

HOUSE BILL 740

K3, L6, P4

6lr0706
CF SB 485

By: **Delegates Kelly, Anderson, Angel, Atterbeary, Barkley, B. Barnes, D. Barnes, Barron, Barve, Brooks, Carr, Carter, Clippinger, Conaway, Cullison, Dumais, Ebersole, Fennell, Fraser–Hidalgo, Frick, Frush, Gaines, Gilchrist, Glenn, Gutierrez, Hammen, Hayes, Haynes, Healey, Hettleman, Hill, Hixson, Holmes, C. Howard, Jackson, Jalisi, Jones, Kaiser, Korman, Krimm, Lafferty, Lam, Lierman, Lisanti, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Morhaim, Oaks, Patterson, Pena–Melnik, Pendergrass, Platt, Reznik, B. Robinson, S. Robinson, Rosenberg, Sample–Hughes, Sanchez, Smith, Sophocleus, Stein, Tarlau, Turner, Valderrama, Waldstreicher, A. Washington, M. Washington, K. Young, and P. Young**

Introduced and read first time: February 5, 2016

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Family and Medical Leave Insurance**
3 **Program – Establishment**

4 FOR the purpose of establishing the Family and Medical Leave Insurance Program;
5 prohibiting an employee from disclosing certain information; authorizing a
6 self-employed individual to elect to participate in the Program by filing a certain
7 notice with the Secretary of Labor, Licensing, and Regulation; providing that a
8 certain election becomes effective on the date a certain notice is filed; requiring a
9 certain individual to participate in the Program for a certain initial period;
10 authorizing a certain individual to renew participation in the Program for a certain
11 period; requiring a certain individual to notify the Secretary in writing of the
12 individual's withdrawal from the Program within a certain time period; requiring a
13 certain individual to pay a certain contribution rate during a certain period;
14 providing that an employee's right to benefits under this Act may not be diminished
15 by a collective bargaining agreement entered into or renewed or an employer policy
16 adopted or retained after a certain date; providing that a certain agreement is void
17 as against public policy; stating the purpose of the Program; providing for the
18 manner in which the Program is to be administered; providing for the powers and
19 duties of the Secretary under the Program; establishing the Family and Medical
20 Leave Insurance Fund as a special fund; providing for the administration of the
21 Fund; specifying the contents of the Fund; specifying the purposes for which the
22 Fund may be used; requiring, beginning on a certain date, certain employees to pay

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Secretary certain contributions; requiring the Secretary to establish in
2 regulation the rate of contribution; requiring the rate of contribution to be sufficient
3 to fund the benefits payable under this Act; requiring, beginning on a certain date,
4 an individual to meet certain conditions to be eligible for benefits; authorizing a
5 covered employee to take certain leave on an intermittent leave schedule; requiring
6 a covered employee who is taking certain leave on an intermittent leave schedule to
7 take certain action; prohibiting an employer from taking certain action if leave is
8 taken on an intermittent leave schedule; providing for the manner in which benefits
9 are to be calculated and paid; requiring the Division of Unemployment Insurance,
10 under certain circumstances, to notify certain individuals of certain information
11 regarding the federal income tax; requiring the Division, under certain
12 circumstances, to deduct and withhold a certain amount from benefits paid;
13 providing for the manner in which certain employees who receive benefits are to be
14 treated by employers; establishing certain prohibited acts; authorizing the Division
15 to seek repayment of benefits under certain circumstances; authorizing the Secretary
16 to waive the repayment of benefits under certain circumstances; exempting the Fund
17 from a certain provision of law; providing for the construction and application of this
18 Act; providing that this Act preempts the authority of a local jurisdiction to adopt
19 certain laws, ordinances, rules, and regulations; requiring the Secretary to adopt
20 certain regulations on or before a certain date; defining certain terms; stating the
21 intent of the General Assembly; and generally relating to the Family and Medical
22 Leave Insurance Program.

23 BY repealing and reenacting, with amendments,

24 Article – Labor and Employment

25 Section 8–302

26 Annotated Code of Maryland

27 (2008 Replacement Volume and 2015 Supplement)

28 BY adding to

29 Article – Labor and Employment

30 Section 8.3–101 through 8.3–901 to be under the new title “Title 8.3. Family and
31 Medical Leave Insurance Program”

32 Annotated Code of Maryland

33 (2008 Replacement Volume and 2015 Supplement)

34 BY repealing and reenacting, without amendments,

35 Article – State Finance and Procurement

36 Section 6–226(a)(1) and (2)(i)

37 Annotated Code of Maryland

38 (2015 Replacement Volume)

39 BY repealing and reenacting, with amendments,

40 Article – State Finance and Procurement

41 Section 6–226(a)(2)(ii)84. and 85.

42 Annotated Code of Maryland

43 (2015 Replacement Volume)

1 BY adding to
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)86.
4 Annotated Code of Maryland
5 (2015 Replacement Volume)

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

8 **Article – Labor and Employment**

9 8–302.

10 (a) There is a Division of Unemployment Insurance.

11 (b) The Division of Unemployment Insurance shall perform any function that the
12 Secretary assigns to it to carry out this title **AND TITLE 8.3 OF THIS ARTICLE.**

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

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

15 **8.3–101.**

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

18 (B) “ADOPTED CHILD” MEANS A CHILD ADOPTED BY OR PLACED FOR
19 ADOPTION WITH AN EMPLOYEE OR THE EMPLOYEE’S SPOUSE OR DOMESTIC
20 PARTNER.

21 (C) “APPLICATION YEAR” MEANS THE 12–MONTH PERIOD BEGINNING ON
22 THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED EMPLOYEE FILES AN
23 APPLICATION FOR BENEFITS.

24 (D) “BENEFITS” MEANS THE MONEY PAYABLE UNDER THIS TITLE TO A
25 COVERED EMPLOYEE.

26 (E) “CHILD” MEANS:

27 (1) AN ADOPTED CHILD;

28 (2) A BIOLOGICAL CHILD;

1 **(3) A FOSTER CHILD;**

2 **(4) A LEGAL WARD;**

3 **(5) A STEPCHILD; OR**

4 **(6) A CHILD WITH RESPECT TO WHOM AN INDIVIDUAL STANDS IN**
5 **LOCO PARENTIS.**

6 **(F) “COVERED EMPLOYEE” MEANS AN EMPLOYEE WHO HAS EARNED AT**
7 **LEAST \$1,800 IN WAGES DURING:**

8 **(1) THE FIRST 4 OF THE LAST 5 COMPLETED CALENDAR QUARTERS**
9 **IMMEDIATELY PRECEDING THE START OF AN APPLICATION YEAR; OR**

10 **(2) THE 4 MOST RECENTLY COMPLETED CALENDAR QUARTERS**
11 **IMMEDIATELY PRECEDING THE START OF AN APPLICATION YEAR ONLY IF THE**
12 **EMPLOYEE APPLYING FOR THE BENEFITS DOES NOT QUALIFY FOR ANY BENEFITS**
13 **UNDER THIS TITLE USING THE DEFINITION IN ITEM (1) OF THIS SUBSECTION.**

14 **(G) “DEPARTMENT” MEANS THE DEPARTMENT OF LABOR, LICENSING, AND**
15 **REGULATION.**

16 **(H) “EMPLOYER” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT**
17 **EMPLOYS AT LEAST ONE INDIVIDUAL IN THE STATE.**

18 **(I) “FAMILY MEMBER” MEANS:**

19 **(1) A CHILD;**

20 **(2) A PARENT;**

21 **(3) A PARENT-IN-LAW;**

22 **(4) A GRANDPARENT OR STEPGRANDPARENT OF AN EMPLOYEE OR**
23 **THE EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER;**

24 **(5) A GRANDCHILD OR STEPGRANDCHILD OF AN EMPLOYEE OR THE**
25 **EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER;**

26 **(6) A SPOUSE;**

27 **(7) A DOMESTIC PARTNER;**

1 **(8) A SIBLING;**

2 **(9) THE SPOUSE OR DOMESTIC PARTNER OF A SIBLING; OR**

3 **(10) ANY OTHER INDIVIDUAL RELATED BY BLOOD OR AFFINITY WHOSE**
4 **CLOSE ASSOCIATION WITH THE EMPLOYEE IS EQUIVALENT TO A FAMILY**
5 **RELATIONSHIP.**

6 **(J) “FUND” MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE FUND**
7 **ESTABLISHED UNDER § 8.3-501 OF THIS TITLE.**

8 **(K) “GOVERNMENTAL ENTITY” HAS THE MEANING STATED IN § 8-101 OF**
9 **THIS ARTICLE.**

10 **(L) “INDIVIDUAL WHO STANDS IN LOCO PARENTIS” MEANS, WHETHER OR**
11 **NOT A BIOLOGICAL OR LEGAL RELATIONSHIP EXISTS, AN INDIVIDUAL:**

12 **(1) WHO HAS DAY-TO-DAY RESPONSIBILITIES TO CARE FOR AND**
13 **FINANCIALLY SUPPORT A CHILD; OR**

14 **(2) IN THE CASE OF AN EMPLOYEE OR THE EMPLOYEE’S SPOUSE OR**
15 **DOMESTIC PARTNER, WHO HAD RESPONSIBILITY FOR THE EMPLOYEE OR THE**
16 **SPOUSE OR DOMESTIC PARTNER WHEN THE EMPLOYEE OR THE SPOUSE OR**
17 **DOMESTIC PARTNER WAS A CHILD.**

18 **(M) “NEWBORN CHILD” MEANS A CHILD UNDER THE AGE OF 1 YEAR.**

19 **(N) “NEXT OF KIN” MEANS THE NEAREST BLOOD RELATIVE.**

20 **(O) “PARENT” MEANS:**

21 **(1) AN ADOPTIVE PARENT;**

22 **(2) A BIOLOGICAL PARENT;**

23 **(3) A FOSTER PARENT;**

24 **(4) A LEGAL GUARDIAN;**

25 **(5) A STEPPARENT; OR**

1 **(6) AN INDIVIDUAL WHO STANDS IN LOCO PARENTIS TO AN**
2 **EMPLOYEE.**

3 **(P) "PARENT-IN-LAW" MEANS:**

4 **(1) THE PARENT OF AN EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER;**
5 **OR**

6 **(2) AN INDIVIDUAL WHO STANDS IN LOCO PARENTIS TO AN**
7 **EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER.**

8 **(Q) "PROGRAM" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE**
9 **PROGRAM.**

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

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

14 **(2) TO ATTEND MILITARY EVENTS AND RELATED ACTIVITIES;**

15 **(3) TO ATTEND CHILD CARE OR SCHOOL ACTIVITIES ONLY BECAUSE**
16 **THE SERVICE MEMBER IS ON ACTIVE DUTY CALL OR ACTIVE DUTY STATUS;**

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

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

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

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

24 **(6) TO SPEND NO MORE THAN 5 DAYS WITH A SERVICE MEMBER WHO**
25 **IS ON SHORT-TERM TEMPORARY REST AND RECUPERATION LEAVE DURING THE**
26 **PERIOD OF DEPLOYMENT;**

27 **(7) TO ATTEND POSTDEPLOYMENT ACTIVITIES; OR**

1 **(8) BECAUSE OF ANY OTHER ISSUES THAT ARISE OUT OF ACTIVE DUTY**
2 **OR A CALL TO ACTIVE DUTY THAT AN EMPLOYER AND AN EMPLOYEE AGREE SHOULD**
3 **BE COVERED.**

4 **(S) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND**
5 **REGULATION.**

6 **(T) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, AN INJURY, AN**
7 **IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:**

8 **(1) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL**
9 **HEALTH CARE FACILITY; OR**

10 **(2) CONTINUED TREATMENT BY A LICENSED HEALTH CARE**
11 **PROVIDER.**

12 **(U) "SERVICE MEMBER" MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY**
13 **MEMBER OF:**

14 **(1) THE UNITED STATES ARMED FORCES;**

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

17 **(3) THE NATIONAL GUARD OF ANY STATE.**

18 **8.3-102.**

19 **THIS TITLE PREEMPTS THE AUTHORITY OF A LOCAL JURISDICTION TO ADOPT**
20 **A LAW, AN ORDINANCE, A RULE, OR A REGULATION ESTABLISHING OR**
21 **IMPLEMENTING A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

22 **8.3-103.**

23 **(A) THIS SECTION DOES NOT APPLY TO THE DISCLOSURE OF INFORMATION**
24 **TO:**

25 **(1) A PUBLIC EMPLOYEE IN THE PERFORMANCE OF THE PUBLIC**
26 **EMPLOYEE'S OFFICIAL DUTIES;**

27 **(2) THE INDIVIDUAL TO WHOM THE INFORMATION PERTAINS; OR**

1 **8.3-203.**

2 (A) AN EMPLOYEE'S RIGHT TO BENEFITS UNDER THIS TITLE MAY NOT BE
3 DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO OR
4 RENEWED OR AN EMPLOYER POLICY ADOPTED OR RETAINED ON OR AFTER JUNE 1,
5 2016.

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

8 **SUBTITLE 3. ESTABLISHMENT OF PROGRAM.**

9 **8.3-301.**

10 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

11 **8.3-302.**

12 **THE PURPOSE OF THE PROGRAM IS TO PROVIDE TEMPORARY BENEFITS TO AN**
13 **EMPLOYEE WHO IS TAKING PARTIALLY PAID OR UNPAID LEAVE FROM EMPLOYMENT:**

14 (1) TO CARE FOR A NEWBORN CHILD OR A CHILD NEWLY PLACED FOR
15 ADOPTION OR FOSTER CARE WITH THE EMPLOYEE DURING THE FIRST YEAR AFTER
16 THE BIRTH, ADOPTION, OR PLACEMENT;

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

19 (3) BECAUSE THE EMPLOYEE HAS A SERIOUS HEALTH CONDITION
20 THAT RESULTS IN THE EMPLOYEE BEING UNABLE TO PERFORM THE FUNCTIONS OF
21 THE POSITION OF THE EMPLOYEE;

22 (4) TO CARE FOR A SERVICE MEMBER WHO IS THE EMPLOYEE'S NEXT
23 OF KIN; OR

24 (5) BECAUSE THE EMPLOYEE HAS A QUALIFYING EXIGENCY ARISING
25 OUT OF THE DEPLOYMENT OF A FAMILY MEMBER OF THE EMPLOYEE.

26 **SUBTITLE 4. ADMINISTRATION.**

27 **8.3-401.**

1 **THIS TITLE SHALL BE ADMINISTERED UNDER THE SUPERVISION OF THE**
2 **SECRETARY BY THE DIVISION OF UNEMPLOYMENT INSURANCE ESTABLISHED**
3 **UNDER § 8-302 OF THIS ARTICLE.**

4 **8.3-402.**

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

8 **8.3-403.**

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

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

12 **(2) ESTABLISH PROCEDURES AND FORMS FOR FILING CLAIMS FOR**
13 **BENEFITS, INCLUDING PROCEDURES FOR NOTIFYING AN EMPLOYER WITHIN 5**
14 **BUSINESS DAYS AFTER AN EMPLOYEE OF THE EMPLOYER FILES A CLAIM FOR**
15 **BENEFITS UNDER THIS TITLE;**

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

19 **(4) SUBJECT TO SUBSECTION (C) OF THIS SECTION, CARRY OUT A**
20 **PUBLIC EDUCATION PROGRAM FOR THE PURPOSE OF EDUCATING THE PUBLIC**
21 **ABOUT BENEFITS AVAILABLE TO EMPLOYEES UNDER THIS TITLE.**

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

27 **(C) (1) THE SECRETARY MAY USE A PORTION OF THE FUNDS PAID UNDER**
28 **§ 8.3-601 OF THIS TITLE OR OTHER AVAILABLE FUNDING TO PAY FOR AND CARRY**
29 **OUT THE PUBLIC EDUCATION PROGRAM REQUIRED UNDER SUBSECTION (A)(4) OF**
30 **THIS SECTION.**

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

4 **8.3-404.**

5 **(A) TO ENFORCE THIS TITLE, THE SECRETARY MAY:**

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

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

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

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

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

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

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

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

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

30 **(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF**
31 **THIS SUBPARAGRAPH, AFTER CLAIMING THE PRIVILEGE AGAINST**

1 SELF-INCRIMINATION, A PERSON MAY NOT BE PROSECUTED OR SUBJECTED TO ANY
2 FORFEITURE OR PENALTY BECAUSE OF ANY MATTER, THING, OR TRANSACTION
3 ABOUT WHICH THE PERSON IS COMPELLED TO PRODUCE EVIDENCE OR TESTIFY.

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

6 **8.3-405.**

7 IN A CIVIL ACTION TO ENFORCE THIS TITLE, THE SECRETARY AND THE STATE
8 MAY BE REPRESENTED BY:

9 (1) THE ATTORNEY GENERAL; OR

10 (2) ANY QUALIFIED ATTORNEY WHO:

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

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

15 **8.3-406.**

16 (A) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY SHALL
17 SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
18 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT ON THE
19 ADMINISTRATION AND OPERATION OF THIS TITLE DURING THE PREVIOUS FISCAL
20 YEAR.

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

22 (1) PROJECTED AND ACTUAL PROGRAM PARTICIPATION RATES;

23 (2) CONTRIBUTION RATES;

24 (3) FUND BALANCES; AND

25 (4) PUBLIC OUTREACH EFFORTS.

26 **SUBTITLE 5. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

27 **8.3-501.**

1 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

2 **8.3-502.**

3 **(A) THE SECRETARY SHALL ADMINISTER THE FUND.**

4 **(B) THE FUND SHALL BE A SPECIAL FUND THAT IS SEPARATE FROM STATE**
5 **MONEY.**

6 **8.3-503.**

7 **(A) THE FUND SHALL CONSIST OF:**

8 **(1) EMPLOYEE CONTRIBUTIONS;**

9 **(2) MONEY PAID TO THE FUND FOR THE PURPOSE OF REIMBURSING**
10 **THE SECRETARY UNDER § 8.3-802 OF THIS TITLE FOR BENEFITS PAID IN ERROR;**

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

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

13 **(B) MONEY IN THE FUND SHALL BE COMMINGLED.**

14 **(C) THE FUND SHALL BE USED ONLY FOR THE PURPOSES OF THIS TITLE.**

15 **8.3-504.**

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

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

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

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

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

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

4 (2) MAY BE USED TO PAY FOR:

5 (I) THE PUBLIC EDUCATION PROGRAM REQUIRED UNDER §
6 8.3-403(A)(4) OF THIS TITLE; AND

7 (II) ANY COSTS ASSOCIATED WITH THE INITIAL
8 IMPLEMENTATION OF THIS TITLE.

9 8.3-505.

10 A CHECK THAT THE STATE TREASURER ISSUES TO PAY BENEFITS OR
11 REFUNDS SHALL:

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

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

14 (3) BE COUNTERSIGNED BY AN AUTHORIZED AGENT.

15 8.3-506.

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

18 SUBTITLE 6. CONTRIBUTIONS.

19 8.3-601.

20 (A) BEGINNING ON JANUARY 1, 2017, EACH EMPLOYEE SHALL PAY TO THE
21 SECRETARY CONTRIBUTIONS FOR THE FUND ON WAGES FOR EMPLOYMENT THAT IS
22 PERFORMED FOR AN EMPLOYER.

23 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
24 SECRETARY SHALL ESTABLISH IN REGULATION THE RATE OF CONTRIBUTION AN
25 EMPLOYEE IS REQUIRED TO PAY UNDER SUBSECTION (A) OF THIS SECTION.

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

4 (3) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE SCHEDULE, AN
5 EMPLOYER MAY NOT:

6 (I) UNLESS THE INTERMITTENT LEAVE SCHEDULE IS
7 MEDICALLY NECESSARY, BE REQUIRED TO ALLOW AN INTERMITTENT LEAVE
8 SCHEDULE FOR MORE THAN 24 CONSECUTIVE WEEKS; OR

9 (II) REDUCE THE TOTAL AMOUNT OF LEAVE TO WHICH THE
10 COVERED EMPLOYEE IS ENTITLED.

11 **8.3-702.**

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

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

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

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

21 (B) (1) A COVERED EMPLOYEE MAY NOT BE PAID BENEFITS FOR THE
22 FIRST 5 CONSECUTIVE CALENDAR DAYS AFTER THE COVERED EMPLOYEE BECOMES
23 ELIGIBLE FOR BENEFITS UNDER § 8.3-701 OF THIS SUBTITLE UNLESS THE COVERED
24 EMPLOYEE:

25 (I) HAS USED 10 OR MORE DAYS OF PARTIALLY PAID OR UNPAID
26 LEAVE DURING THE APPLICATION YEAR; OR

27 (II) HAS ALREADY UNDERGONE THE WAITING PERIOD IN THE
28 SAME APPLICATION YEAR.

29 (2) AN EMPLOYER MAY NOT REQUIRE A COVERED EMPLOYEE TO USE
30 LEAVE PROVIDED BY THE EMPLOYER DURING THE WAITING PERIOD REQUIRED
31 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 (C) A COVERED EMPLOYEE MAY NOT BE PAID BENEFITS FOR LESS THAN 1
2 DAY OR 8 CONSECUTIVE HOURS OF LEAVE TAKEN IN 1 WORKWEEK.

3 **8.3-703.**

4 IF AN EMPLOYER PROVIDES A COVERED EMPLOYEE WITH WRITTEN NOTICE,
5 THE EMPLOYER MAY REQUIRE THAT BENEFITS PAID UNDER THIS TITLE TO THE
6 COVERED EMPLOYEE BE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED
7 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER A COLLECTIVE
8 BARGAINING AGREEMENT OR EMPLOYER POLICY.

9 **8.3-704.**

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

12 (I) 66% OF THE HIGHEST TOTAL AMOUNT OF WAGES EARNED
13 BY THE COVERED EMPLOYEE IN 1 WEEK DURING THE BASE PERIOD; OR

14 (II) IF THE EMPLOYEE IS TAKING PARTIALLY PAID LEAVE, THE
15 LESSER OF:

16 1. THE AMOUNT REQUIRED TO MAKE UP THE
17 DIFFERENCE BETWEEN THE WAGES PAID TO THE EMPLOYEE WHILE THE EMPLOYEE
18 IS TAKING PARTIALLY PAID LEAVE AND THE FULL WAGES NORMALLY PAID TO THE
19 EMPLOYEE; AND

20 2. 66% OF THE HIGHEST TOTAL AMOUNT OF WAGES
21 EARNED BY THE COVERED EMPLOYEE IN 1 WEEK DURING THE BASE PERIOD.

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

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

25 (II) MAY NOT EXCEED:

26 1. FOR THE 12-MONTH PERIOD BEGINNING JULY 1,
27 2018, \$1,000; AND

1 **2. FOR THE 12-MONTH PERIOD BEGINNING JULY 1,**
2 **2019, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE AMOUNT DETERMINED AND**
3 **ANNOUNCED BY THE SECRETARY UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

4 **(3) (I) IN THIS PARAGRAPH, “CONSUMER PRICE INDEX” MEANS**
5 **THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE**
6 **WASHINGTON-BALTIMORE METROPOLITAN AREA OR A SUCCESSOR INDEX**
7 **PUBLISHED BY THE FEDERAL BUREAU OF LABOR STATISTICS.**

8 **(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS**
9 **PARAGRAPH, FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2019, AND EACH**
10 **SUBSEQUENT 12-MONTH PERIOD, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL**
11 **BE INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST CENT, THAT EQUALS**
12 **THE PRODUCT OF:**

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

15 **2. THE ANNUAL PERCENT GROWTH IN THE CONSUMER**
16 **PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, AS**
17 **DETERMINED BY THE SECRETARY UNDER ITEM 1 OF THIS SUBPARAGRAPH.**

18 **(III) BEGINNING MARCH 1, 2019, AND EACH SUBSEQUENT**
19 **SEPTEMBER 1, THE SECRETARY SHALL DETERMINE AND ANNOUNCE:**

20 **1. THE ANNUAL PERCENT GROWTH, IF ANY, IN THE**
21 **CONSUMER PRICE INDEX BASED ON THE MOST RECENT 12-MONTH PERIOD FOR**
22 **WHICH DATA IS AVAILABLE ON SEPTEMBER 1; AND**

23 **2. THE MAXIMUM WEEKLY BENEFIT AMOUNT EFFECTIVE**
24 **FOR THE 12-MONTH PERIOD BEGINNING THE FOLLOWING JULY 1.**

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

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

31 **(C) THE DIVISION SHALL:**

1 (1) MAKE THE FIRST PAYMENT OF BENEFITS TO A COVERED
2 EMPLOYEE WITHIN 2 WEEKS AFTER THE CLAIM IS FILED; AND

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

5 **8.3-705.**

6 (A) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT BENEFITS
7 PAID UNDER THIS SUBTITLE ARE SUBJECT TO FEDERAL INCOME TAX, AT THE TIME
8 AN INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, THE DIVISION SHALL NOTIFY
9 THE INDIVIDUAL THAT:

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

12 (2) THERE ARE REQUIREMENTS REGARDING ESTIMATED TAX
13 PAYMENTS;

14 (3) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX
15 DEDUCTED AND WITHHELD FROM THE BENEFITS THAT THE INDIVIDUAL RECEIVES
16 UNDER THIS TITLE AT THE AMOUNT SPECIFIED IN THE INTERNAL REVENUE CODE;
17 AND

18 (4) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY
19 ELECTED WITHHOLDING STATUS.

20 (B) (1) IF AN INDIVIDUAL ELECTS TO HAVE FEDERAL INCOME TAX
21 DEDUCTED AND WITHHELD UNDER SUBSECTION (A)(3) OF THIS SECTION, THE
22 DIVISION SHALL DEDUCT AND WITHHOLD THE AMOUNT SPECIFIED IN THE
23 INTERNAL REVENUE CODE IN A MANNER REQUIRED BY THE INTERNAL REVENUE
24 SERVICE.

25 (2) IF THE DIVISION DEDUCTS AND WITHHOLDS FEDERAL INCOME
26 TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DEDUCTED AND
27 WITHHELD SHALL REMAIN IN THE FUND UNTIL IT IS TRANSFERRED TO THE
28 FEDERAL TAXING AUTHORITY AS A PAYMENT OF INCOME TAX.

29 **8.3-706.**

30 IF A COVERED EMPLOYEE RECEIVES BENEFITS UNDER THIS SUBTITLE OR
31 TAKES LEAVE FROM WORK THAT FULFILLS THE WAITING PERIOD REQUIRED UNDER
32 § 8.3-702(B) OF THIS SUBTITLE, THE EMPLOYER OF THE COVERED EMPLOYEE

1 SHALL, ON THE EXPIRATION OF THE LEAVE, RESTORE THE EMPLOYEE TO AN
2 EQUIVALENT POSITION OF EMPLOYMENT IN THE SAME MANNER AS AN EMPLOYEE
3 ENTITLED TO LEAVE UNDER THE FEDERAL FAMILY MEDICAL LEAVE ACT IS
4 REQUIRED TO BE RESTORED.

5 **8.3-707.**

6 IF A COVERED EMPLOYEE IS RECEIVING BENEFITS UNDER THIS TITLE OR IS
7 TAKING LEAVE THAT FULFILLS THE WAITING PERIOD REQUIRED UNDER §
8 **8.3-702(B)** OF THIS SUBTITLE, THE EMPLOYER OF THE COVERED EMPLOYEE SHALL
9 CONTINUE ANY EMPLOYMENT BENEFITS IN THE SAME MANNER AS REQUIRED UNDER
10 THE FEDERAL FAMILY MEDICAL LEAVE ACT FOR THE TIME PERIOD THAT THE
11 COVERED EMPLOYEE IS ABSENT FROM WORK AND RECEIVING BENEFITS UNDER
12 THIS TITLE.

13 **SUBTITLE 8. PROHIBITED ACTS; PENALTIES.**

14 **8.3-801.**

15 IF AN INDIVIDUAL WILLFULLY MAKES A FALSE STATEMENT OR
16 MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS TO
17 REPORT A MATERIAL FACT TO OBTAIN BENEFITS UNDER THIS TITLE, THE
18 INDIVIDUAL IS DISQUALIFIED FROM RECEIVING BENEFITS FOR 1 YEAR.

19 **8.3-802.**

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

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

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

26 (B) THE SECRETARY MAY WAIVE THE REPAYMENT OF BENEFITS UNDER
27 SUBSECTION (A) OF THIS SECTION IF THE REPAYMENT WOULD BE AGAINST EQUITY
28 AND GOOD CONSCIENCE.

29 **8.3-803.**

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

5 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2016,
6 the Secretary of Labor, Licensing, and Regulation shall adopt regulations as required under
7 § 8.3–403 of the Labor and Employment Article, as enacted by Section 1 of this Act.

8 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General
9 Assembly that, to the extent permissible under federal law, existing employees and
10 resources of the Division of Unemployment Insurance be used to carry out the provisions
11 of this Act.

12 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
13 1, 2016.