



## TESTIMONY ON SB 828 FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM - MODIFICATIONS

House Economic Matters Committee  
March 30, 2023

### SUPPORT

Submitted by Trap Jervey, Manager of the Time to Care Coalition

*The Time to Care Coalition is a statewide coalition of nearly 2,000 organizations and individuals - including non-profits, faith communities, unions, and businesses - that has been working since 2016 to establish a comprehensive paid family and medical leave program in Maryland.*

**The Time to Care Coalition strongly supports SB 828, as amended and passed by the Senate,** which modifies the Family and Medical Leave Insurance (FAMLI) Program by specifying various aspects of programmatic implementation, administration, timelines, and the cost-sharing split.

**Passing the Time to Care Act of 2022 last legislative session was a historic victory for all Marylanders - and it was just the first step in realizing Paid Family and Medical Leave in Maryland.** The critical work to create and implement an accessible, equitable, and robust FAMLI program is the next major step in fulfilling the promise of the Time to Care Act of 2022, and the General Assembly still has a key role to play in this collective effort. Passing SB 828 will set important parameters for the FAMLI program, putting the program firmly on the path toward successful implementation.

**SB 828 sets the contribution rate for the program with a cost-sharing split of 50% employees, 50% employers.** This is fundamentally important, as it keeps the program affordable and equitable for employers and employees in Maryland. A 50/50 cost-sharing split is in line with most other states that have recently passed FAMLI laws.<sup>1</sup> Maryland has been praised for passing one of the strongest and most comprehensive FAMLI programs in the country, and a 50/50 cost-sharing split is of the utmost importance to ensure our program centers the needs of both employees and employers, continuing to set the bar as a national model.

**As amended by the Senate, SB 828 also delays implementation by a year to give the Maryland Department of Labor (MDOL) adequate time to plan and prepare.** As passed in the Senate – at the request of MDOL and local jurisdictions – the implementation timeline is pushed until October 1, 2023 for the contribution rate to be set, October 1, 2024 for collections to start, and January 1, 2026 for benefits to begin. This will provide adequate time for the Department to acquire the technology and staffing it needs, as well as complete outreach plans and make regulatory changes. It will also provide employers and employees with a full year to plan for the new contributions. Pushing programmatic implementation back a year is essential in the effort to build an effective and functioning FAMLI program.

**Notably, at the request of the business community, the Senate did add a 1.2% contributions cap to SB 828.** Advocates, the MDOL, and other key stakeholders believe that codifying a contributions cap is unnecessary;

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<sup>1</sup> A Better Balance. 2023. Comparative Chart of Paid Family and Medical Leave Laws in the US. <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>

however, a contributions cap at 1.2% is set high enough that it should not impede program solvency and accessibility.

**There are other key ways that SB 828 has been amended by the Senate, and we have attached to this testimony a list describing each amendment made to SB 828 and the reasoning behind it.** Some highlights include:

- Replacing the definition of wages as the original definition included fringe benefits, which do not make sense for this purpose (for example, someone shouldn't receive wage replacement based on their country club membership);
- Extending deadlines for MDOL to notify employers of changes in the status of an application;
- Clarifying the process for Medicaid providers to receive reimbursement for employer contributions; and
- Removing the requirement that the state pay the contribution rate for employees making less than \$15 an hour since collections will begin after the minimum wage reaches \$15/hour.

**SB 828 sets the multi-step parameters and deadlines for benefit application, determination and appeals.**

Throughout the 2022 Paid Family and Medical Leave law and SB 828 there are timeline and notification requirements. These timeframes are intended to keep the employer informed, require a timely determination, and provide the Department of Labor with the time necessary to make determinations. As the process for benefit application and determination has been a common question, **we have attached an addendum to this testimony outlining the various steps that transpire when a Marylander applies for benefits under the Time to Care Law.**

Since our inception, the Time to Care Coalition has championed a paid family and medical leave program that follows our five key principles: a program must be cost-effective for workers, employers, and the government; cover all working people and apply equally to all working people; reflect an inclusive definition of family and include the well-established reasons people need paid family and medical leave; provide up to 12 weeks of leave and replace a substantial share of workers' usual wages; and protect workers against adverse consequences for taking leave. We believe that passing SB 828 as amended in the Senate is critical in our collective effort to build a strong FAMLl program in Maryland.

**The Time to Care Coalition appreciates your consideration and strongly supports SB 828.**

*For a full list of member organizations, visit: [timetocare.net](http://timetocare.net)*

## Amendments Made to SB 828

What the Amendment Does	Page	Notes
Replaces the definition of wages.	Pages 5-6	The original definition included fringe benefits, which didn't make sense for this purpose. (I.e. someone shouldn't receive wage replacement based on their health insurance, accruing leave, country club membership, etc...
Extends deadlines for MDOL to notify employers of changes in the status of an application from 3 to 5 days, per the Department's request.	Page 7	The Chamber seemed agreed with this in their written testimony.
Struck language altering what constitutes a serious health condition. The resulting language is the language that passed last year.	Pages 8, 15-16	This was an amendment we toyed with over the summer and when we requested it come out of the LR – it came out in one place but not the other two.
Adjusted language about who signs the benefits per the Treasurer's request.	Page 11	
Extends the implementation deadlines by one year to ensure the Department of Labor has time to set up the program.	Page 11-13, 20	These are the Department's amendments that everyone agreed to.
Adds a contribution rate cap of 1.2%	Page 12	The Senate added a cap at the request of the business community and over the objection of advocates, MDOL, and other stakeholders. However, the cap is set high enough that we do not anticipate it being a problem in the near future.
States that contribution rate should be applied to all wages up to the social security cap	Page 12	This is not new language – it is moved from a different section that passed last year.
Sets the contribution rate at 50/50 to match the House bill.	Page 13	
Clarifies the process for Medicaid providers to receive reimbursement for employer contributions.	Page 14-15	
Removes the requirement that the state pay the contribution rate for employees making less than \$15 an hour since collections will begin after the minimum wage reaches \$15/hour.	Page 14	Between the expected passage of the minimum wage bill and the delayed implementation, the minimum wage should be \$15 by the time collections begin.
Clarifies the overlap of FMLA and FMLI leave. Reinstates struck language that passed last year and clarifies new language.	Page 17	
Removed back of the bill language that is no longer necessary due to the extended timeline.	Page 24-25	

## SB 828 Family and Medical Leave Insurance Program– Modifications

### Timeline Explanation

Throughout the Paid Family and Medical Leave law and this bill, there are timeline and notification requirements. These timeframes are intended to keep the employer informed, require a timeline determination, and provide the Department of Labor with the time necessary to make determinations.

1. **Employee Notifies Employer of Intent to Take Leave** - If leave is foreseeable, an employee must provide written notice to an employer of their intent to take leave 30 days before the start of the leave. If the leave is not foreseeable, notice must be provided as soon as practicable. 8.3-701(a)(2)
2. **Employee Applies to Department of Labor for Benefits** - An employee can file an application with the Department of Labor up to 60 days before the leave is scheduled to begin or up to 60 days after the leave begins. 8.3-701(B)(1)
3. **Department of Labor Notifies Employer of Change in Circumstance** - Once an application is filed, the Department of Labor must also provide notice to an employer within 5 days. The Department must also provide notice to the employer of any change to the application (determination made, appeal filed, change of determination) within 5 days. 8.3-403(a)(2)
4. **Department of Labor Reviews Application and Notifies Employee and Employer** - Once an application is filed, the Department must approve or deny the claim and notify the employee and the employer within 10 business days. 8.3-703(d)(3)
5. **Benefits Begin When Both an Application is Complete and Leave Has Begun** - An employee does not receive any benefit payments until a completed application is approved and the leave has started. 8.3-704(d)(4)
6. **Employee Appeal Timeline** - If the employee believes the determination is incorrect, they have 30 days to appeal the determination. 8.3-906(a)(1)(ii)