

ACT 7

H.B. NO. 982

A Bill for an Act Relating to Family Leave.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that over twenty-five per cent of Hawaii's households have at least one individual providing informal, unpaid care to an adult aged sixty or older with physical or cognitive disabilities. This percentage is expected only to increase. Projections indicate that by the year 2020, more than one in four individuals will be aged sixty or older, and an individual's need for personal care assistance due to physical, sensory, cognitive, and self-care disabilities increases with age.

The legislature finds that the average age of family caregivers is fifty-four years of age, which is well below the age of retirement. Over fifty-five per cent of the family caregivers are employed, and of this group, over twenty-six per cent indicate that their employment is affected by their caregiving responsibilities. Reduction in work hours was an oft cited effect, followed by turning down promotions and taking leaves of absence. Nearly all of the family caregivers surveyed stated that they frequently rearrange their work schedules, and over seventy-seven per cent take time off from work to deal with caregiving responsibilities.

The legislature finds that approximately ten per cent of the Hawaii workforce, or over eighty thousand employees, may currently seek or need to take some form of leave to address family caregiving issues.

The legislature further finds that in seeking to analyze and develop improvements to the family leave system there is inadequate data about the use of and need for family leave.

The purpose of this Act is to create a family leave data collection system to:

- (1) Create a data collection system that is capable of analyzing and reporting family caregiving data for public and private-sector employees;
- (2) Ensure that information about uncovered employees is captured by the data system; and
- (3) Create the basis for development of a data-driven paid family leave system that can complement other caregiver services, especially for elder family members.

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

“§398- Family leave data collection system; establishment. (a) There is established a family leave data collection system to:

- (1) Ensure that all employees covered by the benefits of this chapter are informed of their rights under this chapter and their names are entered into the data base upon application for benefits;
 - (2) Collect pertinent data, consistent with state and federal privacy statutes, on the use and potential demand for family leave benefits for both public and private-sector employees, including information on who and under what circumstances employees are using family leave benefits, the nature and duration of family members' needs, and the adequacy of current family leave benefits;
 - (3) Provide analysis of the data to assist in the development and implementation of an efficient system of family leave, including potential paid family leave, for employees in Hawaii; and
 - (4) Provide analysis of data to assist in the future development of caregiver services for senior citizens in Hawaii.
- (b) The department shall work with the University of Hawaii center on aging to create a web-based data system with the following capabilities:
- (1) The capacity for all employees seeking family leave benefits under this chapter to log into the data system and enter pertinent data on the circumstances and need for family leave benefits;
 - (2) The ability to secure confidential information, consistent with state and federal privacy statutes, available only in aggregate form for managers and analysts of the data system;
 - (3) The ability of the employee to print out a simple form to be submitted to the employer certifying that required data has been entered;
 - (4) The ability of data managers and analysts to manipulate and query the data base to achieve the purpose of this chapter;
 - (5) A back-up paper system that can be used when computer access or printing is unavailable; and
 - (6) A user-friendly format that can be translated into multiple languages for employees.

(c) The state auditor shall be provided access to the data base and shall prepare annual reports to the legislature, the department, and the University of Hawaii center on aging.”

SECTION 3. Section 392-61, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§392-61]]~~ **Establishment of special fund for disability benefits.** There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a special fund for disability benefits which shall be administered by the director exclusively for the purposes of this chapter; and for the establishment and maintenance of a family leave data collection system under section 398- . All contributions pursuant to this part shall be paid into the fund and all benefits payable under this part shall be paid from the fund. The fund shall consist of (1) all contributions collected pursuant to this part, together with any interest thereon; (2) all fines and penalties for the fund pursuant to this chapter; (3) all moneys collected by way of subrogation; (4) interest earned on any moneys in the fund; (5) any property or securities acquired through the use of moneys belonging to the fund; (6) all earnings of such property and securities; and (7) all other moneys received for the fund from any source.”

SECTION 4. Section 398-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§398-5]]~~ **Notice.** In any case in which the necessity for family leave is foreseeable, the employee shall provide the employer with prior notice of the expected birth or adoption or serious health condition in a manner that is reasonable and practicable. Requests for family leave shall include evidence that the employee has submitted the request and provided required data in accordance with section 398- .”

SECTION 5. There is appropriated out of the disability benefits special fund established under section 392-61, Hawaii Revised Statutes, the sum of \$10,000 or so much thereof as may be necessary for fiscal year 2009-2010 and the same sum or so much thereof as may be necessary for fiscal year 2010-2011 for the University of Hawaii center on aging to cover the estimated costs of the:

- (1) Development of a web-based data system as provided by this Act;
- (2) Purchase of hardware, software, servers, and other necessary elements of the system; and
- (3) Costs of personnel required to maintain the system.

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

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 2009.

(Vetoed by Governor and veto overridden by Legislature on July 15, 2009.)

Note

1. Edited pursuant to HRS §23G-16.5.