

SENATE BILL 275

K3
SB 211/21 – FIN

2lr0702
CF HB 8

By: **Senators Hayes and Benson**

Introduced and read first time: January 18, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 5, 2022

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Family and Medical Leave Insurance Program –**
3 **Establishment**
4 **(Time to Care Act of 2022)**

5 FOR the purpose of establishing the Family and Medical Leave Insurance Program in the
6 Maryland Department of Labor to provide certain benefits to individuals who take
7 leave from employment for certain purposes; establishing the Family and Medical
8 Leave Insurance Fund as a special, nonlapsing fund; requiring, beginning on a
9 certain date, certain employees, employers, and self-employed individuals to
10 contribute to the Fund in a certain manner; requiring the Department, under certain
11 circumstances, to deduct and withhold a certain amount from benefits paid;
12 ~~authorizing certain employees to bring a certain action against certain employers for~~
13 ~~certain violations of this Act under certain circumstances;~~ requiring the Secretary of
14 Labor to establish a system of appeals for certain covered individuals; requiring that
15 certain judicial review be allowed after a certain aggrieved party has exhausted
16 certain administrative remedies; requiring interest earnings of the Fund to be
17 credited to the Fund; and generally relating to the Family and Medical Leave
18 Insurance Program.

19 BY adding to
20 Article – Labor and Employment
21 Section 8.3–101 through 8.3–1001 to be under the new title “Title 8.3. Family and
22 Medical Leave Insurance Program”
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(i)
4 Annotated Code of Maryland
5 (2021 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article – State Finance and Procurement
8 Section 6–226(a)(2)(ii)144. and 145.
9 Annotated Code of Maryland
10 (2021 Replacement Volume)

11 BY adding to
12 Article – State Finance and Procurement
13 Section 6–226(a)(2)(ii)146.
14 Annotated Code of Maryland
15 (2021 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Labor and Employment**

19 **TITLE 8.3. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

20 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

21 **8.3–101.**

22 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (B) “APPLICATION YEAR” MEANS THE 12–MONTH PERIOD BEGINNING ON
25 THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED INDIVIDUAL FILES
26 AN APPLICATION FOR BENEFITS.

27 (C) “BENEFITS” MEANS THE MONEY PAYABLE UNDER THIS TITLE TO A
28 COVERED INDIVIDUAL.

29 (D) “COVERED EMPLOYEE” MEANS AN EMPLOYEE WHO HAS WORKED AT
30 LEAST 680 HOURS OVER THE 12–MONTH PERIOD IMMEDIATELY PRECEDING THE
31 DATE ON WHICH LEAVE IS TO BEGIN.

1 (E) "COVERED INDIVIDUAL" MEANS A COVERED EMPLOYEE OR A
2 SELF-EMPLOYED INDIVIDUAL WHO ELECTS TO PARTICIPATE IN THE PROGRAM
3 UNDER § 8.3-201 OF THIS TITLE.

4 (F) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF LABOR.

5 (G) "DEPLOYMENT" MEANS A SERVICE MEMBER ACTING UNDER OFFICIAL
6 ORDERS WHO, ON ANY DAY, IS PERFORMING SERVICE IN A TRAINING EXERCISE OR
7 OPERATION AT A LOCATION OR UNDER CIRCUMSTANCES THAT MAKE IT IMPOSSIBLE
8 OR INFEASIBLE FOR THE SERVICE MEMBER TO SPEND OFF-DUTY TIME IN THE
9 HOUSING IN WHICH THE SERVICE MEMBER RESIDES WHEN ON GARRISON DUTY AT
10 THE SERVICE MEMBER'S PERMANENT DUTY STATION OR HOMEPORT.

11 ~~(G)~~ (H) (1) "EMPLOYER" MEANS A PERSON OR GOVERNMENTAL ENTITY
12 THAT EMPLOYS AT LEAST ONE INDIVIDUAL IN THE STATE.

13 (2) "EMPLOYER" DOES NOT INCLUDE AN INDIVIDUAL WHO:

14 (I) IS THE SOLE OWNER OF A SOLE PROPRIETORSHIP, LIMITED
15 LIABILITY COMPANY, C CORPORATION, OR S CORPORATION; AND

16 (II) IS THE ONLY INDIVIDUAL EMPLOYED BY THE SOLE
17 PROPRIETORSHIP, LIMITED LIABILITY COMPANY, C CORPORATION, OR S
18 CORPORATION.

19 ~~(H)~~ (I) "FAMILY MEMBER" MEANS:

20 (1) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD, OR A
21 STEPCHILD OF THE COVERED INDIVIDUAL;

22 (2) A CHILD FOR WHOM THE COVERED INDIVIDUAL HAS LEGAL OR
23 PHYSICAL CUSTODY OR GUARDIANSHIP;

24 (3) A CHILD FOR WHOM THE COVERED INDIVIDUAL STANDS IN LOCO
25 PARENTIS, REGARDLESS OF THE CHILD'S AGE;

26 (4) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT,
27 OR A STEPPARENT OF THE COVERED INDIVIDUAL OR OF THE COVERED INDIVIDUAL'S
28 SPOUSE;

29 (5) THE LEGAL GUARDIAN OF THE COVERED INDIVIDUAL OR THE
30 WARD OF THE COVERED INDIVIDUAL OR OF THE COVERED INDIVIDUAL'S SPOUSE;

1 **(6)** AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO
 2 PARENTIS TO THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S SPOUSE
 3 WHEN THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S SPOUSE WAS A
 4 MINOR;

5 **(7)** THE SPOUSE OF THE COVERED INDIVIDUAL;

6 **(8)** A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A
 7 FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE COVERED INDIVIDUAL;

8 **(9)** A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A
 9 FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE COVERED INDIVIDUAL; OR

10 **(10)** A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING,
 11 OR A STEPSIBLING OF THE COVERED INDIVIDUAL.

12 ~~(J)~~ **(J)** "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE
 13 FUND ESTABLISHED UNDER § 8.3-501 OF THIS TITLE.

14 ~~(K)~~ **(K)** "GOVERNMENTAL ENTITY" HAS THE MEANING STATED IN § 8-101
 15 OF THIS ARTICLE.

16 ~~(K)~~ ~~"NEXT OF KIN" MEANS THE NEAREST BLOOD RELATIVE.~~

17 **(L)** "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE
 18 PROGRAM ESTABLISHED UNDER § 8.3-301 OF THIS TITLE.

19 **(M)** "QUALIFYING EXIGENCY" MEANS ANY OF THE FOLLOWING REASONS
 20 FOR WHICH LEAVE MAY BE NEEDED BY A FAMILY MEMBER OF A SERVICE MEMBER:

21 **(1)** BECAUSE THE SERVICE MEMBER HAS RECEIVED NOTICE OF
 22 DEPLOYMENT WITHIN 7 DAYS BEFORE THE DEPLOYMENT IS TO BEGIN;

23 **(2)** TO ATTEND MILITARY EVENTS AND RELATED ACTIVITIES
 24 INCLUDING FAMILY SUPPORT PROGRAMS RELATED TO THE ACTIVE DUTY OF THE
 25 SERVICE MEMBER;

26 **(3)** TO ARRANGE, PROVIDE, OR ATTEND CHILD CARE OR SCHOOL
 27 ACTIVITIES ONLY WHEN THE SERVICE MEMBER IS ON ACTIVE DUTY CALL OR ACTIVE
 28 DUTY STATUS;

29 **(4)** TO MAKE FINANCIAL AND LEGAL ARRANGEMENTS FOR THE
 30 SERVICE MEMBER'S ABSENCE OR BECAUSE OF THE ABSENCE;

1 **(5) TO ATTEND COUNSELING THAT:**

2 **(I) IS NEEDED DUE TO THE ACTIVE DUTY OR CALL TO ACTIVE**
3 **DUTY STATUS OF THE SERVICE MEMBER; AND**

4 **(II) IS PROVIDED BY AN INDIVIDUAL WHO IS NOT A LICENSED**
5 **HEALTH CARE PROVIDER;**

6 **(6) TO SPEND UP TO 15 CALENDAR DAYS WITH A SERVICE MEMBER**
7 **WHO IS ON SHORT-TERM TEMPORARY REST AND RECUPERATION LEAVE DURING**
8 **THE PERIOD OF DEPLOYMENT;**

9 **(7) TO ATTEND POSTDEPLOYMENT ACTIVITIES INCLUDING**
10 **REINTEGRATION SERVICES FOR A PERIOD OF 90 DAYS IMMEDIATELY FOLLOWING**
11 **THE TERMINATION OF ACTIVE STATUS;**

12 **(8) TO ATTEND TO MATTERS RELATED TO THE DEATH OF THE**
13 **SERVICE MEMBER WHILE ON ACTIVE DUTY STATUS;**

14 **(9) TO ARRANGE FOR OR PROVIDE ALTERNATIVE CARE FOR A PARENT**
15 **OF THE SERVICE MEMBER WHEN THE PARENT IS INCAPABLE OF SELF-CARE AND THE**
16 **COVERED ACTIVE DUTY OR CALL TO ACTIVE DUTY NECESSITATES A CHANGE; OR**

17 **(10) BECAUSE OF ANY OTHER ISSUES THAT ARISE OUT OF ACTIVE DUTY**
18 **OR A CALL TO ACTIVE DUTY THAT AN EMPLOYER AND COVERED EMPLOYEE AGREE**
19 **SHOULD BE COVERED.**

20 **(N) “SECRETARY” MEANS THE SECRETARY OF LABOR.**

21 **(O) (1) “SERIOUS HEALTH CONDITION” MEANS AN ILLNESS, AN INJURY,**
22 **AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:**

23 **(I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL**
24 **HEALTH CARE FACILITY;**

25 **(II) CONTINUED TREATMENT BY A LICENSED HEALTH CARE**
26 **PROVIDER; OR**

27 **(III) CONTINUED TREATMENT OR SUPERVISION AT HOME BY A**
28 **LICENSED HEALTH CARE PROVIDER OR OTHER COMPETENT INDIVIDUAL UNDER**
29 **THE SUPERVISION OF A LICENSED HEALTH CARE PROVIDER.**

30 **(2) “SERIOUS HEALTH CONDITION” INCLUDES AN ILLNESS, AN**
31 **INJURY, AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION DESCRIBED IN**

1 PARAGRAPH (1) OF THIS SUBSECTION THAT CONTINUES OVER AN EXTENDED
2 PERIOD OF TIME AND REQUIRES INTERMITTENT TREATMENT.

3 (P) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY OR
4 FORMER MEMBER OF:

5 (1) THE UNITED STATES ARMED FORCES;

6 (2) A RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES;
7 OR

8 (3) THE NATIONAL GUARD OF ANY STATE.

9 (Q) "TREATMENT" INCLUDES:

10 (1) EXAMINATIONS OR TESTING TO DETERMINE THE EXTENT TO
11 WHICH A SERIOUS HEALTH CONDITION EXISTS OR PERSISTS;

12 (2) ONGOING OR PERIODIC EVALUATIONS OF THE SERIOUS HEALTH
13 CONDITION; AND

14 (3) ACTUAL TREATMENT BY A HEALTH CARE PROVIDER.

15 8.3-102.

16 (A) (1) THIS ~~SECTION~~ SUBSECTION DOES NOT APPLY TO THE
17 DISCLOSURE OF INFORMATION TO:

18 ~~(1)~~ (I) A PUBLIC EMPLOYEE IN THE PERFORMANCE OF THE PUBLIC
19 EMPLOYEE'S OFFICIAL DUTIES;

20 ~~(2)~~ (II) THE INDIVIDUAL TO WHOM THE INFORMATION RELATES; OR

21 ~~(3)~~ (III) IF AN AUTHORIZED REPRESENTATIVE HAS THE SIGNED
22 AUTHORIZATION OF THE INDIVIDUAL TO WHOM THE INFORMATION RELATES, THE
23 AUTHORIZED REPRESENTATIVE.

24 ~~(B)~~ (2) AN EMPLOYEE OF THE DEPARTMENT MAY NOT DISCLOSE
25 INFORMATION RELATING TO AN INDIVIDUAL WHO HAS APPLIED FOR OR RECEIVED
26 BENEFITS UNDER THIS TITLE.

27 (B) THIS TITLE PREEMPTS THE AUTHORITY OF A LOCAL JURISDICTION TO
28 ENACT A LAW ON OR AFTER JUNE 1, 2022, THAT ESTABLISHES A PAID FAMILY AND

1 MEDICAL LEAVE INSURANCE PROGRAM FOR EMPLOYEES OF AN EMPLOYER OTHER
2 THAN THE LOCAL JURISDICTION.

3 SUBTITLE 2. SCOPE OF TITLE.

4 8.3-201.

5 (A) IN THIS SECTION, "SELF-EMPLOYED INDIVIDUAL" INCLUDES AN
6 INDIVIDUAL THAT:

7 (1) IS THE SOLE OWNER OF A SOLE PROPRIETORSHIP, LIMITED
8 LIABILITY COMPANY, C CORPORATION, OR S CORPORATION; AND

9 (2) IS THE ONLY INDIVIDUAL EMPLOYED BY THE SOLE
10 PROPRIETORSHIP, LIMITED LIABILITY COMPANY, C CORPORATION, OR S
11 CORPORATION.

12 (B) (1) A SELF-EMPLOYED INDIVIDUAL MAY ELECT TO PARTICIPATE IN
13 THE PROGRAM BY FILING A WRITTEN NOTICE OF ELECTION WITH THE SECRETARY
14 IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

15 (2) AN ELECTION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION
16 BECOMES EFFECTIVE ON THE DATE THE WRITTEN NOTICE IS FILED.

17 ~~(B)~~ (C) (1) IF A SELF-EMPLOYED INDIVIDUAL ELECTS TO PARTICIPATE
18 IN THE PROGRAM UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE INDIVIDUAL
19 SHALL PARTICIPATE FOR AN INITIAL PERIOD OF NOT LESS THAN 3 YEARS.

20 (2) ONCE THE INITIAL PARTICIPATION PERIOD EXPIRES, THE
21 SELF-EMPLOYED INDIVIDUAL MAY RENEW PARTICIPATION IN THE PROGRAM FOR A
22 PERIOD OF NOT LESS THAN 1 YEAR.

23 (3) IF THE SELF-EMPLOYED INDIVIDUAL DOES NOT WISH TO RENEW
24 PARTICIPATION IN THE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION,
25 WITHIN 30 DAYS BEFORE THE PARTICIPATION PERIOD EXPIRES, THE
26 SELF-EMPLOYED INDIVIDUAL SHALL NOTIFY THE SECRETARY IN WRITING OF THE
27 SELF-EMPLOYED INDIVIDUAL'S WITHDRAWAL FROM THE PROGRAM.

28 ~~(C)~~ (D) DURING THE PERIOD A SELF-EMPLOYED INDIVIDUAL
29 PARTICIPATES IN THE PROGRAM, THE SELF-EMPLOYED INDIVIDUAL SHALL PAY
30 THE CONTRIBUTION REQUIRED UNDER § 8.3-601 OF THIS TITLE.

31 8.3-202.

1 **THIS TITLE MAY NOT BE CONSTRUED TO DIMINISH AN EMPLOYER'S**
2 **OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN**
3 **EMPLOYER POLICY THAT ALLOWS AN EMPLOYEE TO TAKE LEAVE FOR A LONGER**
4 **PERIOD OF TIME THAN THE EMPLOYEE WOULD BE ABLE TO RECEIVE BENEFITS**
5 **UNDER THIS TITLE.**

6 **8.3-203.**

7 **(A) AN EMPLOYEE'S RIGHT TO BENEFITS UNDER THIS TITLE MAY NOT BE**
8 **DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT ~~ENTERED INTO OR~~**
9 **~~RENEWED~~ OR BY AN EMPLOYER POLICY ~~ADOPTED OR RETAINED ON OR AFTER JUNE~~**
10 **~~1, 2022.~~**

11 **(B) AN AGREEMENT TO WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS TITLE**
12 **IS VOID AS AGAINST PUBLIC POLICY.**

13 **SUBTITLE 3. ESTABLISHMENT OF PROGRAM.**

14 **8.3-301.**

15 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM IN THE**
16 **DEPARTMENT.**

17 **8.3-302.**

18 **THE PURPOSE OF THE PROGRAM IS TO PROVIDE TEMPORARY BENEFITS TO A**
19 **COVERED INDIVIDUAL WHO IS TAKING LEAVE FROM EMPLOYMENT:**

20 **(1) TO CARE FOR A CHILD DURING THE FIRST YEAR AFTER THE**
21 **CHILD'S BIRTH OR AFTER THE PLACEMENT OF THE CHILD THROUGH FOSTER CARE,**
22 **KINSHIP CARE, OR ADOPTION;**

23 **(2) TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH**
24 **CONDITION;**

25 **(3) BECAUSE THE COVERED INDIVIDUAL HAS A SERIOUS HEALTH**
26 **CONDITION THAT RESULTS IN THE COVERED INDIVIDUAL BEING UNABLE TO**
27 **PERFORM THE FUNCTIONS OF THE COVERED INDIVIDUAL'S POSITION;**

28 **(4) TO CARE FOR A SERVICE MEMBER WHO IS THE COVERED**
29 **INDIVIDUAL'S NEXT OF KIN; OR**

1 **(5) BECAUSE THE COVERED INDIVIDUAL HAS A QUALIFYING**
2 **EXIGENCY ARISING OUT OF THE DEPLOYMENT OF A SERVICE MEMBER WHO IS A**
3 **FAMILY MEMBER OF THE COVERED INDIVIDUAL.**

4 **SUBTITLE 4. ADMINISTRATION.**

5 **8.3-401.**

6 **THIS TITLE SHALL BE ADMINISTERED UNDER THE SUPERVISION OF THE**
7 **SECRETARY.**

8 **8.3-402.**

9 **THE SECRETARY MAY DELEGATE TO AN EMPLOYEE OF THE DEPARTMENT ANY**
10 **POWER OR DUTY THAT IS REASONABLE AND PROPER FOR THE ADMINISTRATION OF**
11 **THIS TITLE.**

12 **8.3-403.**

13 **(A) THE SECRETARY SHALL:**

14 **(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ADOPT**
15 **REGULATIONS NECESSARY TO CARRY OUT THIS TITLE;**

16 **(2) ESTABLISH PROCEDURES AND FORMS FOR FILING CLAIMS FOR**
17 **BENEFITS, INCLUDING:**

18 **(I) PROCEDURES FOR NOTIFYING AN EMPLOYER WITHIN 5**
19 **BUSINESS DAYS AFTER AN EMPLOYEE OF THE EMPLOYER FILES A CLAIM FOR**
20 **BENEFITS UNDER THIS TITLE; AND**

21 **(II) NOTICES OF ELECTIONS BY SELF-EMPLOYED INDIVIDUALS**
22 **FOR BENEFITS UNDER § 8.3-201 OF THIS TITLE;**

23 **(3) USE INFORMATION-SHARING AND INTEGRATION TECHNOLOGY TO**
24 **FACILITATE THE DISCLOSURE OF RELEVANT INFORMATION OR RECORDS NEEDED**
25 **FOR THE ADMINISTRATION OF THIS TITLE; AND**

26 **(4) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CARRY OUT A**
27 **PUBLIC EDUCATION PROGRAM.**

28 **(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1) OF THIS**
29 **SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED TO IMPLEMENT THE**
30 **FEDERAL FAMILY AND MEDICAL LEAVE ACT AND ANY RELEVANT STATE LAWS TO**

1 THE EXTENT THAT THE ADOPTED REGULATIONS DO NOT CONFLICT WITH THIS
2 TITLE.

3 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED
4 INDIVIDUAL UNDER § 8.3-302(2), (3), (4), OR (5) OF THIS TITLE SHALL PROVIDE
5 CERTIFICATION FOR A CLAIM FOR BENEFITS UNDER THIS TITLE.

6 (2) A CERTIFICATION FOR A CLAIM FOR BENEFITS FOR A COVERED
7 INDIVIDUAL UNDER § 8.3-302(2), (3), OR (4) OF THIS TITLE SHALL INCLUDE:

8 (I) THE DATE ON WHICH THE SERIOUS HEALTH CONDITION OF
9 THE FAMILY MEMBER, COVERED INDIVIDUAL, OR SERVICE MEMBER COMMENCED;

10 (II) THE PROBABLE DURATION OF THE SERIOUS HEALTH
11 CONDITION;

12 (III) THE APPROPRIATE FACTS RELATED TO THE SERIOUS
13 HEALTH CONDITION WITHIN THE KNOWLEDGE OF THE LICENSED HEALTH CARE
14 PROVIDER;

15 (IV) 1. FOR A CLAIM FOR BENEFITS UNDER § 8.3-302(2) OF
16 THIS TITLE, A STATEMENT THAT THE COVERED INDIVIDUAL NEEDS TO CARE FOR A
17 FAMILY MEMBER AND AN ESTIMATE OF THE AMOUNT OF TIME REQUIRED TO
18 PROVIDE THE CARE; OR

19 2. FOR A CLAIM FOR BENEFITS UNDER § 8.3-302(3) OF
20 THIS TITLE, A STATEMENT THAT THE COVERED INDIVIDUAL IS UNABLE TO PERFORM
21 THE FUNCTIONS OF THE COVERED INDIVIDUAL'S POSITION; AND

22 (V) 1. FOR A CERTIFICATION FOR INTERMITTENT LEAVE
23 UNDER § 8.3-302(2) OR (4) OF THIS TITLE, ~~THE EXPECTED DATES AND DURATION OF~~
24 ~~THE LEAVE~~ A STATEMENT THAT THE COVERED INDIVIDUAL NEEDS TO CARE FOR A
25 FAMILY MEMBER OR SERVICE MEMBER AND THE EXPECTED DURATION OF THE
26 INTERMITTENT LEAVE; OR

27 2. FOR A CERTIFICATION OF INTERMITTENT LEAVE
28 UNDER § 8.3-302(3) OF THIS TITLE, A STATEMENT THAT THE COVERED INDIVIDUAL
29 IS UNABLE TO PERFORM THE FUNCTIONS OF THE COVERED INDIVIDUAL'S POSITION
30 AND THE EXPECTED DURATION OF THE INTERMITTENT LEAVE.

31 (3) THE SECRETARY SHALL ESTABLISH:

32 (I) STANDARDS IN REGULATION FOR THE CERTIFICATION OF
33 CLAIMS FOR BENEFITS UNDER § 8.3-302(5) OF THIS TITLE;

1 **(II) STANDARDS FOR VERIFYING THE IDENTITY OF A FAMILY**
2 **MEMBER FOR A CLAIM FOR BENEFITS UNDER § 8.3-302(2) OF THIS TITLE; AND**

3 ~~**(III) PROCEDURES FOR DENYING A CLAIM FOR BENEFITS UNDER**~~
4 ~~**THIS TITLE IF A COVERED EMPLOYEE'S ABSENCE WILL CAUSE A DEMONSTRATED**~~
5 ~~**HARDSHIP TO THE EMPLOYER; AND**~~

6 ~~**(IV) PROCEDURES FOR AN EMPLOYER TO PROVIDE EVIDENCE OF**~~
7 ~~**SUSPECTED FRAUD TO THE SECRETARY.**~~

8 **(D) (1) THE SECRETARY MAY USE A PORTION OF THE FUNDS PAID UNDER**
9 **§ 8.3-601 OF THIS TITLE OR OTHER AVAILABLE FUNDING TO PAY FOR AND CARRY**
10 **OUT THE REQUIREMENTS UNDER SUBSECTION (A)(4) OF THIS SECTION.**

11 **(2) MATERIALS USED IN THE PUBLIC EDUCATION PROGRAM**
12 **REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL BE MADE AVAILABLE**
13 **IN ENGLISH AND SPANISH.**

14 **8.3-404.**

15 **(A) ~~TO~~ SUBJECT TO § 8.3-905 OF THIS TITLE, TO ENFORCE THIS TITLE, THE**
16 **SECRETARY MAY:**

17 **(1) CONDUCT AN INVESTIGATION UNDER THIS TITLE, ON THE**
18 **SECRETARY'S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT;**

19 **(2) ADMINISTER AN OATH;**

20 **(3) CERTIFY TO AN OFFICIAL ACT;**

21 **(4) TAKE A DEPOSITION;**

22 **(5) ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO**
23 **TESTIFY OR THE PRODUCTION OF BOOKS, CORRESPONDENCE, MEMORANDA,**
24 **PAPERS, OR OTHER RECORDS; AND**

25 **(6) BRING A CIVIL ACTION IN THE COUNTY WHERE THE VIOLATION**
26 **ALLEGEDLY OCCURRED.**

27 **(B) (1) A SUBPOENA ISSUED UNDER SUBSECTION (A)(5) OF THIS SECTION**
28 **SHALL BE SERVED IN ANY MANNER IN WHICH A SUBPOENA OF A COURT MAY BE**
29 **SERVED.**

1 **(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER**
 2 **SUBSECTION (A)(5) OF THIS SECTION ON A COMPLAINT FILED BY THE SECRETARY,**
 3 **THE CIRCUIT COURT FOR THE COUNTY WHERE THE INVESTIGATION IS BEING**
 4 **CONDUCTED OR WHERE THE PERSON RESIDES, IS PRESENT, OR TRANSACTS**
 5 **BUSINESS MAY ISSUE AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR**
 6 **COMPELLING TESTIMONY.**

7 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**
 8 **PERSON MAY NOT BE EXCUSED FROM COMPLYING WITH A SUBPOENA ISSUED UNDER**
 9 **SUBSECTION (A)(5) OF THIS SECTION ON THE GROUND THAT THE EVIDENCE OR**
 10 **TESTIMONY REQUIRED MAY TEND TO INCRIMINATE THE PERSON OR SUBJECT THE**
 11 **PERSON TO A FORFEITURE OR PENALTY.**

12 **(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF**
 13 **THIS SUBPARAGRAPH, AFTER CLAIMING THE PRIVILEGE AGAINST**
 14 **SELF-INCRIMINATION, A PERSON MAY NOT BE PROSECUTED OR SUBJECTED TO ANY**
 15 **FORFEITURE OR PENALTY BECAUSE OF ANY MATTER, THING, OR TRANSACTION**
 16 **ABOUT WHICH THE PERSON IS COMPELLED TO PRODUCE EVIDENCE OR TESTIFY.**

17 **2. IF THE PERSON COMMITS PERJURY WHILE GIVING**
 18 **TESTIMONY, THE PERSON IS SUBJECT TO PROSECUTION FOR THAT OFFENSE.**

19 **8.3-405.**

20 ~~**IN SUBJECT TO § 8.3-905 OF THIS TITLE, IN A CIVIL ACTION TO ENFORCE THIS**~~
 21 **TITLE, THE SECRETARY AND THE STATE MAY BE REPRESENTED BY:**

22 **(1) THE ATTORNEY GENERAL; OR**

23 **(2) ANY QUALIFIED ATTORNEY WHO:**

24 **(I) IS A SALARIED EMPLOYEE OF THE SECRETARY; AND**

25 **(II) ON RECOMMENDATION OF THE ATTORNEY GENERAL, IS**
 26 **DESIGNATED TO REPRESENT THE SECRETARY OR THE BOARD OF APPEALS AND THE**
 27 **STATE.**

28 **8.3-406.**

29 **(A) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE SECRETARY SHALL**
 30 **SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE**
 31 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT ON THE**
 32 **ADMINISTRATION AND OPERATION OF THIS TITLE DURING THE IMMEDIATELY**
 33 **PRECEDING FISCAL YEAR.**

1 (B) THE ANNUAL REPORT SHALL INCLUDE INFORMATION REGARDING:

2 (1) PROJECTED AND ACTUAL PROGRAM PARTICIPATION RATES;

3 (2) CONTRIBUTION RATES;

4 (3) PROJECTED AND ACTUAL FUND BALANCES;

5 (4) PUBLIC OUTREACH AND TECHNICAL ASSISTANCE EFFORTS;

6 (5) ALL ENFORCEMENT EFFORTS;

7 (6) THE NUMBER AND STATUS OF COMPLAINTS UNDER SUBTITLE 9 OF
8 THIS TITLE; AND

9 (7) THE COST OF ADMINISTERING THE PROGRAM.

10 SUBTITLE 5. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.

11 8.3-501.

12 THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE FUND.

13 8.3-502.

14 (A) THE SECRETARY SHALL ADMINISTER THE FUND.

15 (B) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO
16 § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (C) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
18 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

19 8.3-503.

20 (A) THE FUND CONSISTS OF:

21 (1) EMPLOYEE CONTRIBUTIONS;

22 (2) SELF-EMPLOYED INDIVIDUAL CONTRIBUTIONS;

23 (3) EMPLOYER CONTRIBUTIONS;

1 (4) MONEY PAID TO THE FUND FOR THE PURPOSE OF REIMBURSING
2 THE SECRETARY UNDER § 8.3-902 OF THIS TITLE FOR BENEFITS PAID IN ERROR;

3 (5) INTEREST EARNED ON MONEY IN THE FUND; AND

4 (6) MONEY RECEIVED FOR THE FUND FROM ANY OTHER SOURCE.

5 (B) MONEY IN THE FUND MAY BE COMMINGLED.

6 (C) THE FUND MAY BE USED ONLY FOR THE PURPOSES OF THIS TITLE.

7 **8.3-504.**

8 (A) (1) THE STATE TREASURER IS CUSTODIAN OF THE FUND.

9 (2) THE STATE TREASURER SHALL MANAGE THE FUND IN
10 ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS.

11 (B) UNDER THE DIRECTION OF THE SECRETARY, THE STATE TREASURER
12 SHALL ESTABLISH THE FUND ACCOUNT IN ANY FINANCIAL INSTITUTION IN WHICH
13 THE GENERAL FUND OF THE STATE MAY BE DEPOSITED.

14 (C) ON RECEIPT OF ANY MONEY PAYABLE TO THE FUND, THE SECRETARY
15 SHALL ENSURE IMMEDIATE DEPOSIT OF THE MONEY INTO THE FUND ACCOUNT AS
16 REQUIRED BY THE STATE TREASURER.

17 (D) IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS,
18 MONEY IN THE FUND ACCOUNT:

19 (1) SHALL BE USED TO PAY BENEFITS UNDER THIS TITLE; AND

20 (2) MAY BE USED TO PAY FOR:

21 (I) THE PUBLIC EDUCATION PROGRAM; AND

22 (II) ANY COSTS ASSOCIATED WITH THE INITIAL
23 IMPLEMENTATION AND ONGOING ADMINISTRATION OF THIS TITLE.

24 **8.3-505.**

25 A CHECK THAT THE STATE TREASURER ISSUES TO PAY BENEFITS OR
26 REFUNDS SHALL:

27 (1) BE ISSUED ONLY ON A WARRANT SIGNED BY THE SECRETARY;

(2) BEAR THE SIGNATURE OF THE STATE TREASURER; AND

(3) BE COUNTERSIGNED BY AN AUTHORIZED AGENT.

8.3-506.

THIS TITLE DOES NOT GRANT AN EMPLOYEE ANY PRIOR CLAIM OR RIGHT TO MONEY THE EMPLOYEE PAYS INTO THE FUND.

SUBTITLE 6. CONTRIBUTIONS.

8.3-601.

(A) BEGINNING ~~JANUARY 1, 2023~~ OCTOBER 1, 2023, EACH EMPLOYEE OF AN EMPLOYER, EACH EMPLOYER, AND EACH SELF-EMPLOYED INDIVIDUAL PARTICIPATING IN THE PROGRAM SHALL CONTRIBUTE TO THE FUND.

(B) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SECRETARY ANNUALLY SHALL SET A TOTAL RATE OF CONTRIBUTION TO BE PAID IN ACCORDANCE WITH THIS SUBSECTION.

(II) THE TOTAL RATE OF CONTRIBUTION ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY NOT EXCEED 0.75% OF AN EMPLOYEE’S WAGES;

2. SHALL BE APPLIED TO ALL WAGES UP TO AND INCLUDING THE SOCIAL SECURITY WAGE BASE;

3. SHALL BE SHARED ~~EQUALLY~~ BY EMPLOYERS AND EMPLOYEES; AND

4. SHALL BE SUFFICIENT TO FUND THE BENEFITS PAYABLE UNDER THIS TITLE.

(2) EACH EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO ~~50%~~ 25% OF THE TOTAL RATE OF CONTRIBUTION FOR EACH EMPLOYEE EMPLOYED BY THE EMPLOYER.

(3) (I) EACH EMPLOYEE OF AN EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO ~~50%~~ 75% OF THE TOTAL RATE OF CONTRIBUTION.

(II) 1. ~~THE~~ EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE EMPLOYER OF THE EMPLOYEE SHALL DEDUCT THE

1 CONTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM
2 THE WAGES OF THE EMPLOYEE.

3 2. IF THE EMPLOYER OF AN EMPLOYEE ELECTS TO PAY
4 A PORTION OF THE EMPLOYEE'S REQUIRED CONTRIBUTION, THE EMPLOYER MAY
5 DEDUCT AN AMOUNT THAT IS LESS THAN 80% OF THE TOTAL RATE OF
6 CONTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM
7 THE WAGES OF THE EMPLOYEE.

8 (4) EACH SELF-EMPLOYED INDIVIDUAL PARTICIPATING IN THE
9 PROGRAM SHALL:

10 (I) PAY CONTRIBUTIONS DURING EACH YEAR THAT THE
11 SELF-EMPLOYED INDIVIDUAL PARTICIPATES IN THE PROGRAM; AND

12 (II) CONTRIBUTE AN AMOUNT EQUAL TO THE TOTAL RATE OF
13 CONTRIBUTION ESTABLISHED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.

14 SUBTITLE 7. BENEFITS.

15 8.3-701.

16 (A) (1) ~~BEGINNING JULY 1, 2024~~ SUBJECT TO PARAGRAPH (2) OF THIS
17 SUBSECTION, BEGINNING JANUARY 1, 2025, A COVERED INDIVIDUAL TAKING LEAVE
18 FROM EMPLOYMENT MAY SUBMIT A CLAIM FOR BENEFITS TO:

19 ~~(1)~~ (I) CARE FOR A NEWBORN CHILD OR A CHILD NEWLY PLACED
20 FOR ADOPTION, FOSTER CARE, OR KINSHIP CARE WITH THE COVERED INDIVIDUAL
21 DURING THE FIRST YEAR AFTER THE BIRTH, ADOPTION, OR PLACEMENT;

22 ~~(2)~~ (II) CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH
23 CONDITION;

24 ~~(3)~~ (III) ATTEND TO A SERIOUS HEALTH CONDITION THAT RESULTS
25 IN THE COVERED INDIVIDUAL BEING UNABLE TO PERFORM THE FUNCTIONS OF THE
26 COVERED INDIVIDUAL'S POSITION;

27 ~~(4)~~ (IV) CARE FOR A SERVICE MEMBER WITH A SERIOUS HEALTH
28 CONDITION RESULTING FROM MILITARY SERVICE WHO IS THE COVERED
29 INDIVIDUAL'S NEXT OF KIN; OR

30 ~~(5)~~ (V) ATTEND TO A QUALIFYING EXIGENCY ARISING OUT OF THE
31 DEPLOYMENT OF A SERVICE MEMBER WHO IS A FAMILY MEMBER OF THE COVERED
32 INDIVIDUAL.

1 **(2) (I) EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS**
2 **PARAGRAPH, IF THE NEED TO USE LEAVE IS FORESEEABLE, AN EMPLOYER MAY**
3 **REQUIRE A COVERED EMPLOYEE TAKING LEAVE UNDER THIS TITLE TO PROVIDE THE**
4 **EMPLOYER WITH WRITTEN NOTICE OF THE COVERED EMPLOYEE'S INTENTION TO**
5 **TAKE LEAVE AT LEAST 30 DAYS BEFORE COMMENCING THE LEAVE.**

6 **(II) IF THE NEED TO USE LEAVE IS NOT FORESEEABLE, THE**
7 **COVERED EMPLOYEE SHALL:**

8 **1. PROVIDE NOTICE TO THE EMPLOYER AS SOON AS**
9 **PRACTICABLE; AND**

10 **2. GENERALLY COMPLY WITH THE EMPLOYER'S NOTICE**
11 **OR PROCEDURAL REQUIREMENTS FOR REQUESTING OR REPORTING OTHER LEAVE,**
12 **IF THOSE REQUIREMENTS DO NOT INTERFERE WITH THE COVERED EMPLOYEE'S**
13 **ABILITY TO USE LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE.**

14 **(B) (1) SUBJECT TO ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS**
15 **SUBSECTION, A COVERED INDIVIDUAL MAY TAKE THE LEAVE FOR WHICH THE**
16 **INDIVIDUAL IS ELIGIBLE FOR BENEFITS UNDER SUBSECTION (A) OF THIS SECTION**
17 **ON AN INTERMITTENT LEAVE SCHEDULE.**

18 **(2) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE SCHEDULE, THE**
19 **COVERED INDIVIDUAL SHALL:**

20 **(I) MAKE A REASONABLE EFFORT TO SCHEDULE THE**
21 **INTERMITTENT LEAVE IN A MANNER THAT DOES NOT UNDULY DISRUPT THE**
22 **OPERATIONS OF THE EMPLOYER; AND**

23 **(II) PROVIDE THE EMPLOYER WITH REASONABLE AND**
24 **PRACTICABLE PRIOR NOTICE OF THE REASON FOR WHICH THE INTERMITTENT**
25 **LEAVE IS NECESSARY.**

26 **(3) A COVERED EMPLOYEE MAY NOT TAKE INTERMITTENT LEAVE IN**
27 **AN INCREMENT OF LESS THAN 4 HOURS.**

28 **~~(3)~~ (4) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE**
29 **SCHEDULE, AN EMPLOYER MAY NOT REDUCE THE TOTAL AMOUNT OF LEAVE TO**
30 **WHICH THE COVERED INDIVIDUAL IS ENTITLED BEYOND THE AMOUNT OF LEAVE**
31 **ACTUALLY TAKEN.**

32 **8.3-702.**

1 (A) ~~(1) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
 2 ~~SUBSECTION, A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
 3 COVERED INDIVIDUAL MAY NOT RECEIVE MORE THAN 12 WEEKS OF BENEFITS IN AN
 4 APPLICATION YEAR.

5 ~~(2) A COVERED INDIVIDUAL MAY RECEIVE AN ADDITIONAL 12 WEEKS~~
 6 ~~OF BENEFITS IF THE COVERED INDIVIDUAL DURING THE SAME APPLICATION YEAR:~~

7 ~~(I) RECEIVED BENEFITS BECAUSE THE COVERED INDIVIDUAL~~
 8 ~~WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(3) OF THIS SUBTITLE; AND~~

9 ~~(II) BECOMES ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1),~~
 10 ~~(2), (4), OR (5) OF THIS SUBTITLE.~~

11 (2) A COVERED INDIVIDUAL MAY RECEIVE AN ADDITIONAL 12 WEEKS
 12 OF BENEFITS IF THE COVERED INDIVIDUAL DURING THE SAME APPLICATION YEAR:

13 (I) 1. RECEIVED BENEFITS BECAUSE THE COVERED
 14 INDIVIDUAL WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(I) OF THIS
 15 SUBTITLE; AND

16 2. BECOMES ELIGIBLE FOR BENEFITS UNDER §
 17 8.3-701(A)(1)(III) OF THIS SUBTITLE; OR

18 (II) 1. RECEIVED BENEFITS BECAUSE THE COVERED
 19 INDIVIDUAL WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(1)(III) OF THIS
 20 SUBTITLE; AND

21 2. BECOMES ELIGIBLE FOR BENEFITS UNDER §
 22 8.3-701(A)(1)(I) OF THIS SUBTITLE.

23 (B) IF A COVERED INDIVIDUAL TAKES LEAVE FOR WHICH THE COVERED
 24 INDIVIDUAL IS RECEIVING BENEFITS UNDER THIS TITLE, THE LEAVE SHALL RUN
 25 CONCURRENTLY WITH ELIGIBLE LEAVE THAT MAY BE TAKEN BY THE COVERED
 26 INDIVIDUAL UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

27 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 28 AN INDIVIDUAL RECEIVING BENEFITS UNDER TITLE 8 OF THIS ARTICLE OR WAGE
 29 REPLACEMENT BENEFITS UNDER TITLE 9 OF THIS ARTICLE IS NOT ELIGIBLE TO
 30 RECEIVE BENEFITS UNDER THIS TITLE.

31 (2) AN INDIVIDUAL RECEIVING COMPENSATION FOR A PERMANENT
 32 PARTIAL DISABILITY UNDER TITLE 9 OF THIS ARTICLE MAY BE ELIGIBLE FOR
 33 BENEFITS UNDER THIS TITLE.

1 **8.3-703.**

2 (A) AN EMPLOYER MAY ALLOW A COVERED INDIVIDUAL TO USE PAID
3 VACATION, PAID SICK LEAVE, OR OTHER PAID TIME OFF UNDER AN EMPLOYER
4 POLICY IN ADDITION TO THE BENEFITS AVAILABLE UNDER THIS TITLE TO REPLACE
5 THE COVERED INDIVIDUAL'S WAGES UP TO 100% OF THE COVERED INDIVIDUAL'S
6 WEEKLY WAGE DURING THE PERIOD OF LEAVE FOR WHICH BENEFITS ARE RECEIVED
7 UNDER THIS TITLE.

8 (B) AN EMPLOYER CONTRIBUTING TO THE FUND MAY REQUIRE A COVERED
9 INDIVIDUAL WHO RECEIVES BENEFITS UNDER THIS TITLE TO USE THOSE BENEFITS
10 CONCURRENTLY WITH FAMILY OR MEDICAL LEAVE BENEFITS PROVIDED UNDER AN
11 EMPLOYER POLICY.

12 **8.3-704.**

13 (A) FOR THE PURPOSES OF THIS SECTION:

14 (1) THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE SHALL BE
15 CALCULATED AS THE TOTAL WAGES RECEIVED BY THE COVERED INDIVIDUAL OVER
16 THE LAST 680 HOURS FOR WHICH THE COVERED INDIVIDUAL WAS PAID DIVIDED BY
17 THE NUMBER OF WEEKS WORKED; AND

18 (2) THE STATE AVERAGE WEEKLY WAGE SHALL BE THE WAGE
19 CALCULATED UNDER § 9-603 OF THIS ARTICLE.

20 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE WEEKLY
21 BENEFIT AMOUNT PAYABLE TO A COVERED INDIVIDUAL UNDER THIS TITLE SHALL
22 BE:

23 (I) IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE IS
24 65% OR LESS OF THE STATE AVERAGE WEEKLY WAGE, 90% OF THE COVERED
25 INDIVIDUAL'S AVERAGE WEEKLY WAGE;

26 (II) IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE IS
27 GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE, THE SUM OF:

28 1. 90% OF THE COVERED INDIVIDUAL'S AVERAGE
29 WEEKLY WAGE UP TO 65% OF THE STATE AVERAGE WEEKLY WAGE; AND

30 2. 50% OF THE COVERED INDIVIDUAL'S AVERAGE
31 WEEKLY WAGE THAT IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE;
32 OR

1 (III) IF THE COVERED INDIVIDUAL IS TAKING PARTIALLY PAID
2 LEAVE, THE LESSER OF:

3 1. THE AMOUNT REQUIRED TO MAKE UP THE
4 DIFFERENCE BETWEEN THE WAGES PAID TO THE COVERED INDIVIDUAL WHILE THE
5 COVERED INDIVIDUAL IS TAKING PARTIALLY PAID LEAVE AND THE FULL WAGES
6 NORMALLY PAID TO THE COVERED INDIVIDUAL; AND

7 2. IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY
8 WAGE IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE, THE SUM OF:

9 A. 90% OF THE COVERED INDIVIDUAL'S AVERAGE
10 WEEKLY WAGE UP TO 65% OF THE STATE AVERAGE WEEKLY WAGE; AND

11 B. 50% OF THE COVERED INDIVIDUAL'S AVERAGE
12 WEEKLY WAGE THAT IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE.

13 (2) THE WEEKLY BENEFIT AMOUNT PAYABLE UNDER PARAGRAPH (1)
14 OF THIS SUBSECTION:

15 (I) SHALL BE AT LEAST \$50; AND

16 (II) MAY NOT EXCEED:

17 1. FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1,~~
18 ~~2024~~ JANUARY 1, 2025, \$1,000; AND

19 2. FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1,~~
20 ~~2025~~ JANUARY 1, 2026, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE AMOUNT
21 DETERMINED AND ANNOUNCED BY THE SECRETARY UNDER PARAGRAPH (3) OF THIS
22 SUBSECTION.

23 (3) (I) IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS
24 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE
25 WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV METROPOLITAN AREA
26 OR A SUCCESSOR INDEX PUBLISHED BY THE FEDERAL BUREAU OF LABOR
27 STATISTICS.

28 (II) ~~EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS~~
29 ~~PARAGRAPH~~ SUBJECT TO SUBSECTION (E) OF THIS SECTION, FOR THE 12-MONTH
30 PERIOD BEGINNING ~~JULY 1, 2025~~ JANUARY 1, 2026, AND EACH SUBSEQUENT
31 12-MONTH PERIOD, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL BE

1 INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST CENT, THAT EQUALS THE
2 PRODUCT OF:

3 1. THE MAXIMUM WEEKLY BENEFIT AMOUNT IN EFFECT
4 FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD; AND

5 2. THE ANNUAL PERCENTAGE GROWTH IN THE
6 CONSUMER PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD,
7 AS DETERMINED BY THE SECRETARY UNDER SUBPARAGRAPH (III)1 OF THIS
8 PARAGRAPH.

9 (III) BEGINNING ~~MARCH 1, 2025~~ SEPTEMBER 1, 2025, AND ON
10 EACH SUBSEQUENT SEPTEMBER 1, THE SECRETARY SHALL DETERMINE AND
11 ANNOUNCE:

12 1. THE ANNUAL PERCENTAGE GROWTH, IF ANY, IN THE
13 CONSUMER PRICE INDEX BASED ON THE MOST RECENT 12-MONTH PERIOD FOR
14 WHICH DATA ARE AVAILABLE ON SEPTEMBER 1; AND

15 2. THE MAXIMUM WEEKLY BENEFIT AMOUNT EFFECTIVE
16 FOR THE 12-MONTH PERIOD BEGINNING THE IMMEDIATELY FOLLOWING ~~JULY 1~~
17 JANUARY 1.

18 ~~(IV) IF THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER~~
19 ~~PRICE INDEX, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL REMAIN THE SAME~~
20 ~~AS THE AMOUNT THAT WAS IN EFFECT FOR THE PRECEDING 12-MONTH PERIOD.~~

21 (C) AN INCREASE IN THE WEEKLY BENEFIT AMOUNT UNDER SUBSECTION
22 (B)(3) OF THIS SECTION APPLIES ONLY TO A CLAIM FOR BENEFITS FILED AFTER THE
23 DATE THE INCREASE BECOMES EFFECTIVE.

24 (D) THE DEPARTMENT SHALL:

25 (1) NOTIFY THE EMPLOYER OF A COVERED INDIVIDUAL WITHIN 5
26 BUSINESS DAYS AFTER THE COVERED INDIVIDUAL FILES A CLAIM FOR BENEFITS
27 UNDER THIS TITLE;

28 (2) APPROVE OR DENY THE CLAIM AND NOTIFY THE COVERED
29 INDIVIDUAL AND THE COVERED INDIVIDUAL'S EMPLOYER WITHIN 10 BUSINESS
30 DAYS AFTER THE COVERED INDIVIDUAL FILES THE CLAIM;

31 (3) MAKE THE FIRST PAYMENT OF BENEFITS TO A COVERED
32 INDIVIDUAL WITHIN 5 BUSINESS DAYS AFTER THE CLAIM IS APPROVED; AND

1 (4) MAKE SUBSEQUENT PAYMENTS EVERY 2 WEEKS UNTIL THE
2 BENEFIT PERIOD ENDS.

3 (E) (1) IN THIS SUBSECTION, "BOARD" MEANS THE BOARD OF PUBLIC
4 WORKS.

5 (2) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, ON OR
6 BEFORE SEPTEMBER 1 EACH YEAR, BEGINNING IN 2025, THE BOARD SHALL
7 DETERMINE WHETHER THE SEASONALLY ADJUSTED TOTAL EMPLOYMENT FROM
8 THE CURRENT EMPLOYMENT STATISTICS SERIES AS REPORTED BY THE U.S.
9 BUREAU OF LABOR STATISTICS FOR THE MOST RECENT 6-MONTH PERIOD IS
10 NEGATIVE AS COMPARED WITH THE IMMEDIATELY PRECEDING 6-MONTH PERIOD.

11 (3) (I) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE
12 BOARD MAY TEMPORARILY SUSPEND AN INCREASE IN THE MAXIMUM WEEKLY
13 BENEFIT SPECIFIED UNDER SUBSECTION (B)(2)(II) OF THIS SECTION IF THE BOARD
14 DETERMINED UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT THE SEASONALLY
15 ADJUSTED TOTAL EMPLOYMENT IS NEGATIVE.

16 (II) IF THE SEASONALLY ADJUSTED TOTAL EMPLOYMENT IS
17 NEGATIVE, THE BOARD MAY CONSIDER THE PERFORMANCE OF STATE REVENUES IN
18 THE IMMEDIATELY PRECEDING 6 MONTHS, AS REPORTED BY THE OFFICE OF THE
19 COMPTROLLER, IN DETERMINING WHETHER TO TEMPORARILY SUSPEND AN
20 INCREASE TO THE MAXIMUM WEEKLY BENEFIT SPECIFIED UNDER SUBSECTION
21 (B)(2)(II) OF THIS SECTION.

22 (4) IF THE BOARD TEMPORARILY SUSPENDS AN INCREASE TO THE
23 MAXIMUM WEEKLY BENEFIT SPECIFIED UNDER SUBSECTION (B)(2)(II)2 OF THIS
24 SECTION:

25 (I) THE MAXIMUM WEEKLY BENEFIT IN EFFECT FOR THE
26 PERIOD BEGINNING THE FOLLOWING JANUARY 1 SHALL REMAIN THE SAME AS THE
27 RATE THAT WAS IN EFFECT FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD;
28 AND

29 (II) THE BOARD SHALL NOTIFY THE SECRETARY THAT THE
30 MAXIMUM WEEKLY BENEFIT INCREASE FOR THE PERIOD BEGINNING THE
31 FOLLOWING JANUARY 1 IS SUSPENDED FOR 1 YEAR.

32 (F) THE DEPARTMENT SHALL NOTIFY EACH EMPLOYER OF THE INCREASE
33 TO THE MAXIMUM WEEKLY BENEFIT SPECIFIED UNDER SUBSECTION (B)(2)(II) OF
34 THIS SECTION.

1 **(A) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT BENEFITS**
2 **PAID UNDER THIS SUBTITLE ARE SUBJECT TO FEDERAL INCOME TAX, AT THE TIME**
3 **A COVERED INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, THE DEPARTMENT**
4 **SHALL NOTIFY THE COVERED INDIVIDUAL THAT:**

5 **(1) THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT THE**
6 **BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX;**

7 **(2) THERE ARE REQUIREMENTS REGARDING ESTIMATED TAX**
8 **PAYMENTS;**

9 **(3) THE COVERED INDIVIDUAL MAY ELECT TO HAVE FEDERAL**
10 **INCOME TAX DEDUCTED AND WITHHELD FROM THE BENEFITS THAT THE COVERED**
11 **INDIVIDUAL RECEIVES UNDER THIS TITLE AT THE RATE SPECIFIED IN THE**
12 **INTERNAL REVENUE CODE; AND**

13 **(4) THE COVERED INDIVIDUAL IS ALLOWED TO CHANGE A**
14 **PREVIOUSLY ELECTED WITHHOLDING STATUS.**

15 **(B) (1) IF A COVERED INDIVIDUAL ELECTS TO HAVE FEDERAL INCOME**
16 **TAX DEDUCTED AND WITHHELD UNDER SUBSECTION (A)(3) OF THIS SECTION, THE**
17 **DEPARTMENT SHALL DEDUCT AND WITHHOLD AN AMOUNT AT THE RATE SPECIFIED**
18 **IN THE INTERNAL REVENUE CODE IN A MANNER REQUIRED BY THE INTERNAL**
19 **REVENUE SERVICE.**

20 **(2) IF THE DEPARTMENT DEDUCTS AND WITHHOLDS FEDERAL**
21 **INCOME TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DEDUCTED**
22 **AND WITHHELD SHALL REMAIN IN THE FUND UNTIL IT IS TRANSFERRED TO THE**
23 **INTERNAL REVENUE SERVICE AS A PAYMENT OF INCOME TAX.**

24 **8.3-706.**

25 **(A) AN EMPLOYER MAY SATISFY THE REQUIREMENTS OF THIS TITLE**
26 **THROUGH A PRIVATE EMPLOYER PLAN CONSISTING OF EMPLOYER-PROVIDED**
27 **BENEFITS, INSURANCE, OR A COMBINATION OF BOTH IF THE PRIVATE EMPLOYER**
28 **PLAN IS OFFERED TO ALL OF THE EMPLOYER'S ELIGIBLE EMPLOYEES AND MEETS**
29 **OR EXCEEDS THE RIGHTS, PROTECTIONS, AND BENEFITS PROVIDED TO A COVERED**
30 **EMPLOYEE UNDER THIS TITLE.**

31 **(B) A PRIVATE EMPLOYER PLAN SHALL BE FILED WITH THE DEPARTMENT**
32 **FOR APPROVAL.**

1 (C) AN EMPLOYER THAT PROVIDES COVERED EMPLOYEES WITH A PRIVATE
2 EMPLOYER PLAN AND AN EMPLOYEE THAT IS COVERED BY A PRIVATE EMPLOYER
3 PLAN ARE EXEMPT FROM THE CONTRIBUTIONS REQUIRED UNDER SUBTITLE 6 OF
4 THIS TITLE.

5 8.3-707.

6 (A) THIS SECTION DOES NOT APPLY TO AN EMPLOYER WHO IS AN
7 INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY, AND WHO SELF-DIRECTS
8 SERVICES UNDER THE MARYLAND MEDICAID HOME- AND COMMUNITY-BASED
9 SERVICES WAIVER PROGRAM.

10 (B) ~~IF~~ EXCEPT AS PROVIDED IN SUBSECTION (C)(2) OF THIS SECTION, IF A
11 COVERED INDIVIDUAL RECEIVES BENEFITS UNDER THIS TITLE OR TAKES LEAVE
12 FROM WORK FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, THE EMPLOYER
13 OF THE COVERED INDIVIDUAL SHALL, ON THE EXPIRATION OF THE LEAVE, RESTORE
14 THE COVERED INDIVIDUAL TO AN EQUIVALENT POSITION OF EMPLOYMENT.

15 (C) AN EMPLOYER MAY:

16 (1) DURING A PERIOD OF LEAVE FROM WORK FOR WHICH BENEFITS
17 MAY BE PAID UNDER THIS TITLE, TERMINATE EMPLOYMENT OF THE COVERED
18 INDIVIDUAL TAKING THE LEAVE ONLY FOR CAUSE; AND

19 (2) DENY RESTORATION OF A COVERED INDIVIDUAL'S POSITION OF
20 EMPLOYMENT UNDER SUBSECTION (B) OF THIS SECTION IF:

21 (I) THE DENIAL IS NECESSARY TO PREVENT SUBSTANTIAL AND
22 GRIEVOUS ECONOMIC INJURY TO THE OPERATIONS OF THE EMPLOYER;

23 (II) THE EMPLOYER NOTIFIES THE COVERED INDIVIDUAL OF
24 THE INTENT OF THE EMPLOYER TO DENY RESTORATION OF THE COVERED
25 INDIVIDUAL'S POSITION OF EMPLOYMENT AT THE TIME THE EMPLOYER
26 DETERMINES THE ECONOMIC INJURY WOULD OCCUR; AND

27 (III) IF THE LEAVE HAS ALREADY BEGUN IN A CASE OF LEAVE
28 FROM WORK FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, THE COVERED
29 INDIVIDUAL ELECTS NOT TO RETURN TO EMPLOYMENT AFTER RECEIVING NOTICE
30 OF THE EMPLOYER'S INTENTION TO DENY RESTORATION OF THE COVERED
31 INDIVIDUAL'S POSITION OF EMPLOYMENT.

32 8.3-708.

1 IF A COVERED INDIVIDUAL IS RECEIVING BENEFITS UNDER THIS TITLE OR IS
2 TAKING LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, THE
3 EMPLOYER OF THE COVERED INDIVIDUAL SHALL CONTINUE ANY EMPLOYMENT
4 HEALTH BENEFITS IN THE SAME MANNER AS REQUIRED UNDER ~~TITLE 3, SUBTITLE~~
5 ~~12 OF THIS ARTICLE~~ MAINTENANCE OF HEALTH BENEFITS IN THE FEDERAL FAMILY
6 AND MEDICAL LEAVE ACT FOR THE TIME PERIOD THAT THE COVERED INDIVIDUAL
7 IS ABSENT FROM WORK OR RECEIVING BENEFITS UNDER THIS TITLE.

8 SUBTITLE 8. NOTICE TO EMPLOYEES.

9 8.3-801.

10 (A) AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE TO EACH EMPLOYEE
11 OF THE RIGHTS AND DUTIES OF AN EMPLOYEE UNDER THIS TITLE AT THE TIME OF
12 HIRE AND ANNUALLY THEREAFTER.

13 (B) (1) WHEN AN EMPLOYEE REQUESTS LEAVE UNDER THIS TITLE, OR
14 WHEN AN EMPLOYER KNOWS THAT AN EMPLOYEE'S LEAVE MAY BE FOR A REASON
15 UNDER § 8.3-302 OF THIS TITLE, THE EMPLOYER SHALL NOTIFY THE EMPLOYEE OF
16 THE EMPLOYEE'S ELIGIBILITY TO TAKE LEAVE FOR WHICH BENEFITS MAY BE PAID
17 UNDER THIS TITLE WITHIN 5 BUSINESS DAYS.

18 (2) THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS
19 SUBSECTION SHALL INCLUDE:

20 (I) THE RIGHT OF AN ELIGIBLE EMPLOYEE TO RECEIVE
21 PROGRAM BENEFITS UNDER THIS TITLE;

22 (II) THE PROCEDURE FOR FILING A CLAIM FOR BENEFITS;

23 (III) AN ELIGIBLE EMPLOYEE'S RESPONSIBILITIES WITH
24 RESPECT TO PROVIDING NOTIFICATION PRIOR TO THE COMMENCEMENT OF LEAVE
25 AND ANY PENALTIES FOR FAILING TO DO SO;

26 (IV) THE RIGHT OF AN EMPLOYEE TO FILE A COMPLAINT FOR
27 ALLEGED VIOLATIONS OF THIS TITLE;

28 (V) THE RIGHT OF AN ELIGIBLE EMPLOYEE TO JOB
29 PROTECTION; AND

30 (VI) A DESCRIPTION OF THE PROHIBITED ACTS, PENALTIES, AND
31 COMPLAINT PROCEDURES UNDER SUBTITLE 9 OF THIS TITLE.

1 **(C) THE NOTICES REQUIRED UNDER THIS SUBTITLE SHALL BE PROVIDED IN**
2 **ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.**

3 **SUBTITLE 9. PROHIBITED ACTS; PENALTIES.**

4 **8.3-901.**

5 **(A) IF AN INDIVIDUAL WILLFULLY MAKES A FALSE STATEMENT OR**
6 **MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS TO**
7 **REPORT A MATERIAL FACT TO OBTAIN BENEFITS UNDER THIS TITLE, THE**
8 **INDIVIDUAL IS DISQUALIFIED FROM RECEIVING BENEFITS FOR 1 YEAR.**

9 **(B) IF AN EMPLOYER WILLFULLY MAKES OR CAUSES TO BE MADE A FALSE**
10 **STATEMENT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT REGARDING A**
11 **CLAIM FOR BENEFITS BY AN EMPLOYEE, THE EMPLOYER IS SUBJECT TO A CIVIL**
12 **PENALTY OF UP TO \$1,000 FOR EACH OCCURRENCE.**

13 **(C) AN EMPLOYER MAY NOT WILLFULLY:**

14 **(1) FAIL OR REFUSE TO PAY CONTRIBUTIONS TO THE FUND; OR**

15 **(2) TAKE DEDUCTIONS FROM THE WAGES OF AN EMPLOYEE TO PAY**
16 **ANY PORTION OF THE EMPLOYER CONTRIBUTIONS DUE FROM THE EMPLOYER.**

17 **8.3-902.**

18 **(A) THE DEPARTMENT MAY SEEK REPAYMENT OF BENEFITS FROM AN**
19 **INDIVIDUAL WHO RECEIVED BENEFITS UNDER THIS TITLE IF:**

20 **(1) THE BENEFITS WERE PAID ERRONEOUSLY OR AS A RESULT OF**
21 **WILLFUL MISREPRESENTATION BY THE INDIVIDUAL; OR**

22 **(2) A CLAIM FOR BENEFITS UNDER THIS TITLE IS REJECTED AFTER**
23 **THE BENEFITS WERE PAID.**

24 **(B) THE SECRETARY MAY WAIVE IN WHOLE OR IN PART THE REPAYMENT OF**
25 **BENEFITS UNDER SUBSECTION (A) OF THIS SECTION IF:**

26 **(1) THE ERROR IN PAYMENT WAS NOT DUE TO ANY FALSE STATEMENT,**
27 **NONDISCLOSURE OF MATERIAL FACT, OR MISREPRESENTATION BY A COVERED**
28 **INDIVIDUAL; OR**

29 **(2) THE REPAYMENT WOULD BE AGAINST EQUITY AND GOOD**
30 **CONSCIENCE OR ADMINISTRATIVE EFFICIENCY.**

1 **8.3-903.**

2 IF AN EMPLOYER FAILS TO PAY THE CONTRIBUTIONS DUE TO THE FUND, THE
3 SECRETARY MAY, IN ACCORDANCE WITH § 8.3-404 OF THIS TITLE:

4 (1) ASSESS THE AMOUNT OF CONTRIBUTIONS AND INTEREST DUE;

5 (2) MAKE AN ADDITIONAL ASSESSMENT IN AN AMOUNT NOT TO
6 EXCEED TWO TIMES THE CONTRIBUTIONS WITHHELD, AS A PENALTY FOR FAILURE
7 TO PAY THE CONTRIBUTIONS DUE; AND

8 (3) ORDER AN AUDIT OF THE EMPLOYER FOR THE IMMEDIATELY
9 FOLLOWING FISCAL YEAR TO INVESTIGATE AND DETERMINE COMPLIANCE WITH
10 THIS TITLE AND TITLES 3, 8, AND 9 OF THIS ARTICLE.

11 **8.3-904.**

12 A PERSON MAY NOT DISCHARGE, DEMOTE, OR OTHERWISE DISCRIMINATE OR
13 TAKE ADVERSE ACTION AGAINST A COVERED INDIVIDUAL BECAUSE THE COVERED
14 INDIVIDUAL HAS:

15 (1) FILED FOR, APPLIED FOR, OR RECEIVED BENEFITS, OR TAKEN
16 FAMILY OR MEDICAL LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE;

17 (2) INQUIRED ABOUT THE RIGHTS AND RESPONSIBILITIES UNDER
18 THIS TITLE;

19 (3) COMMUNICATED TO THE PERSON AN INTENT TO FILE A CLAIM, A
20 COMPLAINT, OR AN APPEAL UNDER THIS TITLE; OR

21 (4) TESTIFIED OR INTENDS TO TESTIFY OR OTHERWISE HAS ASSISTED
22 IN A PROCEEDING UNDER THIS TITLE.

23 **8.3-905.**

24 ~~(A) (1) AN EMPLOYEE ALLEGING A VIOLATION OF THIS SUBTITLE MAY~~
25 ~~FILE A COMPLAINT WITH THE SECRETARY TO RECOVER LOST WAGES AND DAMAGES~~
26 ~~EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER~~
27 ~~COMPENSATION DENIED OR LOST, AND APPROPRIATE PUNITIVE DAMAGES.~~

28 ~~(2) A COMPLAINT UNDER THIS SUBSECTION MAY ALSO SEEK~~
29 ~~APPROPRIATE RELIEF INCLUDING REINSTATEMENT OR THE HIRING OF EMPLOYEES~~
30 ~~WITH OR WITHOUT BACK PAY.~~

~~(B) THIS SECTION DOES NOT DEPRIVE A PRIVATE RIGHT OR CAUSE OF ACTION TO ANY EMPLOYEE FOR VIOLATIONS OF § 8.3 904 OF THIS SUBTITLE OR § 8.3 707 OF THIS TITLE.~~

~~8.3 906.~~

~~(A) (1) NOTWITHSTANDING ANY ADMINISTRATIVE REMEDY AVAILABLE UNDER § 8.3 905 OF THIS SUBTITLE, AN EMPLOYEE MAY BRING AN ACTION AGAINST AN EMPLOYER FOR VIOLATIONS OF § 8.3 904 OF THIS SUBTITLE OR § 8.3 707 OR § 8.3 708 OF THIS TITLE TO RECOVER LOST WAGES AND DAMAGES EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION DENIED OR LOST, AND APPROPRIATE PUNITIVE DAMAGES.~~

~~(2) AN ACTION UNDER THIS SUBSECTION MAY SEEK INJUNCTIVE AND OTHER APPROPRIATE EQUITABLE RELIEF INCLUDING REINSTATEMENT OR THE HIRING OF EMPLOYEES WITH OR WITHOUT BACK PAY.~~

~~(B) ON A FINDING THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ALLOW AGAINST THE EMPLOYER REASONABLE ATTORNEY'S FEES AND OTHER COSTS.~~

(A) IF AN EMPLOYEE BELIEVES THAT AN EMPLOYER HAS VIOLATED THIS TITLE, THE EMPLOYEE MAY FILE A WRITTEN COMPLAINT WITH THE SECRETARY.

(B) (1) WITHIN 90 DAYS AFTER THE RECEIPT OF A WRITTEN COMPLAINT, THE SECRETARY SHALL CONDUCT AN INVESTIGATION AND ATTEMPT TO RESOLVE THE ISSUE INFORMALLY THROUGH MEDIATION.

(2) (I) IF THE SECRETARY IS UNABLE TO RESOLVE AN ISSUE THROUGH MEDIATION DURING THE PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE SECRETARY DETERMINES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE, THE SECRETARY SHALL ISSUE AN ORDER.

(II) AN ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL DESCRIBE THE VIOLATION;

2. SHALL DIRECT, IF APPROPRIATE, THE RECOVERY OF LOST WAGES AND DAMAGES EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION DENIED OR LOST, AND ANY ACTUAL ECONOMIC DAMAGES;

1 **3. MAY, IN THE SECRETARY'S DISCRETION, SEEK**
2 **REINSTATEMENT OR THE HIRING OF EMPLOYEES WITH OR WITHOUT BACK PAY; AND**

3 **4. MAY, IN THE COMMISSIONER'S DISCRETION, ASSESS A**
4 **CIVIL PENALTY OF UP TO \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER**
5 **IS NOT IN COMPLIANCE WITH THIS TITLE.**

6 **(3) THE ACTIONS TAKEN UNDER PARAGRAPHS (1) AND (2) OF THIS**
7 **SUBSECTION ARE SUBJECT TO THE HEARING AND NOTICE REQUIREMENTS OF TITLE**
8 **10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

9 **(C) (1) WITHIN 30 DAYS AFTER THE SECRETARY ISSUES AN ORDER, AN**
10 **EMPLOYER SHALL COMPLY WITH THE ORDER.**

11 **(2) IF AN EMPLOYER DOES NOT COMPLY WITH AN ORDER WITHIN THE**
12 **TIME PERIOD STATED IN PARAGRAPH (1) OF THIS SUBSECTION:**

13 **(I) THE SECRETARY MAY:**

14 **1. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK**
15 **THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE IN**
16 **THE COUNTY WHERE THE EMPLOYER IS LOCATED; OR**

17 **2. BRING AN ACTION TO ENFORCE THE ORDER FOR THE**
18 **CIVIL PENALTY IN THE COUNTY WHERE THE EMPLOYER IS LOCATED; AND**

19 **(II) WITHIN 3 YEARS AFTER THE DATE OF THE ORDER, AN**
20 **EMPLOYEE MAY BRING A CIVIL ACTION TO ENFORCE THE ORDER IN THE COUNTY**
21 **WHERE THE EMPLOYER IS LOCATED.**

22 **(3) IF AN EMPLOYEE PREVAILS IN AN ACTION BROUGHT UNDER**
23 **PARAGRAPH (2)(II) OF THIS SUBSECTION TO ENFORCE AN ORDER, THE COURT MAY**
24 **AWARD:**

25 **(I) THREE TIMES THE VALUE OF THE EMPLOYEE'S LOST WAGES**
26 **AND DAMAGES EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT**
27 **BENEFITS, OR OTHER COMPENSATION DENIED OR LOST;**

28 **(II) PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED BY**
29 **THE COURT;**

30 **(III) REASONABLE COUNSEL FEES AND OTHER COSTS;**

31 **(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND**

1 (V) ANY OTHER RELIEF THAT THE COURT DEEMS
2 APPROPRIATE.

3 ~~8.3-907.~~ 8.3-906.

4 (A) (1) THE SECRETARY SHALL ESTABLISH A SYSTEM FOR APPEALS BY
5 COVERED INDIVIDUALS IN THE CASE OF DENIAL OF BENEFITS UNDER THIS TITLE.

6 (2) THE SECRETARY MAY USE THE PROCEDURES UNDER § 8-806 OF
7 THIS ARTICLE FOR THE SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION.

9 (B) JUDICIAL REVIEW OF ANY DECISION WITH RESPECT TO BENEFITS
10 UNDER THIS TITLE SHALL BE ALLOWED IN A COURT OF COMPETENT JURISDICTION
11 AFTER AN AGGRIEVED PARTY HAS EXHAUSTED ALL ADMINISTRATIVE REMEDIES
12 ESTABLISHED BY THE SECRETARY UNDER THIS TITLE.

13 (C) THE SECRETARY SHALL IMPLEMENT PROCEDURES TO ENSURE
14 CONFIDENTIALITY OF ALL INFORMATION RELATED TO ANY CLAIMS FILED OR
15 APPEALS TAKEN TO THE MAXIMUM EXTENT ALLOWED BY LAW.

16 SUBTITLE 10. SHORT TITLE.

17 8.3-1001.

18 THIS TITLE MAY BE CITED AS THE MARYLAND FAMILY AND MEDICAL LEAVE
19 INSURANCE PROGRAM.

20 Article – State Finance and Procurement

21 6-226.

22 (a) (2) (i) Notwithstanding any other provision of law, and unless
23 inconsistent with a federal law, grant agreement, or other federal requirement or with the
24 terms of a gift or settlement agreement, net interest on all State money allocated by the
25 State Treasurer under this section to special funds or accounts, and otherwise entitled to
26 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
27 Fund of the State.

28 (ii) The provisions of subparagraph (i) of this paragraph do not apply
29 to the following funds:

30 144. the Health Equity Resource Community Reserve Fund;
31 [and]

1 145. the Access to Counsel in Evictions Special Fund; AND

2 146. THE FAMILY AND MEDICAL LEAVE INSURANCE
3 FUND.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
5 apply only prospectively and may not be applied or interpreted to have any effect on or
6 application to any collective bargaining agreement entered into before the effective date of
7 this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1, 2023,
9 the Maryland Department of Labor shall report to the Senate Finance Committee and the
10 House Economic Matters Committee, in accordance with § 2–1257 of the State Government
11 Article, on whether a covered employee using benefits under the Maryland Family and
12 Medical Leave Insurance Program established under § 8.3–301 of the Labor and
13 Employment Article, as enacted by Section 1 of this Act, is also eligible for Unemployment
14 Insurance Benefits under Title 8 of the Labor and Employment Article and the effect that
15 dual eligibility has on employer ratings.

16 SECTION 4. AND BE IT FURTHER ENACTED, That the Maryland Department of
17 Labor shall:

18 (1) conduct an actuarial study on the cost to:

19 (i) maintain the solvency of the Family and Medical Leave
20 Insurance Fund established under § 8.3–501 of the Labor and Employment Article, as
21 enacted by Section 1 of this Act, to pay the benefits to covered individuals under the
22 Maryland Family and Medical Leave Insurance Program established under § 8.3–301 of
23 the Labor and Employment Article, as enacted by Section 1 of this Act; and

24 (ii) the State for paying the required contribution for community
25 providers, as described in Section 5 of this Act, under § 8.3–601 of the Labor and
26 Employment Article, as enacted by Section 1 of this Act; and

27 (2) on or before October 1, 2022, report the actuary’s findings and
28 recommendations to the Senate Finance Committee and the House Economic Matters
29 Committee, in accordance with § 2–1257 of the State Government Article.

30 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General
31 Assembly that the State pay the required contribution under § 8.3–601 of the Labor and
32 Employment Article, as enacted by Section 1 of this Act, to the Family and Medical Leave
33 Insurance Fund established under § 8.3–501 of the Labor and Employment Article, as
34 enacted by Section 1 of this Act, for employers that are community providers that are
35 community-based agencies or programs funded by the Behavioral Health Administration,
36 the Developmental Disabilities Administration, or the Medical Care Programs

1 Administration to serve individuals with mental disorders, substance-related disorders, or
 2 a combination of those disorders or developmental disabilities.

3 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, if a covered employee
 4 makes an hourly wage that is less than \$15.00 an hour, it is the intent of the General
 5 Assembly that the State pay the covered employee's required contribution under § 8.3-601
 6 of the Labor and Employment Article, as enacted by Section 1 of this Act, to the Family and
 7 Medical Leave Insurance Fund established under § 8.3-501 of the Labor and Employment
 8 Article, as enacted by Section 1 of this Act.

9 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That Section ~~5~~ 6 of this Act shall
 10 remain effective for a period of 3 years and 6 months and, at the end of June 30, 2026,
 11 Section ~~5~~ 6 of this Act, with no further action required by the General Assembly, shall be
 12 abrogated and of no further force and effect.

13 SECTION ~~3~~ ~~7~~ 8. AND BE IT FURTHER ENACTED, That, on or before ~~October 1,~~
 14 ~~2022~~ June 1, 2023, the Secretary of Labor shall adopt regulations as required under §
 15 8.3-403 of the Labor and Employment Article, as enacted by Section 1 of this Act.

16 SECTION ~~8~~ 9. AND BE IT FURTHER ENACTED, That Sections 1, 5, ~~and 7~~ 6, and
 17 8 of this Act shall take effect January 1, 2023.

18 SECTION ~~4~~ ~~9~~ 10. AND BE IT FURTHER ENACTED, That, except as provided in
 19 Section ~~8~~ 9. of this Act, this Act shall take effect June 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.