

# SENATE BILL 828

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CF HB 988

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By: **Senator Hayes**

Introduced and read first time: February 6, 2023

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2023

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## 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)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1 BY repealing and reenacting, without amendments,  
 2 Article – Labor and Employment  
 3 Section 8.3–301  
 4 Annotated Code of Maryland  
 5 (2016 Replacement Volume and 2022 Supplement)

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

9 ~~BY repealing and reenacting, with amendments,  
 10 Article – Labor and Employment  
 11 Section 8.3–601(h)  
 12 Annotated Code of Maryland  
 13 (2016 Replacement Volume and 2022 Supplement)  
 14 (As enacted by Section 1 of this Act)~~

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

17 **Article – Labor and Employment**

18 8.3–101.

19 (a) In this title the following words have the meanings indicated.

20 (b) “Application year” means the 12–month period beginning on the [first day]  
 21 **SUNDAY** of the calendar week [in] **FOR** which [a covered individual files an application  
 22 for] benefits **ARE APPROVED**.

23 (c) “Benefits” means the money payable under this title to a covered individual.

24 (d) “Covered employee” means an employee who has worked at least 680 hours  
 25 over the 12–month period immediately preceding the date on which leave is to begin.

26 (e) “Covered individual” means a covered employee or a self–employed individual  
 27 who elects to participate in the Program under § 8.3–201 of this title.

28 (f) “Department” means the Maryland Department of Labor.

29 (g) “Deployment” means a service member acting under official orders who, on  
 30 any day, is performing service in a training exercise or operation at a location or under  
 31 circumstances that make it impossible or infeasible for the service member to spend  
 32 off–duty time in the housing in which the service member resides when on garrison duty  
 33 at the service member’s permanent duty station or homeport.

1 (h) (1) “Employer” means a person or governmental entity that employs at  
2 least one individual in the State.

3 (2) “Employer” does not include an individual who:

4 (i) is the sole owner of a sole proprietorship, limited liability  
5 company, C corporation, or S corporation; and

6 (ii) is the only individual employed by the sole proprietorship,  
7 limited liability company, C corporation, or S corporation.

8 (i) “Family member” means:

9 (1) a biological child, an adopted child, a foster child, or a stepchild of the  
10 covered individual;

11 (2) a child for whom the covered individual has legal or physical custody or  
12 guardianship;

13 (3) a child for whom the covered individual stands in loco parentis,  
14 regardless of the child’s age;

15 (4) a biological parent, an adoptive parent, a foster parent, or a stepparent  
16 of the covered individual or of the covered individual’s spouse;

17 (5) the legal guardian of the covered individual or the ward of the covered  
18 individual or of the covered individual’s spouse;

19 (6) an individual who acted as a parent or stood in loco parentis to the  
20 covered individual or the covered individual’s spouse when the covered individual or the  
21 covered individual’s spouse was a minor;

22 (7) the spouse of the covered individual;

23 (8) **A DOMESTIC PARTNER OF THE COVERED INDIVIDUAL;**

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

26 [(9)] (10) a biological grandchild, an adopted grandchild, a foster  
27 grandchild, or a stepgrandchild of the covered individual; or

28 [(10)] (11) a biological sibling, an adopted sibling, a foster sibling, or a  
29 stepsibling of the covered individual.

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

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

2 (l) “Program” means the Family and Medical Leave Insurance Program  
3 established under § 8.3–301 of this title.

4 (m) “Qualifying exigency” means any of the following reasons for which leave may  
5 be needed by a family member of a service member:

6 (1) because the service member has received notice of deployment within 7  
7 days before the deployment is to begin;

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

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

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

14 (5) to attend counseling that:

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

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

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

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

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

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

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

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

1 (o) (1) "Serious health condition" means an illness, an injury, an impairment,  
2 or a physical or mental condition that involves:

3 (i) inpatient care in a hospital, hospice, or residential health care  
4 facility;

5 (ii) continued treatment by a licensed health care provider; or

6 (iii) continued treatment or supervision at home by a licensed health  
7 care provider or other competent individual under the supervision of a licensed health care  
8 provider.

9 (2) "Serious health condition" includes an illness, an injury, an  
10 impairment, or a physical or mental condition described in paragraph (1) of this subsection  
11 that continues over an extended period of time and requires intermittent treatment.

12 (p) "Service member" means an individual who is an active duty or former  
13 member of:

14 (1) the United States armed forces;

15 (2) a reserve component of the United States armed forces; or

16 (3) the National Guard of any state.

17 (q) "Treatment" includes:

18 (1) examinations or testing to determine the extent to which a serious  
19 health condition exists or persists;

20 (2) ongoing or periodic evaluations of the serious health condition; and

21 (3) actual treatment by a health care provider.

22 (R) "~~WAGES~~" ~~HAS THE MEANING STATED IN:~~

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

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

26 (1) FOR AN EMPLOYEE:

27 (I) AN HOURLY WAGE OR A SALARY;

28 (II) A COMMISSION;

1                   **(III) COMPENSATORY PAY;**

2                   **(IV) SEVERANCE PAY;**

3                   **(V) STANDBY PAY;**

4                   **(VI) A TIP OR GRATUITY;**

5                   **(VII) HOLIDAY OR VACATION PAY; OR**

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

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

10 8.3-301.

11           There is a Family and Medical Leave Insurance Program in the Department.

12 8.3-302.

13           The purpose of the Program is to provide temporary benefits to a covered individual  
 14 who is taking leave from employment:

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

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

21                   (2) to care for a family member with a serious health condition;

22                   (3) because the covered individual has a serious health condition that  
 23 results in the covered individual being unable to perform the functions of the covered  
 24 individual's position;

25                   (4) to care for a service member who is the covered individual's next of kin;  
 26 or

27                   (5) because the covered individual has a qualifying exigency arising out of  
 28 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 ~~5~~ 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.

1 (2) A certification for a claim for benefits for a covered individual under §  
2 8.3–302(2), (3), or (4) of this title shall include:

3 (I) FOR THE PURPOSE OF SUPPORTING THE CLAIM FOR  
4 BENEFIT PAYMENTS, THE FIRST DATE ON WHICH THE COVERED INDIVIDUAL TOOK  
5 OR INTENDS TO TAKE LEAVE FROM EMPLOYMENT AND WHETHER THE LEAVE WILL  
6 OR IS INTENDED TO BE TAKEN FOR A CONTINUOUS PERIOD OF TIME OR  
7 INTERMITTENTLY;

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

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

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

13 [(iv)] (V) 1. For a claim for benefits under § 8.3–302(2) of this  
14 title, a statement that the covered individual needs to care for a family member and an  
15 estimate of the amount of time required to provide the care; or

16 2. for a claim for benefits under § 8.3–302(3) of this title, a  
17 statement that the covered individual ~~[is unable]~~ ~~HAS A SERIOUS HEALTH CONDITION~~  
18 ~~THAT PREVENTS THE COVERED INDIVIDUAL FROM BEING ABLE~~ to perform ~~[the]~~ ~~ONE~~  
19 ~~OR MORE~~ functions of the covered individual's position; and

20 [(v)] (VI) 1. For a certification for intermittent leave under §  
21 8.3–302(2) or (4) of this title, a statement that the covered individual needs to care for a  
22 family member or service member and the expected **FREQUENCY AND** duration of the  
23 intermittent leave; or

24 2. for a certification of intermittent leave under § 8.3–302(3)  
25 of this title, a statement that the covered individual ~~[is unable]~~ ~~HAS A SERIOUS HEALTH~~  
26 ~~CONDITION THAT PREVENTS THE COVERED INDIVIDUAL FROM BEING ABLE~~ to  
27 perform ~~[the]~~ ~~ONE OR MORE~~ functions of the covered individual's position and the expected  
28 **FREQUENCY AND** duration of the intermittent leave.

29 (3) The Secretary shall establish:

30 (i) standards in regulation for the certification of claims for benefits  
31 under § 8.3–302(5) of this title;

32 (ii) standards for verifying the identity of a family member **OR NEXT**  
33 **OF KIN** for a claim for benefits under § 8.3–302(2), **(4), OR (5)** of this title; and



1 (iii) procedures for an employer to provide evidence of suspected  
2 fraud to the Secretary.

3 (d) (1) The Secretary may use a portion of the funds paid under § 8.3-601 of  
4 this title or other available funding to pay for and carry out the requirements under  
5 subsection (a)(4) of this section.

6 (2) Materials used in the public education program required under  
7 subsection (a)(4) of this section shall be made available in English and Spanish.

8 8.3-406.

9 (a) On or before September 1 each year, the Secretary shall submit to the  
10 Governor and, in accordance with § 2-1257 of the State Government Article, the General  
11 Assembly an annual report on the administration and operation of [this title] **THE**  
12 **PROGRAM** during the immediately preceding fiscal year.

13 (b) The annual report shall include information regarding:

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

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

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

19 1. **JURISDICTION;**

20 2. **RACE AND ETHNICITY;**

21 3. **GENDER;**

22 4. **ZIP CODE; AND**

23 5. **AGE;**

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

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

28 1. **JURISDICTION;**



1 (iv) the State;

2 ~~[(8)] (9)~~ the State agencies and relevant stakeholders that were consulted  
3 as required under this title; and

4 ~~[(9)] (10)~~ the capability and capacity of the Department to administer the  
5 Program as compared to the findings and recommendations of the capability and capacity  
6 study completed under § 5 of Chapter 48 of the Acts of the General Assembly of 2022.

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

10 8.3-504.

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

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

14 (2) may be used to pay for:

15 (i) the public education program **CARRIED OUT UNDER §**  
16 **8.3-403(A)(4) OF THIS TITLE**; and

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

19 8.3-505.

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

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

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

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

25 8.3-601.

26 (a) **(1)** Beginning ~~[October 1, 2023]~~ **JANUARY OCTOBER 1, 2024**, each  
27 employee of an employer, each employer with 15 or more employees, and each  
28 self-employed individual participating in the Program shall contribute to the Fund.



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 ~~25%~~ 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 ~~75%~~ 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.

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

3 [(2)] 2. If the employer of an employee elects to pay a portion of  
4 the employee's required contribution, the employer:

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

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

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

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

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

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

17 ~~(1) EMPLOYERS THAT ARE COMMUNITY PROVIDERS THAT ARE  
18 COMMUNITY-BASED AGENCIES OR PROGRAMS FUNDED BY THE BEHAVIORAL  
19 HEALTH ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES  
20 ADMINISTRATION, OR THE MEDICAL CARE PROGRAMS ADMINISTRATION THAT  
21 SERVE INDIVIDUALS WITH MENTAL DISORDERS, SUBSTANCE USE DISORDERS, OR A  
22 COMBINATION OF THOSE DISORDERS OR DEVELOPMENTAL DISABILITIES; AND~~

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

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

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

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

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

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

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

25 8.3-701.

26                   (a) (1) Subject to paragraph (2) of this subsection, beginning January 1, ~~2025~~  
27 **2026**, a covered individual taking leave from employment may submit a claim for benefits  
28 **[to]:**

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

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

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

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

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

6 (v) TO attend to a qualifying exigency arising out of the deployment  
 7 of a service member who is a family member of the covered individual.

8 (2) (i) Except as provided under subparagraph (ii) of this paragraph, if  
 9 the need to use leave is foreseeable, an employer may require a covered employee taking  
 10 leave under this title to provide the employer with written notice of the covered employee's  
 11 intention to take leave at least 30 days before commencing the leave.

12 (ii) If the need to use leave is not foreseeable, the covered employee  
 13 shall:

- 14 1. provide notice to the employer as soon as practicable; and
- 15 2. generally comply with the employer's notice or procedural  
 16 requirements for requesting or reporting other leave, if those requirements do not interfere  
 17 with the covered employee's ability to use leave for which benefits may be paid under this  
 18 title.

19 **(B) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN**  
 20 **INDIVIDUAL MAY FILE AN APPLICATION FOR BENEFITS WITHIN 60 DAYS BEFORE THE**  
 21 **ANTICIPATED START DATE OF THE LEAVE FOR WHICH BENEFITS MAY BE PAID**  
 22 **UNDER THIS TITLE, BUT NOT LATER THAN 60 DAYS AFTER THE START DATE OF THE**  
 23 **LEAVE.**

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

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

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

31 **[(b)] (C) (1) Subject to paragraphs (2) and (3) of this subsection, a covered**  
 32 **individual may take the leave for which the individual is eligible for benefits under**  
 33 **subsection (a) of this section on an intermittent leave schedule.**



1 (2) If leave is taken on an intermittent leave schedule, the covered  
2 individual shall:

3 (i) make a reasonable effort to schedule the intermittent leave in a  
4 manner that does not unduly disrupt the operations of the employer; and

5 (ii) provide the employer with reasonable and practicable prior  
6 notice of the reason for which the intermittent leave is necessary.

7 (3) A covered employee may not take intermittent leave in an increment of  
8 less than 4 hours.

9 (4) If leave is taken on an intermittent leave schedule, an employer may  
10 not reduce the total amount of leave to which the covered individual is entitled beyond the  
11 amount of leave actually taken.

12 8.3-702.

13 (a) (1) Except as provided in paragraph (2) of this subsection, a covered  
14 individual may not receive more than 12 weeks of benefits in an application year.

15 (2) A covered individual may receive an additional 12 weeks of benefits if  
16 the covered individual during the same application year:

17 (i) 1. Received benefits because the covered individual was  
18 eligible for benefits under § 8.3-701(a)(1)(i) of this subtitle; and

19 2. becomes eligible for benefits under § 8.3-701(a)(1)(iii) of  
20 this subtitle; or

21 (ii) 1. Received benefits because the covered individual was  
22 eligible for benefits under § 8.3-701(a)(1)(iii) of this subtitle; and

23 2. becomes eligible for benefits under § 8.3-701(a)(1)(i) of  
24 this subtitle.

25 ¶(b) If a covered individual takes leave for which the covered individual is receiving  
26 benefits under this title, the leave shall run concurrently with eligible leave that may be  
27 taken by the covered individual under the federal Family and Medical Leave Act.¶

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

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

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

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

8           ~~(D)~~ **(D)** (1) A covered individual [shall exhaust all employer–provided leave that is  
9 not required to be provided under law before receiving benefits under this title] **MAY NOT**  
10 **BE REQUIRED TO USE OR EXHAUST PAID VACATION, PAID SICK LEAVE, OR OTHER**  
11 **PAID TIME OFF UNDER AN EMPLOYER POLICY BEFORE, OR WHILE, RECEIVING**  
12 **BENEFITS UNDER THIS TITLE.**

13           **[(2) For the purposes of §§ 8.3–706 and 8.3–707 of this subtitle and §§**  
14 **8.3–904 and 8.3–905 of this title, employer–provided leave that is being exhausted as**  
15 **required under paragraph (1) of this subsection shall be treated the same as leave from**  
16 **work for which benefits may be paid under this title.]**

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

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

29           **[(3)] (4) This subsection may not be construed to reduce any weeks of**  
30 **leave for which benefits may be paid under this title.**

31           ~~(E)~~ **(E)** (1) Except as provided in paragraph (2) of this subsection, an individual  
32 receiving benefits under Title 8 of this article or wage replacement benefits under Title 9  
33 of this article is not eligible to receive benefits under this title.

34           **(2) An individual receiving compensation for a permanent partial disability**  
35 **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.**

1                   **(3)** The weekly benefit amount payable under paragraph (1) of this  
2 subsection:

3                   (i) shall be at least \$50; and

4                   (ii) may not exceed:

5                                 1. for the 12-month period beginning January 1, ~~2025~~ **2026**,  
6 \$1,000; and

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

10                   ~~[(3)]~~ **(4)** (i) In this paragraph, “Consumer Price Index” means the  
11 Consumer Price Index for All Urban Consumers for the  
12 Washington–Arlington–Alexandria, DC–VA–MD–WV metropolitan area or a successor  
13 index published by the federal Bureau of Labor Statistics.

14                   (ii) Subject to subsection (e) of this section, for the 12-month period  
15 beginning January 1, ~~2026~~ **2027**, and each subsequent 12-month period, the maximum  
16 weekly benefit amount shall be increased by the amount, rounded to the nearest cent, that  
17 equals the product of:

18                                 1. the maximum weekly benefit amount in effect for the  
19 immediately preceding 12-month period; and

20                                 2. the annual percentage growth in the Consumer Price  
21 Index for the immediately preceding 12-month period, as determined by the Secretary  
22 under subparagraph (iii)1 of this paragraph.

23                   (iii) Beginning September 1, ~~2025~~ **2026**, and on each subsequent  
24 September 1, the Secretary shall determine and announce:

25                                 1. the annual percentage growth, if any, in the Consumer  
26 Price Index based on the most recent 12-month period for which data are available on  
27 September 1; and

28                                 2. the maximum weekly benefit amount effective for the  
29 12-month period beginning the immediately following January 1.

30                   (c) **(1)** **[An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
31 **SUBSECTION, AN** increase in the weekly benefit amount under subsection ~~[(b)(3)]~~ **(B)(4)** of  
32 this section applies only to a claim for benefits **[filed]** **THAT BEGINS** after the date the  
33 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 ~~5~~ **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.

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

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

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

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

10 8.3-705.

11 (a) **(1)** An employer may satisfy the requirements of this title through a  
12 private employer plan consisting of employer-provided benefits, insurance **THROUGH AN**  
13 **INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND**  
14 **INSURANCE COMMISSIONER**, or a combination of both if the private employer plan is  
15 offered to all of the employer's eligible employees and meets or exceeds the rights,  
16 protections, and benefits provided to a covered employee under this title.

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

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

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

29 (b) A private employer plan shall be filed with the Department for approval.

30 (c) An employer that provides covered employees with a private employer plan  
31 and an employee that is covered by a private employer plan are exempt from the  
32 contributions required under Subtitle 6 of this title.

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

4 8.3–801.

5           (a) An employer shall provide written notice to each employee of the rights and  
6 duties of an employee under this title at the time of hire and annually thereafter.

7           (b) (1) When an employee requests leave under this title, or when an employer  
8 knows that an employee’s leave may be for a reason under § 8.3–302 of this title, the  
9 employer shall notify the employee of the employee’s eligibility to take leave for which  
10 benefits may be paid under this title within 5 business days.

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

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

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

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

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

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

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

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

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

29 8.3–906.

30           (a) (1) **(I)** The Secretary shall establish a system for appeals by covered  
31 individuals [in the case of denial] **REGARDING DETERMINATIONS OF BENEFIT**  
32 **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 ~~(1)~~ employers that are community providers that are community-based  
2 agencies or programs funded by the Behavioral Health Administration, the Developmental  
3 Disabilities Administration, or the Medical Care Programs Administration that serve  
4 individuals with mental disorders, substance use disorders, or a combination of those  
5 disorders or developmental disabilities]; and

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

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

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

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

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.