
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 -14, 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 -14;

(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 in section 387-1.

2 "Employer" includes the State or counties or any political
3 subdivision thereof.

4 "Family leave" means leave taken pursuant to
5 section -3(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;



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

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

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

"Medical leave" means leave taken pursuant to section -3(b).

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

"Next of kin" has the same meaning as defined in section 101(17) of the federal Family and Medical Leave Act of 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:

9 (1) Providing for the care or other needs of the service
10 member's child or other family member;

11 (2) Making financial or legal arrangements for the service
12 member;

13 (3) Attending counseling;

14 (4) Attending military events or ceremonies;

15 (5) Spending time with the service member during a rest
16 and recuperation leave or following return from
17 deployment; or

18 (6) 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 in
2 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. "Wages" does not include the
10 amount of any payment specified in section 383-11.

11 **§ -2 Family and medical leave insurance program. (a)**

12 By January 1, 2029, the department shall establish and
13 administer a family and medical leave insurance program and
14 begin collecting contributions as specified in this chapter. By
15 January 1, 2030, the department shall begin receiving claims and
16 paying family leave insurance benefits and medical leave
17 insurance benefits as specified in this chapter.

18 (b) The department shall establish reasonable procedures
19 and forms for filing claims for benefits under this chapter and
20 shall specify the necessary supporting documentation to support
21 a claim for benefits, including any documentation required from



1 a health care provider for proof of a serious health condition
2 and any documentation required by the department to meet the
3 eligibility requirements for family leave.

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

6 (d) The department shall use information sharing and
7 integration technology to facilitate the disclosure of relevant
8 information or records so long as the covered individual
9 consents to the disclosure as required under state law.

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

18 (f) The director shall adopt rules pursuant to chapter 91
19 as necessary to implement this chapter. The director may adopt
20 rules for the reasonable determination of the cash value of
21 remuneration in any medium other than cash. The director shall



1 adopt rules regarding the determination of wages for those who
2 elect coverage pursuant to section -14.

3 **§ -3 Eligibility for benefits.** (a) Beginning
4 January 1, 2030, family leave insurance benefits shall be
5 payable to an individual who:

6 (1) Qualifies as a covered individual; and

7 (2) Meets one of the following requirements:

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

12 (B) Is caring for a family member with a serious
13 health condition;

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

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



1 (E) Has a qualifying exigency.

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

4 (1) Qualifies as a covered individual; and

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

11 § -4 Duration of benefits. (a) The maximum number of
12 weeks during which family leave insurance benefits are payable
13 in a benefit year shall be twelve weeks.

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

17 (c) The first payment of benefits shall be made to a
18 covered individual within two weeks after the family leave and
19 medical leave claim is filed or the family leave and medical
20 leave begins, whichever is later, and subsequent payments shall
21 be made every two weeks thereafter. The department shall notify



1 the claimant of any additional information required to complete
2 or cure their claim within five business days of filing a claim.

3 (d) Claims may be filed up to forty-five days in advance
4 of the family leave and medical leave, if anticipation of the
5 family leave and medical leave is possible. Claims shall be
6 filed within ninety days after the commencement of the need for
7 family leave and medical leave or as soon thereafter as may be
8 reasonable.

9 § -5 Amount of benefits. (a) Subject to the maximum
10 weekly benefit amount pursuant to subsection (b), the weekly
11 benefit shall be calculated by adding the amounts obtained by
12 applying the following percentage to a covered individual's
13 average weekly wage during the twelve months preceding
14 submission of the claim or the average weekly wage during the
15 time the covered individual worked, if less than twelve months:

16 (1) Ninety per cent of wages that are equal to or less
17 than fifty per cent of the state average weekly wage;

18 (2) Sixty-six per cent of wages that exceed fifty per cent
19 of the state average weekly wage but are no more than
20 one hundred per cent of the state average weekly wage;

21 and



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

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

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

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

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



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

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

8 (e) An employer having fewer than thirty employees shall
9 remit fifty per cent of the amount of the payroll contribution
10 determined by the department to the family and medical leave
11 trust fund.

12 (f) A self-employed individual who is electing coverage
13 under section -14 shall remit fifty per cent of the amount of
14 the payroll contribution determined by the department to the
15 family and medical leave trust fund.

16 (g) Notwithstanding any provision of this chapter to the
17 contrary, a public employee who has not elected coverage
18 pursuant to section -14 shall not be required to pay payroll
19 contributions, and the employer of a public employee who has not
20 elected coverage pursuant to section -14 shall not be



1 required to pay payroll contributions on behalf of that public
2 employee.

3 **§ -7 Reduced leave schedule.** (a) A covered individual
4 shall be entitled, at the option of the covered individual, to
5 take paid family leave and medical leave on an intermittent or
6 reduced leave schedule. Family leave insurance benefits and
7 medical leave insurance benefits for intermittent or reduced
8 leave schedules shall be prorated.

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

16 (c) Nothing in this section shall be construed to entitle
17 a covered individual to more leave than allowed under
18 section -4.

19 **§ -8 Leave and employment protection.** (a) Any covered
20 individual who exercises the covered individual's right to
21 family leave insurance benefits or medical leave insurance



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

12 (b) During any family leave taken pursuant to
13 section -3, the employer shall maintain any health care
14 benefits the covered individual had before taking the leave for
15 the duration of the leave as if the covered individual had
16 continued in employment continuously from the date the covered
17 individual commenced the leave until the date the family leave
18 insurance benefits terminate; provided that the covered
19 individual shall continue to pay the covered individual's share
20 of the cost of health benefits as required before the
21 commencement of the leave.



(c) During any medical leave taken pursuant to section -3, the employer shall maintain any health care benefits the covered individual had before taking the leave, to the extent provided under section 393-15.

(d) Nothing in this section shall be construed to conflict with chapter 393, title 29 United States Code section 1144

(b) (5) (A), or to modify chapter 393.

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

§ -9 Retaliatory personnel actions prohibited. (a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this chapter.

(b) No employer, temporary help company, employment agency, employee organization, or other person shall take a retaliatory personnel action or otherwise discriminate against a person because the person exercised rights protected under this chapter. These rights include the right to:

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



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

4 (3) Testify, plan to testify, or assist in any
5 investigation, hearing, or proceeding under this
6 chapter, at any time, including during the period in
7 which the person receives family leave insurance
8 benefits and medical leave insurance benefits under
9 this chapter;

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

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

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

19 (d) Protections of this section shall apply to any person
20 who mistakenly, but in good faith, alleges violations of this
21 chapter.



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

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

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

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

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

(d) An individual's right to leave under this chapter shall not be diminished by a collective bargaining agreement



1 entered into or renewed, or an employer policy adopted or
2 retained, after the effective date of this chapter. Any
3 agreement by an individual to waive the individual's rights
4 under this chapter shall be void as against public policy.

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



1 that the aggregate amount the employee would receive does not
2 exceed the employee's average weekly wage used by the department
3 to calculate family leave insurance benefits and medical leave
4 insurance benefits. Nothing in this subsection shall require an
5 employee to receive or use additional vacation leave, sick
6 leave, or paid time off as described in this section.

7 **§ -11 Notice.** (a) Each employer shall provide written
8 notice to each employee upon hiring and annually thereafter. An
9 employer shall also provide written notice to an employee when
10 the employee requests leave under this chapter, or when the
11 employer acquires knowledge that an employee's leave may be for
12 a qualifying reason under section -3(a)(2). The notice shall
13 include:

14 (1) The employee's right to family leave insurance
15 benefits and medical leave insurance benefits under
16 this chapter and the terms under which the benefits
17 may be used;

18 (2) The amount of family leave insurance benefits and
19 medical leave insurance benefits to which the employee
20 is entitled;

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



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

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

4 (6) A disclosure that discrimination and retaliatory
5 personnel actions against a person for requesting,
6 applying for, or using family leave insurance benefits
7 and medical leave insurance benefits are prohibited
8 under section -9; and

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

11 (b) An employer shall display and maintain a poster, in a
12 conspicuous place accessible to employees at the employer's
13 place of business, that presents, in English, Ilocano, Japanese,
14 Tagalog, and any language that is the first language spoken by
15 at least five per cent of the employer's workforce, the
16 information required by this section; provided that the notice
17 has been provided by the department. The director may adopt
18 rules to establish additional requirements concerning the means
19 by which employers shall provide this notice.



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

4 § -12 Appeals. (a) The director shall establish a
5 system for appeals in the case of a denial of family leave
6 insurance benefits or medical leave insurance benefits. In
7 establishing the system, the director may utilize any procedures
8 and appeals mechanisms established under section 383-38.

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

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

18 § -13 Erroneous payments and disqualifications for
19 benefits. (a) A covered individual shall be disqualified from
20 family leave insurance benefits and medical leave insurance
21 benefits for one year if the individual is determined by the



1 director to have knowingly and wilfully made a false statement
2 or misrepresentation regarding a material fact, or knowingly and
3 wilfully failed to report a material fact, to obtain benefits
4 under this chapter.

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

16 § -14 Elective coverage; self-employed persons; public
17 employees. (a) A:

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

20 (2) A public employee,



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

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

15 (c) Notwithstanding any other law to the contrary, nothing
16 in this chapter shall be deemed to affect the civil service or
17 exempt status, salary range, vacation, sick leave, service
18 credit, or other right or privilege of any public worker, except
19 to the extent provided in section -10 or as otherwise
20 expressly provided in this chapter.



1 § **-15 Federal and state income tax.** (a) To the extent
2 that family leave insurance benefits and medical leave insurance
3 benefits under this chapter are subject to federal income tax,
4 the department shall advise a covered individual filing a new
5 claim for family leave insurance benefits or medical leave
6 insurance benefits wholly or partially subject to federal income
7 tax, at the time of filing the claim, that:

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

12 (2) Requirements exist pertaining to estimated tax
13 payments;

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

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



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

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

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

(c) On January 1, 2027, or as soon as possible thereafter, the director of finance shall transfer \$ from the



1 general fund to the family and medical leave trust fund as a
2 loan to cover the start-up costs of administering this chapter
3 before and during the first year of payroll contributions.
4 Costs may include hiring and employing personnel to perform
5 functions relating to the establishment and administration of
6 the family and medical leave trust fund, project administration
7 and outreach, and procurement of information technology and data
8 systems to develop and implement the administrative
9 infrastructure necessary to implement this chapter. All
10 contracting shall be done in accordance with state law with
11 regard to procurement of services from an outside vendor.

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

15 § -17 **Reports.** No later than April 1, 2031, and by
16 April 1 each year thereafter, the department shall submit a
17 report to the legislature on projected and actual participation
18 in the family and medical leave insurance program. The report
19 shall include for the prior year:

20 (1) Premium rates;



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

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

(4) Depersonalized data on program participants, including:

(A) The number of persons claiming eligibility for the program under each criterion in section -3(a)(2);

(B) The gender or gender identity of program beneficiaries; and

(C) For leaves taken under section -3(a)(2)(B), the relation of the family member for whom leave was taken to provide care.

§ -18 **Public education.** The department shall conduct a public education campaign to inform employees and employers regarding the availability of family leave insurance benefits and medical leave insurance benefits. Outreach information shall be available in English, Ilocano, Chuukese, Marshallese, Tagalog, Spanish, and other languages spoken by more than five



1 per cent of the students in the department of education's
2 English learner program.

3 **§ -19 Sharing technology.** The department may use state
4 data collection and technology, to the extent possible, to
5 integrate the program with existing state policies."

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

8 (1) Adopt all rules pursuant to chapter 91, Hawaii Revised
9 Statutes, as necessary for implementation of this
10 part; and

11 (2) Establish policies, procedures, and any necessary
12 forms for a public employee to elect coverage and
13 withdraw from coverage pursuant to section -14,
14 Hawaii Revised Statutes.

15 PART II

16 SECTION 3. Section 235-7, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There shall be excluded from gross income, adjusted
19 gross income, and taxable income:

20 (1) Income not subject to taxation by the State under the
21 Constitution and laws of the United States;



- 1 (2) Rights, benefits, and other income exempted from
2 taxation by section 88-91, having to do with the state
3 retirement system, and the rights, benefits, and other
4 income, comparable to the rights, benefits, and other
5 income exempted by section 88-91, under any other
6 public retirement system;
- 7 (3) Any compensation received in the form of a pension for
8 past services;
- 9 (4) Compensation paid to a patient affected with Hansen's
10 disease employed by the State or the United States in
11 any hospital, settlement, or place for the treatment
12 of Hansen's disease;
- 13 (5) Except as otherwise expressly provided, payments made
14 by the United States or this State, under an act of
15 Congress or a law of this State, which by express
16 provision or administrative regulation or
17 interpretation are exempt from both the normal and
18 surtaxes of the United States, even though not so
19 exempted by the Internal Revenue Code itself;
- 20 (6) Any income expressly exempted or excluded from the
21 measure of the tax imposed by this chapter by any



1 other law of the State, it being the intent of this
2 chapter not to repeal or supersede any such express
3 exemption or exclusion;

4 (7) Income received by each member of the reserve
5 components of the Army, Navy, Air Force, Marine Corps,
6 or Coast Guard of the United States of America, and
7 the Hawaii National Guard as compensation for
8 performance of duty, equivalent to pay received for
9 forty-eight drills (equivalent of twelve weekends) and
10 fifteen days of annual duty, at an:

11 (A) E-1 pay grade after eight years of service;
12 provided that this subparagraph shall apply to
13 taxable years beginning after December 31, 2004;

14 (B) E-2 pay grade after eight years of service;
15 provided that this subparagraph shall apply to
16 taxable years beginning after December 31, 2005;

17 (C) E-3 pay grade after eight years of service;
18 provided that this subparagraph shall apply to
19 taxable years beginning after December 31, 2006;

20 (D) E-4 pay grade after eight years of service;
21 provided that this subparagraph shall apply to



1 taxable years beginning after December 31, 2007;

2 and

3 (E) E-5 pay grade after eight years of service;

4 provided that this subparagraph shall apply to

5 taxable years beginning after December 31, 2008;

6 (8) Income derived from the operation of ships or aircraft

7 if the income is exempt under the Internal Revenue

8 Code pursuant to the provisions of an income tax

9 treaty or agreement entered into by and between the

10 United States and a foreign country[;] provided that

11 the tax laws of the local governments of that country

12 reciprocally exempt from the application of all of

13 their net income taxes, the income derived from the

14 operation of ships or aircraft that are documented or

15 registered under the laws of the United States;

16 (9) The value of legal services provided by a legal

17 service plan to a taxpayer, the taxpayer's spouse, and

18 the taxpayer's dependents;

19 (10) Amounts paid, directly or indirectly, by a legal

20 service plan to a taxpayer as payment or reimbursement



- 1 for the provision of legal services to the taxpayer,
2 the taxpayer's spouse, and the taxpayer's dependents;
3 (11) Contributions by an employer to a legal service plan
4 for compensation (through insurance or otherwise) to
5 the employer's employees for the costs of legal
6 services incurred by the employer's employees, their
7 spouses, and their dependents; [~~and~~]
8 (12) Amounts received in the form of a monthly surcharge by
9 a utility acting on behalf of an affected utility
10 under section 269-16.3; provided that amounts retained
11 by the acting utility for collection or other costs
12 shall not be included in this exemption[~~-~~];
13 (13) Family leave insurance benefits and medical leave
14 insurance benefits paid under chapter ."

PART III

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

PART IV

19 SECTION 5. Section 302D-26, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) The State shall afford administrative, support, and
2 instructional employees in charter schools full participation in
3 the State's systems for retirement, workers' compensation,
4 unemployment insurance, temporary disability insurance, paid
5 family and medical leave under chapter , and health benefits
6 in accordance with the qualification requirements for each."

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

9 "(b) Registration information required by this section
10 shall include:

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

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

18 (3) The professional employer organization's general
19 excise tax number;

20 (4) A copy of the certificate of authority to transact
21 business in this State issued by the director of



1 commerce and consumer affairs pursuant to title 23 or
2 title 23A, if applicable;

3 (5) A list, organized by jurisdiction, of each name under
4 which the professional employer organization has
5 operated in the preceding five years, including any
6 alternative names; names of predecessors; and, if
7 known, names of successor business entities;

8 (6) A statement of ownership, which shall include the name
9 of each person who, individually or acting in concert
10 with any other person or persons, owns or controls,
11 directly or indirectly, twenty-five per cent or more
12 of the equity interests of the professional employer
13 organization;

14 (7) A statement of management, which shall include the
15 name of any person who serves as president or chief
16 executive officer or who otherwise has the authority
17 to act as a senior executive officer of the
18 professional employer organization;

19 (8) Proof of valid workers' compensation coverage in
20 compliance with all laws of this State;



- 1 (9) Proof of compliance with the Hawaii temporary
2 disability insurance law[+] and paid family and
3 medical leave under chapter ;
- 4 (10) Proof of compliance with the Hawaii prepaid health
5 care act;
- 6 (11) Proof of compliance with the Hawaii employment
7 security law, including payment of any applicable
8 employer liability pursuant to chapter 383;
- 9 (12) The name, address, and phone number of the financial
10 institution utilized by the professional employer
11 organization for payroll purposes that operates and
12 maintains branches in the State;
- 13 (13) The name of each client company that is party to a
14 professional employer agreement with a professional
15 employer organization which shall be provided to the
16 department on a form approved by the department within
17 twenty-one business days of the initiation of the
18 agreement and within twenty-one business days of the
19 termination of the agreement; and
- 20 (14) A copy of the Internal Revenue Service Form W-3,
21 Transmittal of Wage and Tax Statements, that was most



1 recently filed with the federal government, and which
2 shall be used for obtaining a bond or irrevocable
3 letter of credit pursuant to section 373L-3."

4 SECTION 7. Section 373L-6, Hawaii Revised Statutes, is
5 amended to read as follows:

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

16 SECTION 8. Section 398-1, Hawaii Revised Statutes, is
17 amended by amending the definition of "sick leave" to read as
18 follows:

19 ""Sick leave":



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

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

7 (B) The absence is for the purpose of obtaining
8 professional diagnosis or treatment for a medical
9 condition of the employee; or

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

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

18 SECTION 9. Section 398-4, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) An employer who provides sick leave for employees
21 shall permit an employee to use the employee's accrued and



1 available sick leave for purposes of this chapter[; provided
2 that an employee shall not use more than ten days per year for
3 this purpose, unless an express provision of a valid collective
4 bargaining agreement authorizes the use of more than ten days of
5 sick leave for family leave purposes. Nothing in this section
6 shall require an employer to diminish an employee's accrued and
7 available sick leave below the amount required pursuant to
8 section 392-41; provided that any sick leave in excess of the
9 minimum statutory equivalent for temporary disability benefits
10 as determined by the department may be used for purposes of this
11 chapter]."

12 PART V

13 SECTION 10. Section 378-71, Hawaii Revised Statutes, is
14 amended by repealing the definition of "health care provider".

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

17 PART VI

18 SECTION 11. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2026-2027 to be



1 deposited into the family and medical leave trust fund as a loan
2 pursuant to section -16(c), Hawaii Revised Statutes.

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

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

11 PART VII

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

14 SECTION 14. This Act shall take effect on July 1, 3000;
15 provided that parts II, III, and IV shall take effect on the
16 earlier of January 1, 2030, or the start of the department of
17 labor and industrial relations receiving claims and paying
18 family leave insurance benefits and medical leave insurance
19 benefits as specified under chapter , Hawaii Revised
20 Statutes, as enacted by this Act.



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. Excludes paid family and medical leave benefits from income tax. Effective 7/1/3000. (HD1)

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

