

HOUSE BILL 988

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CF SB 828

By: **Delegates Qi, Embry, and R. Lewis**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2023

CHAPTER _____

1 AN ACT concerning

2 **Family and Medical Leave Insurance Program – Modifications**

3 FOR the purpose of modifying the Family and Medical Leave Insurance Program by
4 clarifying and altering certain provisions relating to the administration of the
5 Program, including provisions related to the provision of benefits, the payment of
6 contributions, and appeals; establishing the employer and employee shares of the
7 total rate of contribution; prohibiting the total rate of contribution from exceeding a
8 certain percentage of an employee's wage; requiring the State to pay for certain
9 contributions for ~~certain employers and~~ certain covered employees; requiring the
10 Maryland Department of Health to reimburse certain community providers for
11 certain employer contributions in a certain manner; repealing the requirement that
12 a covered individual exhaust all employer-provided leave that is not required to be
13 provided under law before receiving benefits under the Program; prohibiting a
14 covered individual from being required to use certain leave before, or while, receiving
15 benefits under the Program; authorizing a covered individual and an employer to
16 agree to use certain leave to replace certain wages during the period of leave for
17 which benefits are received under the Program; and generally relating to the Family
18 Medical Leave Insurance Program.

19 BY repealing and reenacting, with amendments,
20 Article – Labor and Employment
21 Section 8.3–101, 8.3–302, 8.3–403, 8.3–406, 8.3–504(d), 8.3–505, 8.3–601, 8.3–701
22 through 8.3–703, 8.3–705, 8.3–801, and 8.3–906
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2022 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.



BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 8.3–301
Annotated Code of Maryland
(2016 Replacement Volume and 2022 Supplement)

BY repealing
Chapter 48 of the Acts of the General Assembly of 2022
Section 3 and 10

~~BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8.3–601(h)
Annotated Code of Maryland
(2016 Replacement Volume and 2022 Supplement)
(As enacted by Section 1 of this Act)~~

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

Article – Labor and Employment

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]
SUNDAY of the calendar week [in] **FOR** which [a covered individual files an application
for] benefits **ARE APPROVED**.

(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.

(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.

(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 DOMESTIC PARTNER OF THE COVERED INDIVIDUAL;**

(9) a biological grandparent, an adopted grandparent, a foster grandparent, or a stepgrandparent of the covered individual;

[(9)] (10) a biological grandchild, an adopted grandchild, a foster grandchild, or a stepgrandchild of the covered individual; or

[(10)] (11) a biological sibling, an adopted sibling, a foster sibling, or a stepsibling of the covered individual.

(j) “Fund” means the Family and Medical Leave Insurance Fund established under § 8.3–501 of this title.

(k) “Governmental entity” has the meaning stated in § 8–101 of this article.

(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;

(2) to attend military events and related activities including family support programs related to the active duty of the service member;

(3) to arrange, provide, or attend child care or school activities only when the service member is on active duty call or active duty status;

(4) to make financial and legal arrangements for the service member’s absence or because of the absence;

(5) to attend counseling that:

(i) is needed due to the active duty or call to active duty status of the service member; and

(ii) is provided by an individual who is not a licensed health care provider;

(6) to spend up to 15 calendar days with a service member who is on short-term temporary rest and recuperation leave during the period of deployment;

(7) to attend postdeployment activities including reintegration services for a period of 90 days immediately following the termination of active status;

(8) to attend to matters related to the death of the service member while on active duty status;

(9) to arrange for or provide alternative care for a parent of the service member when the parent is incapable of self-care and the covered active duty or call to active duty necessitates a change; or

(10) because of any other issues that arise out of active duty or a call to active duty that an employer and covered employee agree should be covered.

(n) “Secretary” means the Secretary of Labor.

(o) (1) “Serious health condition” means an illness, an injury, 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.

(R) “WAGES” ~~HAS THE MEANING STATED IN:~~

~~**(1) FOR A COVERED EMPLOYEE, § 3-501(C) OF THIS ARTICLE; AND**~~

~~**(2) FOR A SELF-EMPLOYED INDIVIDUAL, 26 U.S.C. § 1402(B)**~~ **MEANS ALL COMPENSATION THAT IS DUE FOR EMPLOYMENT THAT IS:**

(1) FOR AN EMPLOYEE:

(I) AN HOURLY WAGE OR A SALARY;

(II) A COMMISSION;

(III) COMPENSATORY PAY;

(IV) SEVERANCE PAY;

(V) STANDBY PAY;

(VI) A TIP OR GRATUITY;

(VII) HOLIDAY OR VACATION PAY; OR

**(VIII) ANY OTHER PAID LEAVE, INCLUDING SICK LEAVE, THAT IS
PAID TO THE EMPLOYEE ENTIRELY BY THE EMPLOYER; OR**

**(2) FOR A SELF-EMPLOYED INDIVIDUAL, SELF-EMPLOYMENT
INCOME, AS DEFINED IN 26 U.S.C. § 1402(B).**

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) **(I) to care for OR BOND WITH a child OF THE COVERED INDIVIDUAL during the first year after the child's birth; or [after the placement of the]**

(II) DURING THE PROCESS THROUGH WHICH A child IS BEING PLACED WITH THE COVERED INDIVIDUAL through foster care, kinship care, or adoption AND TO CARE FOR AND BOND WITH THE CHILD DURING THE FIRST YEAR AFTER THE PLACEMENT;

(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.

1 8.3–403.

2 (a) The Secretary, in consultation with other State agencies and relevant
3 stakeholders, shall:

4 (1) subject to subsection (b) of this section, adopt regulations necessary to
5 carry out this title;

6 (2) establish procedures and forms for filing claims for benefits, including:

7 (i) procedures for notifying an employer within ~~15~~ business days
8 after [an employee of the employer files a claim for benefits under this title] ~~3-BUSINESS~~
9 ~~DAYS AFTER ANY OF THE FOLLOWING OCCURS:~~

10 1. AN EMPLOYEE FILES AN ELECTRONIC APPLICATION
11 REGARDING A CLAIM FOR BENEFITS;

12 2. AN EMPLOYEE'S PAPER APPLICATION REGARDING A
13 CLAIM FOR BENEFITS IS PROCESSED;

14 3. A DETERMINATION REGARDING A CLAIM FOR
15 BENEFITS IS MADE;

16 4. AN APPEAL FOR A DETERMINATION REGARDING A
17 CLAIM FOR BENEFITS IS FILED; OR

18 5. A CHANGE IS MADE TO A DETERMINATION REGARDING
19 A CLAIM FOR BENEFITS; and

20 (ii) notices of elections by self-employed individuals for benefits
21 under § 8.3–201 of this title;

22 (3) use information-sharing and integration technology to facilitate the
23 disclosure of relevant information or records needed for the administration of this title; and

24 (4) subject to subsection (d) of this section, carry out a public education
25 program.

26 (b) The regulations adopted under subsection (a)(1) of this section shall be
27 consistent with regulations adopted to implement the federal Family and Medical Leave
28 Act and any relevant State laws to the extent that the adopted regulations do not conflict
29 with this title.

30 (c) (1) Subject to paragraph (2) of this subsection, a covered individual under
31 § 8.3–302(2), (3), (4), or (5) of this title shall provide certification for a claim for benefits
32 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) FOR THE PURPOSE OF SUPPORTING THE CLAIM FOR BENEFIT PAYMENTS, THE FIRST DATE ON WHICH THE COVERED INDIVIDUAL TOOK OR INTENDS TO TAKE LEAVE FROM EMPLOYMENT AND WHETHER THE LEAVE WILL OR IS INTENDED TO BE TAKEN FOR A CONTINUOUS PERIOD OF TIME OR INTERMITTENTLY;

[(i)] (II) the date on which the serious health condition of the family member, covered individual, or service member commenced;

[(ii)] (III) the probable duration of the serious health condition;

[(iii)] (IV) the appropriate facts related to the serious health condition within the knowledge of the licensed health care provider;

[(iv)] (V) 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~~ **HAS A SERIOUS HEALTH CONDITION THAT PREVENTS THE COVERED INDIVIDUAL FROM BEING ABLE** to perform ~~the~~ **ONE OR MORE** functions of the covered individual's position; and

[(v)] (VI) 1. For a certification for intermittent leave under § 8.3–302(2) or (4) of this title, a statement that the covered individual needs to care for a family member or service member and the expected **FREQUENCY AND** 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~~ **HAS A SERIOUS HEALTH CONDITION THAT PREVENTS THE COVERED INDIVIDUAL FROM BEING ABLE** to perform ~~the~~ **ONE OR MORE** functions of the covered individual's position and the expected **FREQUENCY AND** 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 **OR NEXT OF KIN** for a claim for benefits under § 8.3–302(2), **(4), OR (5)** of this title; and

(iii) 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.

8.3–406.

(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] **THE PROGRAM** during the immediately preceding fiscal year.

(b) The annual report shall include information regarding:

(1) [projected and] actual Program participation rates **THAT INCLUDES:**

(I) THE NUMBER OF CLAIMS FOR BENEFITS SUBMITTED, BOTH IN TOTAL AND FOR EACH CATEGORY LISTED IN § 8.3–302 OF THIS TITLE;

(II) THE NUMBER OF CLAIMS INCLUDED UNDER ITEM (I) OF THIS ITEM BROKEN DOWN BY:

1. JURISDICTION;

2. RACE AND ETHNICITY;

3. GENDER;

4. ZIP CODE; AND

5. AGE;

(III) THE NUMBER OF CLAIMS FOR BENEFITS APPROVED, BOTH IN TOTAL AND FOR EACH CATEGORY LISTED IN § 8.3–302 OF THIS TITLE;

(IV) THE NUMBER OF CLAIMS INCLUDED UNDER ITEM (III) OF THIS ITEM BROKEN DOWN BY:

1. JURISDICTION;

1 **2. RACE AND ETHNICITY;**

2 **3. GENDER;**

3 **4. ZIP CODE; AND**

4 **5. AGE;**

5 **(V) THE TOTAL NUMBER OF CLAIMS FOR BENEFITS DENIED,**
6 **BOTH IN TOTAL AND BY CATEGORY LISTED IN § 8.3–602 OF THIS TITLE; AND**

7 **(VI) THE NUMBER OF CLAIMS INCLUDED UNDER ITEM (V) OF**
8 **THIS ITEM BROKEN DOWN BY:**

9 **1. JURISDICTION;**

10 **2. RACE AND ETHNICITY;**

11 **3. GENDER;**

12 **4. ZIP CODE; AND**

13 **5. AGE;**

14 **(2) PROJECTED PARTICIPATION RATES;**

15 **(3) contribution rates;**

16 **[(3)] (4) projected and actual Fund balances;**

17 **[(4)] (5) public outreach and technical assistance efforts;**

18 **[(5)] (6) all enforcement efforts;**

19 **[(6)] (7) the number and status of complaints under Subtitle 9 of this**
20 **title;**

21 **[(7)] (8) the costs of administering the Program attributable to each of**
22 **the following:**

23 **(i) employers;**

24 **(ii) employees of employers;**

25 **(iii) self-employed individuals; and**

(iv) the State;

~~[(8)] (9)~~ the State agencies and relevant stakeholders that were consulted as required under this title; and

~~[(9)] (10)~~ 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 48 of the Acts of the General Assembly of 2022.

(C) THE REPORTING REQUIREMENT ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT HAS A PRIVATE EMPLOYER PLAN DESCRIBED IN § 8.3-705 OF THIS TITLE.

8.3-504.

(d) In accordance with regulations that the Secretary adopts, money in the Fund account:

(1) shall be used to pay benefits under this title; and

(2) may be used to pay for:

(i) the public education program **CARRIED OUT UNDER § 8.3-403(A)(4) OF THIS TITLE**; and

(ii) any costs associated with the initial implementation and ongoing administration of this title.

8.3-505.

A check that [the State Treasurer issues] **IS ISSUED** to pay benefits or refunds shall:

(1) [be issued only on a warrant signed by] **BEAR THE SIGNATURE OF** the Secretary; AND

(2) ~~bear the signature of the State Treasurer; and~~

~~(3)~~ be countersigned by an authorized agent.

8.3-601.

(a) **(1)** Beginning [October 1, 2023] ~~JANUARY~~ **OCTOBER 1, 2024**, 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.

(2) THE TOTAL RATE OF CONTRIBUTION ESTABLISHED UNDER THIS SECTION:

(I) MAY NOT EXCEED 1.2% OF AN EMPLOYEE'S WAGES; AND

(II) SHALL BE APPLIED TO ALL WAGES UP TO AND INCLUDING THE SOCIAL SECURITY WAGE BASE.

(b) (1) ~~ON~~ SUBJECT TO SUBSECTION (A)(2) OF THIS SECTION, ON OR BEFORE ~~SEPTEMBER~~ OCTOBER 1, 2023, THE SECRETARY SHALL SET THE TOTAL RATE OF CONTRIBUTION BASED ON AVAILABLE COST ANALYSES OF THE PROGRAM.

(2) THE RATE SET UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN EFFECT FOR THE PERIOD FROM ~~JANUARY~~ OCTOBER 1, 2024, TO JUNE 30, 2025 ~~2026~~, BOTH INCLUSIVE.

(C) (1) On or before [December 1 every 2 years] NOVEMBER 15 EACH YEAR, beginning in ~~[2025]~~ 2024, 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 **THAT WILL BE USED TO DETERMINE THE APPROPRIATE TOTAL RATE OF CONTRIBUTION TO THE FUND.**

[(c) (1) Once every 2 years, beginning in 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. A. 75% paid by employers; and

B. 25% paid by employees; and

2. A. 25% paid by employers; and

B. 75% paid by employees;

(iii) the cost efficiency and benefits of the Department issuing a request for proposals seeking the services of an outside contractor for the following:

1. premium collection;

2. claims administration;

3. data management;
4. fraud control;
5. marketing and advertising; or
6. implementing any other elements of the Program.]

(2) On or before [April 1] **NOVEMBER 15** each year [a study is conducted under paragraph (1) of this subsection], the Secretary shall report the [findings and recommendations] **RESULTS OF THE COST ANALYSIS** 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.

(d) (1) Subject to paragraph (2) of this subsection **AND SUBSECTION (A)(2) OF THIS SECTION**, on or before [June 1 every 2 years,] **FEBRUARY 1 EACH YEAR**, beginning in ~~2025~~ **2026**, the Secretary shall set the total rate of contribution [and the percentage of the total rate of contribution to be paid by employees of employers and employers with 15 or more employees] that will be in effect for the [24-month] **12-MONTH** period beginning on the immediately following [January] **JULY 1**.

(2) The rate [and percentages] set under paragraph (1) of this subsection shall be based on the ~~study~~ **COST ANALYSIS** required under subsection (c) of this section.

~~[(3)] (E) 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.]

~~[(e)] (F)~~ (1) (I) **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH EMPLOYER OF 15 OR MORE EMPLOYEES SHALL CONTRIBUTE AN AMOUNT EQUAL TO 50% OF THE TOTAL RATE OF CONTRIBUTION FOR EACH COVERED EMPLOYEE.**

(II) **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH EMPLOYEE OF AN EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO 50% OF THE TOTAL RATE OF CONTRIBUTION.**

[(1)] (2) (I) Except as provided in [paragraph (2) of this subsection] **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, the employer of the employee shall deduct the employee's required contribution from the wages of the employee.

(II) 1. AN EMPLOYER MAY ELECT TO PAY ALL OR A PORTION OF THE REQUIRED EMPLOYEE CONTRIBUTIONS IN WHOLE OR IN PART.

[(2)] 2. If the employer of an employee elects to pay a portion of the employee's required contribution, the employer:

A. may deduct an amount that is less than [75%] 50% of the rate of contribution required from the wages of the employee; AND

B. SHALL NOTIFY EMPLOYEES OF THE RATE OF CONTRIBUTION SET FOR EMPLOYEES UNDER SUBSECTION (D)(1) OF THIS SECTION AND THE PORTION OF THAT AMOUNT THAT THE EMPLOYER IS ELECTING TO PAY.

~~[(f)] (c)~~ Each self-employed individual participating in the Program shall:

(1) pay contributions during each year that the self-employed individual participates in the Program; and

(2) contribute an amount equal to the total rate of contribution set under subsection (d) of this section.

~~(H) THE STATE SHALL PAY THE CONTRIBUTION REQUIRED UNDER SUBSECTION (F) OF THIS SECTION FOR:~~

~~(1) 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 THAT SERVE INDIVIDUALS WITH MENTAL DISORDERS, SUBSTANCE USE DISORDERS, OR A COMBINATION OF THOSE DISORDERS OR DEVELOPMENTAL DISABILITIES; AND~~

~~(2) COVERED EMPLOYEES WHO MAKE AN HOURLY WAGE THAT IS LESS THAN \$15 PER HOUR, UNLESS THE EMPLOYER OF THE COVERED EMPLOYEE ELECTS TO PAY ALL OF A PORTION OF THE EMPLOYEE'S REQUIRED CONTRIBUTION.~~

(G) (1) THE MARYLAND DEPARTMENT OF HEALTH SHALL REIMBURSE EACH:

(I) COMMUNITY PROVIDER THAT IS REQUIRED TO BE LICENSED OR CERTIFIED UNDER TITLE 7 OF THE HEALTH – GENERAL ARTICLE FOR 100% OF THE EMPLOYER CONTRIBUTION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION FOR EMPLOYEES WHO MANAGE OR PROVIDE SERVICES UNDER TITLE 7 OF THE HEALTH – GENERAL ARTICLE;

(II) COMMUNITY PROVIDER THAT IS REQUIRED TO BE LICENSED OR CERTIFIED UNDER TITLE 7.5 OF THE HEALTH – GENERAL ARTICLE FOR A PERCENTAGE OF THE EMPLOYER CONTRIBUTION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION FOR EMPLOYEES WHO MANAGE OR PROVIDE SERVICES UNDER TITLE 7.5 OF THE HEALTH – GENERAL ARTICLE THAT IS EQUAL TO THE PERCENTAGE OF REVENUE THAT IS ATTRIBUTABLE TO FEDERAL AND STATE MEDICAID FUNDING AND ANY OTHER STATE FUNDING RECEIVED BY THE COMMUNITY PROVIDER FOR THE SERVICES DURING THE PERIOD COVERED BY THE REIMBURSEMENT; OR

(III) PROVIDER, AS DEFINED IN § 16-201.4 OF THE HEALTH – GENERAL ARTICLE, FOR A PERCENTAGE OF THE EMPLOYER CONTRIBUTION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION FOR EMPLOYEES WHO MANAGE OR PROVIDE SERVICES DESCRIBED IN § 16-201.4(A) OF THE HEALTH – GENERAL ARTICLE THAT IS EQUAL TO THE PERCENTAGE OF REVENUE ATTRIBUTABLE TO FEDERAL AND STATE MEDICAID FUNDING AND ANY OTHER STATE FUNDING RECEIVED BY THE PROVIDER FOR THE SERVICES DURING THE PERIOD COVERED BY THE REIMBURSEMENT.

(2) THE MARYLAND DEPARTMENT OF HEALTH SHALL MAKE THE REIMBURSEMENTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AT LEAST QUARTERLY.

(3) TO RECEIVE REIMBURSEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PROVIDER SHALL PROVIDE TO THE MARYLAND DEPARTMENT OF HEALTH ANY INFORMATION NECESSARY TO CARRY OUT THIS SUBSECTION IN THE FORM AND MANNER REQUIRED BY THE MARYLAND DEPARTMENT OF HEALTH.

8.3–701.

(a) (1) Subject to paragraph (2) of this subsection, beginning January 1, ~~2025~~ **2026**, a covered individual taking leave from employment may submit a claim for benefits [to]:

(i) 1. TO care for a newborn child OF THE COVERED INDIVIDUAL DURING THE FIRST YEAR AFTER THE CHILD’S BIRTH; or

2. BECAUSE a child [newly] IS BEING placed for adoption, foster care, or kinship care with the covered individual [during the first year after the birth, adoption,] or TO CARE FOR OR BOND WITH THE CHILD DURING THE FIRST YEAR AFTER THE placement;

(ii) TO care for a family member with a serious health condition;

(iii) **TO** attend to a serious health condition that ~~results in~~
~~PREVENTS~~ the covered individual ~~FROM~~ being ~~unable~~ **ABLE** to perform ~~the~~ ~~ONE OR~~
~~MORE~~ functions of the covered individual's position;

(iv) **TO** care for a service member with a serious health condition
resulting from military service who is the covered individual's next of kin; or

(v) **TO** 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 (3) OF THIS SUBSECTION, AN
INDIVIDUAL MAY FILE AN APPLICATION FOR BENEFITS WITHIN 60 DAYS BEFORE THE
ANTICIPATED START DATE OF THE LEAVE FOR WHICH BENEFITS MAY BE PAID
UNDER THIS TITLE, BUT NOT LATER THAN 60 DAYS AFTER THE START DATE OF THE
LEAVE.**

**(2) TO BE CONSIDERED COMPLETE, AN APPLICATION SHALL CONTAIN
ALL INFORMATION REQUIRED BY THE DEPARTMENT.**

**(3) (I) THE DEPARTMENT SHALL WAIVE THE FILING DEADLINE
ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR GOOD CAUSE.**

**(II) IF THE COVERED INDIVIDUAL DOES NOT HAVE GOOD CAUSE
FOR THE DELAY IN COMPLETING THE CLAIM APPLICATION, THE SECRETARY MAY
DELAY OR DENY BENEFITS UNDER THIS TITLE.**

[(b)] (C) (1) Subject to 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.

(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) 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) 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.¶

~~(B) (C)~~ **THE DEPARTMENT MAY COUNT THE LEAVE AGAINST A COVERED INDIVIDUAL TAKEN UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT AGAINST A COVERED INDIVIDUAL'S MAXIMUM DURATION OF LEAVE FOR WHICH BENEFITS ARE AVAILABLE UNDER THIS TITLE IN AN APPLICATION YEAR FOR THE SAME PURPOSE, IF:**

(1) AN EMPLOYER DESIGNATES A PERIOD OF LEAVE AS COVERED BY THE FEDERAL FAMILY AND MEDICAL LEAVE ACT FOR A COVERED INDIVIDUAL WHO WOULD ALSO QUALIFY FOR BENEFITS UNDER § 8.3–302 OF THIS TITLE;

(2) THE EMPLOYER INFORMS THE COVERED INDIVIDUAL OF THE INDIVIDUAL’S ELIGIBILITY FOR BENEFITS UNDER THIS TITLE; AND

(3) THE EMPLOYEE DECLINES TO APPLY FOR BENEFITS UNDER THIS TITLE.

~~(D)~~ (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] MAY NOT BE REQUIRED TO USE OR EXHAUST PAID VACATION, PAID SICK LEAVE, OR OTHER PAID TIME OFF UNDER AN EMPLOYER POLICY BEFORE, OR WHILE, 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.]

(2) A COVERED INDIVIDUAL AND AN EMPLOYER MAY AGREE TO USE PAID VACATION, PAID SICK LEAVE, OR OTHER PAID TIME OFF WHILE A COVERED INDIVIDUAL IS RECEIVING BENEFITS AVAILABLE UNDER THIS TITLE TO REPLACE THE COVERED INDIVIDUAL’S WAGES UP TO 100% OF THE COVERED INDIVIDUAL’S AVERAGE WEEKLY WAGE DURING THE PERIOD OF LEAVE FOR WHICH BENEFITS ARE RECEIVED UNDER THIS TITLE.

(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AN EMPLOYER MAY REQUIRE THAT BENEFIT PAYMENTS UNDER THIS TITLE BE MADE CONCURRENTLY, OR OTHERWISE COORDINATED WITH PAYMENTS MADE OR LEAVE THAT IS ALLOWED UNDER THE TERMS OF A SEPARATE EMPLOYER–PROVIDED LEAVE POLICY DUE TO PARENTAL CARE, FAMILY CARE, OR MILITARY LEAVE OR UNDER A DISABILITY POLICY.

[(3)] (4) This subsection may not be construed to reduce any weeks of leave for which benefits may be paid under this title.

~~(D)~~ (E) (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.

1 8.3-703.

2 (a) For the purposes of this section:

3 (1) the covered individual's average weekly wage shall be calculated as the
4 total wages received by the covered individual over the last 680 hours for which the covered
5 individual was paid divided by the number of weeks worked; and

6 (2) the State average weekly wage shall be the wage calculated under §
7 9-603 of this article.

8 (b) (1) Subject to [paragraph] **PARAGRAPHS (2) AND (3)** of this subsection,
9 the weekly benefit amount payable to a covered individual under this title shall be:

10 (i) if the covered individual's average weekly wage is 65% or less of
11 the State average weekly wage, 90% of the covered individual's average weekly wage; **OR**

12 (ii) if the covered individual's average weekly wage is greater than
13 65% of the State average weekly wage, the sum of:

14 1. 90% of the covered individual's average weekly wage up to
15 65% of the State average weekly wage; and

16 2. 50% of the covered individual's average weekly wage that
17 is greater than 65% of the State average weekly wage[]; or

18 (iii) if the covered individual is taking partially paid leave, the lesser
19 of:

20 1. the amount required to make up the difference between
21 the wages paid to the covered individual while the covered individual is taking partially
22 paid leave and the full wages normally paid to the covered individual; and

23 2. if the covered individual's average weekly wage is greater
24 than 65% of the State average weekly wage, the sum of:

25 A. 90% of the covered individual's average weekly wage up to
26 65% of the State average weekly wage; and

27 B. 50% of the covered individual's average weekly wage that
28 is greater than 65% of the State average weekly wage[].

29 (2) **THE BENEFIT PAID UNDER THIS TITLE AND ANY ADDITIONAL PAID**
30 **LEAVE CANNOT TOTAL MORE THAN 100% OF THE COVERED INDIVIDUAL'S AVERAGE**
31 **WEEKLY WAGE.**

(3) 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 January 1, ~~2025~~ **2026**, \$1,000; and

2. for the 12-month period beginning January 1, ~~2026~~ **2027**, and each subsequent 12-month period, the amount determined and announced by the Secretary under paragraph [(3)] **(4)** of this subsection.

[(3)] **(4)** (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) Subject to subsection (e) of this section, for the 12-month period beginning January 1, ~~2026~~ **2027**, 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 September 1, ~~2025~~ **2026**, 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 January 1.

(c) **(1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN** increase in the weekly benefit amount under subsection [(b)(3)]**(B)(4)** of this section applies only to a claim for benefits [filed] **THAT BEGINS** after the date the increase becomes effective.

1 **(2) IF THE LEAVE FOR WHICH BENEFITS ARE BEING PAID IS BEING**
2 **TAKEN INTERMITTENTLY, AN INCREASE IN THE WEEKLY BENEFIT AMOUNT SHALL**
3 **APPLY TO A CLAIM FOR BENEFITS AS SPECIFIED IN REGULATIONS ADOPTED BY THE**
4 **DEPARTMENT.**

5 (d) The Department shall:

6 (1) notify the employer of a covered individual within ~~15~~ **3** business days
7 after the covered individual files a [claim] **COMPLETED APPLICATION** for benefits under
8 this title;

9 (2) **NOTIFY THE COVERED INDIVIDUAL WITHIN 3 5 BUSINESS DAYS**
10 **AFTER THE INDIVIDUAL FILES AN APPLICATION, IF THE APPLICATION IS**
11 **CONSIDERED TO BE INCOMPLETE UNDER § 8.3-701(B)(2) OF THIS SUBTITLE DUE TO**
12 **MISSING INFORMATION THAT IS NECESSARY TO COMPLETE THE CLAIM;**

13 (3) approve or deny the claim and notify the covered individual and the
14 covered individual's employer within 10 business days after the covered individual files the
15 [claim] **COMPLETED APPLICATION;**

16 **[(3)] (4)** make the first payment of benefits to a covered individual within
17 5 business days after the [claim] **COMPLETED APPLICATION** is approved **OR THE LEAVE**
18 **HAS STARTED, WHICHEVER IS LATER;** and

19 **[(4)] (5)** make subsequent payments every 2 weeks until the benefit
20 period ends.

21 (e) (1) In this subsection, "Board" means the Board of Public Works.

22 (2) Subject to paragraph (4) of this subsection, on or before September 1
23 each year, beginning in ~~2025~~ **2026**, the Board shall determine whether the seasonally
24 adjusted total employment from the Current Employment Statistics series as reported by
25 the U.S. Bureau of Labor Statistics for the most recent 6-month period is negative as
26 compared with the immediately preceding 6-month period.

27 (3) (i) Subject to paragraph (4) of this subsection, the Board may
28 temporarily suspend an increase in the maximum weekly benefit specified under subsection
29 **[(b)(2)(ii)] (B)(3)(II)** of this section if the Board determined under paragraph (2) of this
30 subsection that the seasonally adjusted total employment is negative.

31 (ii) If the seasonally adjusted total employment is negative, the
32 Board may consider the performance of State revenues in the immediately preceding 6
33 months, as reported by the Office of the Comptroller, in determining whether to temporarily
34 suspend an increase to the maximum weekly benefit specified under subsection **[(b)(2)(ii)]**
35 **(B)(3)(II)** of this section.

(4) If the Board temporarily suspends an increase to the maximum weekly benefit specified under subsection [(b)(2)(ii)2] **(B)(3)(II)2** of this section:

(i) the maximum weekly benefit in effect for the period beginning the following January 1 shall remain the same as the rate that was in effect for the immediately preceding 12-month period; and

(ii) the Board shall notify the Secretary that the maximum weekly benefit increase for the period beginning the following January 1 is suspended for 1 year.

(f) The Department shall notify each employer of the increase to the maximum weekly benefit specified under subsection [(b)(2)(ii)] **(B)(3)(II)** of this section.

8.3-705.

(a) **(1)** An employer may satisfy the requirements of this title through a private employer plan consisting of employer-provided benefits, insurance **THROUGH AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER**, 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.

(2) (I) TO DETERMINE THE BENEFIT AMOUNT UNDER A PRIVATE EMPLOYER PLAN, THE WEEKLY BENEFIT AMOUNT SHALL BE BASED ON THE AVERAGE WEEKLY WAGE EARNED FROM THE EMPLOYER SPONSORING THE PRIVATE EMPLOYER PLAN.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF AN INDIVIDUAL HAS WORKED LESS THAN 680 HOURS FOR THE EMPLOYER SPONSORING THE PRIVATE EMPLOYER PLAN, THE WEEKLY BENEFIT AMOUNT SHALL BE BASED ON THE AVERAGE WEEKLY WAGE UNDER § 8.3-703(A) OF THIS SUBTITLE.

(III) THIS SUBSECTION MAY NOT BE CONSTRUED TO PREVENT A PRIVATE EMPLOYER PLAN FROM PROVIDING A BENEFIT THAT IS GREATER THAN THAT PROVIDED IN § 8.3-703(A) OF THIS SUBTITLE.

(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.

(D) AN EMPLOYER THAT PROVIDES A PRIVATE EMPLOYER PLAN MAY NOT DEDUCT FROM AN EMPLOYEE MORE THAN THE MAXIMUM CONTRIBUTION AMOUNT SET BY THE DEPARTMENT.

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 the employee's eligibility to take leave for which benefits may be paid under this title within 5 business days.

(2) The notice provided under paragraph (1) of this subsection shall include:

(i) the right of [an eligible] A COVERED employee to receive Program benefits under this title;

(ii) the procedure for filing a claim for benefits;

(iii) [an eligible] A COVERED employee's responsibilities with respect to providing notification prior to the commencement of leave and any penalties for failing to do so;

(iv) the right of an employee to file a complaint for alleged violations of this title;

(v) the right of [an eligible] A COVERED employee to job protection; and

(vi) a description of the prohibited acts, penalties, and complaint procedures under Subtitle 9 of this title.

(c) (1) The Department shall develop standard notices for an employer to use under this subtitle.

(2) The notices required under this subtitle shall be provided in accordance with regulations adopted by the Secretary.

8.3–906.

(a) (1) (I) The Secretary shall establish a system for appeals by covered individuals [in the case of denial] REGARDING DETERMINATIONS OF BENEFIT AMOUNTS, BENEFIT DURATIONS, AND DENIALS of benefits under this title.

(II) A COVERED INDIVIDUAL MUST FILE AN APPEAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS AFTER THE DETERMINATION IS MADE OR BENEFITS ARE DENIED, UNLESS GOOD CAUSE CAN BE SHOWN FOR THE DELAY.

(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.

Chapter 48 of the Acts of 2022

[SECTION 3. AND BE IT FURTHER ENACTED, That:

(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 under § 8–601(a) of the Labor and Employment Article, as enacted by Section 1 of this Act, 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, 2025, both inclusive.]

[SECTION 10. AND BE IT FURTHER ENACTED, That, on or before 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 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Labor and Employment~~

~~§.3–601.~~

~~(h) The State shall pay the contribution required under subsection (f) of this section for:~~

~~(1)] 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 that serve individuals with mental disorders, substance use disorders, or a combination of those disorders or developmental disabilities[; and~~

~~(2) covered employees who make an hourly wage that is less than \$15 per hour, unless the employer of the covered employee elects to pay all or a portion of the employee's required contribution].~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2024, the Secretary of Labor shall adopt regulations as required under § 8.3–403 of the Labor and Employment Article.

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2026.~~

SECTION 4 3. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.