

SENATE BILL 275

K3

(2lr0702)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Hayes and Benson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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 *Secretary to establish the total rate of contribution and the percentages of the total*
13 *rate of contribution to be paid by certain employees and employers; authorizing*
14 ~~certain employees to bring a certain action against certain employers for certain~~
15 ~~violations of this Act under certain circumstances;~~ requiring the Secretary of Labor

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.

Italics indicate opposite chamber/conference committee amendments.



to establish a system of appeals for certain covered individuals; requiring that certain judicial review be allowed after a certain aggrieved party has exhausted certain administrative remedies; requiring interest earnings of the Fund to be credited to the Fund; and generally relating to the Family and Medical Leave Insurance Program.

BY adding to

Article – Labor and Employment

Section 8.3–101 through 8.3–1001 to be under the new title “Title 8.3. Family and Medical Leave Insurance Program”

Annotated Code of Maryland

(2016 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)144. and 145.

Annotated Code of Maryland

(2021 Replacement Volume)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)146.

Annotated Code of Maryland

(2021 Replacement Volume)

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

Article – Labor and Employment

TITLE 8.3. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

8.3–101.

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

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

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

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

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

(F) “DEPARTMENT” MEANS THE MARYLAND DEPARTMENT OF LABOR.

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

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

(2) “EMPLOYER” DOES NOT INCLUDE AN INDIVIDUAL WHO:

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

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

~~(H)~~ (I) “FAMILY MEMBER” MEANS:

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

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

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

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

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

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

(7) THE SPOUSE OF THE COVERED INDIVIDUAL;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **(N) "SECRETARY" MEANS THE SECRETARY OF LABOR.**

29 **(O) (1) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, AN INJURY,**
30 **AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:**

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

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

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

(2) "SERIOUS HEALTH CONDITION" INCLUDES AN ILLNESS, AN INJURY, AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT CONTINUES OVER AN EXTENDED PERIOD OF TIME AND REQUIRES INTERMITTENT TREATMENT.

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

(1) THE UNITED STATES ARMED FORCES;

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

(3) THE NATIONAL GUARD OF ANY STATE.

(Q) "TREATMENT" INCLUDES:

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

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

(3) ACTUAL TREATMENT BY A HEALTH CARE PROVIDER.

8.3-102.

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

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

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

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

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

(B) THIS TITLE PREEMPTS THE AUTHORITY OF A LOCAL JURISDICTION TO ENACT A LAW ON OR AFTER JUNE 1, 2022, THAT ESTABLISHES A PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM FOR EMPLOYEES OF AN EMPLOYER OTHER THAN THE LOCAL JURISDICTION.

SUBTITLE 2. SCOPE OF TITLE.

8.3–201.

(A) IN THIS SECTION, “SELF-EMPLOYED INDIVIDUAL” INCLUDES AN INDIVIDUAL THAT:

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

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

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

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

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

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

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

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

8.3-202.

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

8.3-203.

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

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

SUBTITLE 3. ESTABLISHMENT OF PROGRAM.

8.3-301.

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

8.3-302.

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

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

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

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

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

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

SUBTITLE 4. ADMINISTRATION.

8.3-401.

THIS TITLE SHALL BE ADMINISTERED UNDER THE SUPERVISION OF THE SECRETARY.

8.3-402.

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

8.3-403.

(A) THE SECRETARY, IN CONSULTATION WITH OTHER STATE AGENCIES AND RELEVANT STAKEHOLDERS, SHALL:

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

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

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

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

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

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

(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED TO IMPLEMENT THE FEDERAL FAMILY AND MEDICAL LEAVE ACT AND ANY RELEVANT STATE LAWS TO THE EXTENT THAT THE ADOPTED REGULATIONS DO NOT CONFLICT WITH THIS TITLE.

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

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

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

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

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

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

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

(V) 1. FOR A CERTIFICATION FOR INTERMITTENT LEAVE UNDER § 8.3-302(2) OR (4) OF THIS TITLE, ~~THE EXPECTED DATES AND DURATION OF THE LEAVE~~ A STATEMENT THAT THE COVERED INDIVIDUAL NEEDS TO CARE FOR A

FAMILY MEMBER OR SERVICE MEMBER AND THE EXPECTED DURATION OF THE
INTERMITTENT LEAVE; OR

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

(3) THE SECRETARY SHALL ESTABLISH:

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

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

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

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

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

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

8.3-404.

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

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

(2) ADMINISTER AN OATH;

(3) CERTIFY TO AN OFFICIAL ACT;

(4) TAKE A DEPOSITION;

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

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

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

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

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

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

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

8.3-405.

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

(1) THE ATTORNEY GENERAL; OR

(2) ANY QUALIFIED ATTORNEY WHO:

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

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

8.3-406.

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

(B) THE ANNUAL REPORT SHALL INCLUDE INFORMATION REGARDING:

(1) PROJECTED AND ACTUAL PROGRAM PARTICIPATION RATES;

(2) CONTRIBUTION RATES;

(3) PROJECTED AND ACTUAL FUND BALANCES;

(4) PUBLIC OUTREACH AND TECHNICAL ASSISTANCE EFFORTS;

(5) ALL ENFORCEMENT EFFORTS;

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

(7) ~~THE COST~~ COSTS OF ADMINISTERING THE PROGRAM ATTRIBUTABLE TO EACH OF THE FOLLOWING:

(I) EMPLOYERS;

(II) EMPLOYEES OF EMPLOYERS;

(III) SELF-EMPLOYED INDIVIDUALS; AND

(IV) THE STATE;

(8) THE STATE AGENCIES AND RELEVANT STAKEHOLDERS THAT WERE CONSULTED AS REQUIRED UNDER THIS TITLE; AND

(9) THE CAPABILITY AND CAPACITY OF THE DEPARTMENT TO ADMINISTER THE PROGRAM AS COMPARED TO THE FINDINGS AND

**RECOMMENDATIONS OF THE CAPABILITY AND CAPACITY STUDY COMPLETED UNDER
§ 5 OF CHAPTER (S.B. 275) OF THE ACTS OF THE GENERAL ASSEMBLY OF
2022.**

SUBTITLE 5. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.

8.3–501.

THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE FUND.

8.3–502.

(A) THE SECRETARY SHALL ADMINISTER THE FUND.

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

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

8.3–503.

(A) THE FUND CONSISTS OF:

(1) EMPLOYEE CONTRIBUTIONS;

(2) SELF–EMPLOYED INDIVIDUAL CONTRIBUTIONS;

(3) EMPLOYER CONTRIBUTIONS;

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

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

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

(B) MONEY IN THE FUND MAY BE COMMINGLED.

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

8.3–504.

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

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

3 **(B) UNDER THE DIRECTION OF THE SECRETARY, THE STATE TREASURER**
4 **SHALL ESTABLISH THE FUND ACCOUNT IN ANY FINANCIAL INSTITUTION IN WHICH**
5 **THE GENERAL FUND OF THE STATE MAY BE DEPOSITED.**

6 **(C) ON RECEIPT OF ANY MONEY PAYABLE TO THE FUND, THE SECRETARY**
7 **SHALL ENSURE IMMEDIATE DEPOSIT OF THE MONEY INTO THE FUND ACCOUNT AS**
8 **REQUIRED BY THE STATE TREASURER.**

9 **(D) IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS,**
10 **MONEY IN THE FUND ACCOUNT:**

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

12 **(2) MAY BE USED TO PAY FOR:**

13 **(I) THE PUBLIC EDUCATION PROGRAM; AND**

14 **(II) ANY COSTS ASSOCIATED WITH THE INITIAL**
15 **IMPLEMENTATION AND ONGOING ADMINISTRATION OF THIS TITLE.**

16 **8.3-505.**

17 **A CHECK THAT THE STATE TREASURER ISSUES TO PAY BENEFITS OR**
18 **REFUNDS SHALL:**

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

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

21 **(3) BE COUNTERSIGNED BY AN AUTHORIZED AGENT.**

22 **8.3-506.**

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

25 **SUBTITLE 6. CONTRIBUTIONS.**

26 **8.3-601.**

(A) BEGINNING ~~JANUARY 1, 2023~~ OCTOBER 1, 2023, EACH EMPLOYEE OF AN EMPLOYER, EACH EMPLOYER WITH 15 OR MORE EMPLOYEES, 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.~~

(B) ON OR BEFORE DECEMBER 1 EVERY 2 YEARS, BEGINNING IN ~~2022~~ 2025, THE SECRETARY, IN CONSULTATION WITH STATE AGENCIES AND RELEVANT STAKEHOLDERS, SHALL CONDUCT A COST ANALYSIS OF THE PROGRAM THAT IS FOCUSED ON THE COST OF MAINTAINING SOLVENCY AND PAYING BENEFITS TO COVERED INDIVIDUALS.

(C) (1) ONCE EVERY 2 YEARS, BEGINNING IN ~~2023~~ 2025, THE SECRETARY, IN CONSULTATION WITH STATE AGENCIES AND RELEVANT STAKEHOLDERS, SHALL STUDY AND MAKE RECOMMENDATIONS REGARDING THE FOLLOWING:

(I) THE APPROPRIATE TOTAL RATE OF CONTRIBUTION;

(II) THE APPROPRIATE COST-SHARING FORMULA BETWEEN EMPLOYERS AND EMPLOYEES FOR MAKING CONTRIBUTIONS TO FUND THE PROGRAM, INCLUDING VARIOUS FORMULAS THAT RANGE BETWEEN A COST SHARE OF:

1 1. A. 75% PAID BY EMPLOYERS; AND

2 B. 25% PAID BY EMPLOYEES; AND

3 2. A. 25% PAID BY EMPLOYERS; AND

4 B. 75% PAID BY EMPLOYEES;

5 (III) THE COST EFFICIENCY AND BENEFITS OF THE DEPARTMENT
6 ISSUING A REQUEST FOR PROPOSALS SEEKING THE SERVICES OF AN OUTSIDE
7 CONTRACTOR FOR THE FOLLOWING:

8 1. PREMIUM COLLECTION;

9 2. CLAIMS ADMINISTRATION;

10 3. DATA MANAGEMENT;

11 4. FRAUD CONTROL;

12 5. MARKETING AND ADVERTISING; OR

13 6. IMPLEMENTING ANY OTHER ELEMENTS OF THE
14 PROGRAM.

15 (2) ON OR BEFORE APRIL 1 EACH YEAR A STUDY IS CONDUCTED
16 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL REPORT THE
17 FINDINGS AND RECOMMENDATIONS TO THE SENATE FINANCE COMMITTEE, THE
18 HOUSE ECONOMIC MATTERS COMMITTEE, AND THE JOINT COMMITTEE ON
19 ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW IN ACCORDANCE WITH §
20 2-1257 OF THE STATE GOVERNMENT ARTICLE.

21 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE
22 JUNE 1 EVERY 2 YEARS, BEGINNING IN ~~2023~~ 2025, THE SECRETARY SHALL SET THE
23 TOTAL RATE OF CONTRIBUTION AND THE PERCENTAGE OF THE TOTAL RATE OF
24 CONTRIBUTION TO BE PAID BY EMPLOYEES OF EMPLOYERS AND EMPLOYERS WITH
25 15 OR MORE EMPLOYEES THAT WILL BE IN EFFECT FOR THE 24-MONTH PERIOD
26 BEGINNING ON THE IMMEDIATELY FOLLOWING JANUARY 1.

27 (2) THE RATE AND PERCENTAGES SET UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION SHALL BE BASED ON THE STUDY REQUIRED UNDER SUBSECTION ~~(B)~~ (C)
29 OF THIS SECTION.

(3) THE TOTAL RATE OF CONTRIBUTION SHALL BE APPLIED TO ALL WAGES UP TO AND INCLUDING THE SOCIAL SECURITY WAGE BASE.

(4) THE PERCENTAGES SET UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT VARY BETWEEN EMPLOYEES OR EMPLOYERS.

~~(3) (E) (1) EACH EMPLOYEE OF AN EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO 50% 75% OF THE TOTAL RATE OF CONTRIBUTION.~~

~~(H) 1. THE EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 PARAGRAPH (2) OF THIS SUBPARAGRAPH SUBSECTION, THE EMPLOYER OF THE EMPLOYEE SHALL DEDUCT THE EMPLOYEE'S REQUIRED CONTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM THE WAGES OF THE EMPLOYEE.~~

2. (2) IF THE EMPLOYER OF AN EMPLOYEE ELECTS TO PAY A PORTION OF THE EMPLOYEE'S REQUIRED CONTRIBUTION, THE EMPLOYER MAY DEDUCT AN AMOUNT THAT IS LESS THAN 80% 75% OF THE TOTAL RATE OF CONTRIBUTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM THE WAGES OF THE EMPLOYEE.

~~(4) (F)~~ EACH SELF-EMPLOYED INDIVIDUAL PARTICIPATING IN THE PROGRAM SHALL:

~~(H) (1)~~ PAY CONTRIBUTIONS DURING EACH YEAR THAT THE SELF-EMPLOYED INDIVIDUAL PARTICIPATES IN THE PROGRAM; AND

~~(H) (2)~~ CONTRIBUTE AN AMOUNT EQUAL TO THE TOTAL RATE OF CONTRIBUTION ~~ESTABLISHED SET~~ UNDER ~~PARAGRAPH (1)(I) OF THIS SUBSECTION~~ SUBSECTION (D) OF THIS SECTION.

SUBTITLE 7. BENEFITS.

8.3-701.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.3-702.

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

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

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

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

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

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

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

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

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

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

(C) (1) A COVERED INDIVIDUAL SHALL EXHAUST ALL EMPLOYER-PROVIDED LEAVE THAT IS NOT REQUIRED TO BE PROVIDED UNDER LAW BEFORE RECEIVING BENEFITS UNDER THIS TITLE.

(2) FOR THE PURPOSES OF §§ 8.3-706 AND 8.3-707 OF THIS SUBTITLE AND §§ 8.3-904 AND 8.3-905 OF THIS TITLE, EMPLOYER-PROVIDED LEAVE THAT IS BEING EXHAUSTED AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED THE SAME AS LEAVE FROM WORK FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE.

(3) THIS SUBSECTION MAY NOT BE CONSTRUED TO REDUCE ANY WEEKS OF LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE.

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

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

8.3-703.

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

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

~~8.3-704.~~

(A) FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) MAY NOT EXCEED:

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

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

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

(II) ~~EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH~~ SUBJECT TO SUBSECTION (E) OF THIS SECTION, FOR THE 12-MONTH PERIOD BEGINNING ~~JULY 1, 2025~~ JANUARY 1, 2026, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL BE INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST CENT, THAT EQUALS THE PRODUCT OF:

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

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

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

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

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

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

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

(D) THE DEPARTMENT SHALL:

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

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

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

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

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

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

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

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

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

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

14 (II) THE BOARD SHALL NOTIFY THE SECRETARY THAT THE
15 MAXIMUM WEEKLY BENEFIT INCREASE FOR THE PERIOD BEGINNING THE
16 FOLLOWING JANUARY 1 IS SUSPENDED FOR 1 YEAR.

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

20 ~~8.3-705.~~ 8.3-704.

21 (A) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT BENEFITS
22 PAID UNDER THIS SUBTITLE ARE SUBJECT TO FEDERAL INCOME TAX, AT THE TIME
23 A COVERED INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, THE DEPARTMENT
24 SHALL NOTIFY THE COVERED INDIVIDUAL THAT:

25 (1) THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT THE
26 BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX;

27 (2) THERE ARE REQUIREMENTS REGARDING ESTIMATED TAX
28 PAYMENTS;

29 (3) THE COVERED INDIVIDUAL MAY ELECT TO HAVE FEDERAL
30 INCOME TAX DEDUCTED AND WITHHELD FROM THE BENEFITS THAT THE COVERED
31 INDIVIDUAL RECEIVES UNDER THIS TITLE AT THE RATE SPECIFIED IN THE
32 INTERNAL REVENUE CODE; AND

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

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

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

~~8.3-706.~~ 8.3-705.

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

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

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

~~8.3-707.~~ 8.3-706.

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

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

(C) AN EMPLOYER MAY:

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

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

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

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

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

~~8.3-708.~~ 8.3-707.

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

SUBTITLE 8. NOTICE TO EMPLOYEES.

8.3-801.

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

(B) (1) WHEN AN EMPLOYEE REQUESTS LEAVE UNDER THIS TITLE, OR WHEN AN EMPLOYER KNOWS THAT AN EMPLOYEE'S LEAVE MAY BE FOR A REASON UNDER § 8.3-302 OF THIS TITLE, THE EMPLOYER SHALL NOTIFY THE EMPLOYEE OF

1 THE EMPLOYEE'S ELIGIBILITY TO TAKE LEAVE FOR WHICH BENEFITS MAY BE PAID
2 UNDER THIS TITLE WITHIN 5 BUSINESS DAYS.

3 (2) THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION SHALL INCLUDE:

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

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

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

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

13 (V) THE RIGHT OF AN ELIGIBLE EMPLOYEE TO JOB
14 PROTECTION; AND

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

17 (C) (1) THE DEPARTMENT SHALL DEVELOP STANDARD NOTICES FOR AN
18 EMPLOYER TO USE UNDER THIS SUBTITLE.

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

21 SUBTITLE 9. PROHIBITED ACTS; PENALTIES.

22 8.3-901.

23 (A) IF AN INDIVIDUAL WILLFULLY MAKES A FALSE STATEMENT OR
24 MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS TO
25 REPORT A MATERIAL FACT TO OBTAIN BENEFITS UNDER THIS TITLE, THE
26 INDIVIDUAL IS DISQUALIFIED FROM RECEIVING BENEFITS FOR 1 YEAR.

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

(C) AN EMPLOYER MAY NOT WILLFULLY:

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

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

8.3-902.

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

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

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

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

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

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

8.3-903.

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

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

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

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

8.3-904.

1 A PERSON MAY NOT DISCHARGE, DEMOTE, OR OTHERWISE DISCRIMINATE OR
2 TAKE ADVERSE ACTION AGAINST A COVERED INDIVIDUAL BECAUSE THE COVERED
3 INDIVIDUAL HAS:

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

6 (2) INQUIRED ABOUT THE RIGHTS AND RESPONSIBILITIES UNDER
7 THIS TITLE;

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

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

12 ~~8.3-905.~~

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

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

20 ~~(B) THIS SECTION DOES NOT DEPRIVE A PRIVATE RIGHT OR CAUSE OF~~
21 ~~ACTION TO ANY EMPLOYEE FOR VIOLATIONS OF § 8.3-904 OF THIS SUBTITLE OR §~~
22 ~~8.3-707 OF THIS TITLE.~~

23 ~~8.3-906.~~

24 ~~(A) (1) NOTWITHSTANDING ANY ADMINISTRATIVE REMEDY AVAILABLE~~
25 ~~UNDER § 8.3-905 OF THIS SUBTITLE, AN EMPLOYEE MAY BRING AN ACTION AGAINST~~
26 ~~AN EMPLOYER FOR VIOLATIONS OF § 8.3-904 OF THIS SUBTITLE OR § 8.3-707 OR §~~
27 ~~8.3-708 OF THIS TITLE TO RECOVER LOST WAGES AND DAMAGES EQUAL TO THE~~
28 ~~AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION~~
29 ~~DENIED OR LOST, AND APPROPRIATE PUNITIVE DAMAGES.~~

30 ~~(2) AN ACTION UNDER THIS SUBSECTION MAY SEEK INJUNCTIVE AND~~
31 ~~OTHER APPROPRIATE EQUITABLE RELIEF INCLUDING REINSTATEMENT OR THE~~
32 ~~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;

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

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

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

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

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

(I) THE SECRETARY MAY:

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

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

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

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

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

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

(III) REASONABLE COUNSEL FEES AND OTHER COSTS;

(IV) INJUNCTIVE RELIEF, IF APPROPRIATE; AND

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

~~8.3-907, 8.3-906.~~

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

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

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

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

SUBTITLE 10. SHORT TITLE.

8.3–1001.

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

Article – State Finance and Procurement

6–226.

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

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

144. the Health Equity Resource Community Reserve Fund;

[and]

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

146. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.

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

~~SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding § 8.3–601(d) of the Labor and Employment Article, as enacted by Section 1 of this Act,:~~

~~(a) On or before June 1, 2023, the Secretary of Labor shall set the total rate of contribution and percentage of the total rate of contribution to be paid by employees of employers and employers with 15 or more employees that is set under § 8.3–601(d) under §~~

8-601(a) of the Labor and Employment Article, as enacted by Section 1 of this Act, ~~on or~~
~~before June 1, 2023, shall be effective October 1, 2023.~~

(b) The rate and percentages set under subsection (a) of this section shall be:

(1) based on the study required under Section 11(2) of this Act; and

(2) in effect from October 1, 2023, through December 31, ~~2023~~ 2025, both
inclusive.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2023,
the Maryland Department of Labor shall report to the Senate Finance Committee and the
House Economic Matters Committee, in accordance with § 2-1257 of the State Government
Article, on whether a covered employee using benefits under the Maryland Family and
Medical Leave Insurance Program established under § 8.3-301 of the Labor and
Employment Article, as enacted by Section 1 of this Act, is also eligible for Unemployment
Insurance Benefits under Title 8 of the Labor and Employment Article and the effect that
dual eligibility has on employer ratings.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That the Maryland Department
of Labor shall:

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

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

(ii) the State for paying the required contribution for community
providers, as described in Section ~~5~~ 7 of this Act, under § 8.3-601 of the Labor and
Employment Article, as enacted by Section 1 of this Act; and

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

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That the Department of
Legislative Services shall:

(1) contract with a consultant to study and make recommendations
regarding the capability and capacity of the Maryland Department of Labor to implement
and administer the Family and Medical Leave Insurance Program under Title 8.3 of the
Labor and Employment Article, as enacted by Section 1 of this Act, including
recommendations regarding any additional resources needed by the Department to meet

future demands of the Program, such as operating budget appropriations, staff, contracting authority, and pay increases; and

(2) on or before October 1, 2022, report the consultant's findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 7. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the State pay the required contribution under § 8.3-601 of the Labor and Employment Article, as enacted by Section 1 of this Act, to the Family and Medical Leave Insurance Fund established under § 8.3-501 of the Labor and Employment Article, as enacted by Section 1 of this Act, for employers that are community providers that are community-based agencies or programs funded by the Behavioral Health Administration, the Developmental Disabilities Administration, or the Medical Care Programs Administration to serve individuals with mental disorders, substance-related disorders, or a combination of those disorders or developmental disabilities.

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

SECTION ~~6~~ ~~7~~ 9. AND BE IT FURTHER ENACTED, That Section ~~5~~ ~~6~~ 8 of this Act shall remain effective for a period of 3 years and 6 months and, at the end of June 30, 2026, Section ~~5~~ ~~6~~ 8 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION ~~3~~ ~~7~~ ~~8~~ 10. AND BE IT FURTHER ENACTED, That, on or before ~~October 1, 2022~~ June 1, 2023, the Secretary of Labor shall adopt regulations as required under § 8.3-403 of the Labor and Employment Article, as enacted by Section 1 of this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That, on or before December 1, 2022, the Secretary of Labor shall:

(1) conduct the cost analysis described in § 8.3-601(b) of the Labor and Employment Article, as enacted by Section 1 of this Act;

(2) conduct the study and make recommendations as described in § 8.3-601(c) of the Labor and Employment Article, as enacted by Section 1 of this Act; and

(3) report the findings and recommendations to the Senate Finance Committee, the House Economic Matters Committee, and the Joint Committee on Administrative, Executive, and Legislative Review in accordance with § 2-1257 of the State Government Article.

1 SECTION ~~8~~ ~~9~~ ~~11~~ 12. AND BE IT FURTHER ENACTED, That Sections 1, ~~5~~ 7, and
2 ~~7~~ ~~6~~ 8, and ~~8~~ 10 of this Act shall take effect January 1, 2023.

3 SECTION ~~4~~ ~~9~~ ~~10~~ ~~12~~ 13. AND BE IT FURTHER ENACTED, That, except as
4 provided in Section ~~8~~ ~~9~~ ~~11~~ 12 of this Act, this Act shall take effect June 1, 2022.
5

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.