title:

DLIR; Family Leave; Medical Leave; Insurance Program; Benefits

Description:

By 1/1/2029, 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 1/1/2030, requires the Department to begin receiving claims and paying benefits under the program. Specifies eligibility requirements and employee protections under the program.

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

