

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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LLS NO. 20-0218.02 Yelana Love x2295

SENATE BILL

SENATE SPONSORSHIP

Winter and Moreno,

HOUSE SPONSORSHIP

Caraveo and Gray,

BILL TOPIC: "Paid Family & Medical Leave"

A BILL FOR AN ACT

101 CONCERNING PAID FAMILY AND MEDICAL LEAVE FOR COLORADO
102 WORKERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Beginning July 1, 2022, the bill requires certain employers to provide paid family and medical leave (leave) to its employees. The requirement to provide leave is phased in based on the number of employees who work for an employer. An employer may satisfy the requirement to provide leave through a self-funded plan or by obtaining a paid family and medical leave insurance plan from an insurer.

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 THE WORLD THAT DOES NOT MANDATE ACCESS TO PAID LEAVE BENEFITS.
2 SIMULTANEOUSLY, NEARLY HALF OF AMERICANS LIVE PAYCHECK TO
3 PAYCHECK AND ARE UNABLE TO ACCESS TWO THOUSAND DOLLARS IN THE
4 EVENT OF AN EMERGENCY.

5 (c) LEAVE UNDER THE FEDERAL "FAMILY AND MEDICAL LEAVE
6 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
7 2601 ET SEQ., IS BOTH UNPAID AND UNAVAILABLE TO MORE THAN FORTY
8 PERCENT OF PRIVATE SECTOR WORKERS IN THE UNITED STATES. THIS PART
9 4, KNOWN AS THE STATE "FAIR FAMILY AND MEDICAL LEAVE ACT",
10 PROVIDES A NECESSARY SAFETY NET FOR ALL COLORADO WORKERS, AS
11 PAID FAMILY AND MEDICAL LEAVE ALLOWS WORKERS TO REMAIN IN THE
12 WORKFORCE, STAY SAFE, SEEK NECESSARY MEDICAL TREATMENT, AND
13 PROVIDE CARE TO LOVED ONES AT CRITICAL TIMES.

14 (d) EVERY WORKER AT SOME POINT IN HIS OR HER LIFE WILL NEED
15 TO TAKE TIME OFF WORK FOR FAMILY OR HEALTH REASONS, MAKING THIS
16 AN ISSUE THAT AFFECTS ALL WORKERS. WHEN WORKERS NEED LEAVE BUT
17 CANNOT TAKE IT, ECONOMIC AND SOCIAL COSTS ACCUMULATE.

18 (e) PAID LEAVE BENEFITS EMPLOYERS BY IMPROVING
19 RECRUITMENT OPPORTUNITIES AND REDUCING TURNOVER. THEREFORE, IT
20 BENEFITS THE PUBLIC TO PROVIDE FAMILY AND MEDICAL LEAVE
21 INSURANCE FOR COLORADO WORKERS.

22 (f) THE OFFICE OF FAMILY AND MEDICAL LEAVE INSURANCE IS
23 CREATED AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X
24 OF THE STATE CONSTITUTION, OPERATING AS A GOVERNMENT-RUN
25 BUSINESS THAT PROVIDES PAID FAMILY AND MEDICAL LEAVE INSURANCE
26 SERVICES. THE OFFICE'S ADMINISTRATION OF PAID FAMILY LEAVE POLICIES
27 BENEFITS THE STATE, EMPLOYEES, AND EMPLOYERS BY INCREASING

1 EMPLOYEE MORALE AND PRODUCTIVITY, AND BY PROVIDING ECONOMIC
2 SECURITY TO BOTH EMPLOYERS AND EMPLOYEES. IN ADDITION, PAID
3 FAMILY LEAVE POLICIES LEAD TO POSITIVE OUTCOMES FOR INFANT AND
4 MATERNAL HEALTH. THE FEES COLLECTED THROUGH THE OFFICE
5 DIRECTLY PROVIDE FOR THESE PAID FAMILY MEDICAL BENEFITS AND
6 THEREFORE THE OFFICE IS A BUSINESS THAT SUPPORTS EMPLOYER AND
7 EMPLOYEE WELL-BEING, HEALTH, AND LIVELIHOOD;

8 (g) WORKERS NEED COMPREHENSIVE PAID FAMILY AND MEDICAL
9 LEAVE TO ADDRESS DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND
10 STALKING, WHICH POSE SERIOUS HEALTH AND SAFETY CONCERNS.
11 DOMESTIC ABUSE, SEXUAL ASSAULT OR ABUSE, AND STALKING ARE
12 QUALIFYING PURPOSES FOR FAMILY AND MEDICAL LEAVE UNDER THIS PART
13 4.

14 (h) THIS PART 4 REFLECTS THE REALITY AND DIVERSITY OF
15 COLORADO FAMILIES BY ALLOWING WORKERS TO CARE FOR A RANGE OF
16 FAMILY MEMBERS AND CLOSE LOVED ONES WHEN THEY ARE DEALING WITH
17 A SERIOUS HEALTH CONDITION;

18 (i) JOB PROTECTION IS ESSENTIAL TO ENSURING WORKERS CAN
19 TAKE THE LEAVE THEY NEED WITHOUT RISKING THEIR JOBS OR THEIR
20 ECONOMIC SECURITY;

21 (j) COMPREHENSIVE, UNIVERSAL PAID FAMILY AND MEDICAL
22 LEAVE IS ESPECIALLY IMPORTANT FOR LOW-INCOME WORKERS LIVING
23 PAYCHECK TO PAYCHECK. WITHOUT THE LEGAL RIGHTS THEY NEED, THESE
24 WORKERS ARE DISPROPORTIONATELY MORE LIKELY TO LACK ACCESS TO
25 PAID LEAVE AND ARE LEAST ABLE TO AFFORD TO TAKE UNPAID LEAVE.

26 (k) THIS PART 4 OFFERS PORTABLE BENEFITS THAT WORKERS CAN
27 TAKE WITH THEM AS THEY MOVE FROM JOB TO JOB OR COMBINE MULTIPLE

1 SOURCES OF INCOME. PORTABLE BENEFITS ARE ESSENTIAL IN A CHANGING
2 ECONOMY, WHERE MORE AND MORE WORKERS FIND THEMSELVES RELYING
3 ON INSECURE JOBS OR PIECING TOGETHER MULTIPLE TYPES OF JOBS TO
4 MAKE ENDS MEET.

5 (l) RECOGNIZING THAT MANY PEOPLE NOW WORK OUTSIDE THE
6 TRADITIONAL EMPLOYER-EMPLOYEE STRUCTURE, THIS PART 4 ALSO
7 ALLOWS SELF-EMPLOYED WORKERS TO PARTICIPATE IN THE PROGRAM IF
8 THEY CHOOSE, PROVIDING ACCESS TO NEEDED BENEFITS AND ADDED
9 SECURITY.

10 (m) IT IS THE HOPE OF THE GENERAL ASSEMBLY THAT IN THE
11 FUTURE, PAID FAMILY AND MEDICAL LEAVE BENEFITS WILL BE PROVIDED
12 THROUGH A NATIONAL SOCIAL INSURANCE PROGRAM.

13 **8-13.3-403. Definitions - rules.** AS USED IN THIS PART 4, UNLESS
14 THE CONTEXT OTHERWISE REQUIRES:

15 (1) "AVERAGE WEEKLY WAGE" MEANS THE STATE AVERAGE
16 WEEKLY WAGE DETERMINED IN ACCORDANCE WITH SECTION 8-47-106.

17 (2) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO, DURING
18 THE INDIVIDUAL'S QUALIFYING YEAR:

19 (a) FOR EMPLOYEES WHO DO NOT WORK FOR AN EMPLOYER
20 REQUIRED TO PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS, HAS
21 ELECTED COVERAGE THROUGH THE PURCHASE OF A PAID FAMILY AND
22 MEDICAL LEAVE INSURANCE PLAN OFFERED PURSUANT TO ARTICLE 24 OF
23 TITLE 10;

24 (b) FOR EMPLOYEES WHO WORK FOR AN EMPLOYER REQUIRED TO
25 PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS, HAS BEEN
26 EMPLOYED BY AND WORKED FOR AN EMPLOYER FOR AT LEAST NINETY
27 DAYS; OR

1 (c) WORKED FOR, OR BEEN PAID BY, ONE OR MORE EMPLOYERS
2 FOR FIVE HUNDRED FOUR HOURS, IF THE INDIVIDUAL IS AN AIRLINE CREW
3 MEMBER.

4 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
5 EMPLOYMENT.

6 (4) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF PAID
7 FAMILY AND MEDICAL LEAVE IN THE DEPARTMENT.

8 (5) "DOMESTIC ABUSE" MEANS ANY ACT DESCRIBED IN SECTION
9 13-14-101 (2) OR ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF
10 WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT
11 OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

12 (6) "ELIGIBLE INDIVIDUAL" MEANS A COVERED INDIVIDUAL WHO
13 HAS EXPERIENCED A QUALIFYING EVENT.

14 (7) (a) "EMPLOYEE" MEANS AN INDIVIDUAL DESCRIBED IN SECTION
15 8-4-101 (5) OR IN THE CASE OF AN INDIVIDUAL EMPLOYED BY THE STATE
16 OF COLORADO, SECTION 24-50-603 (7).

17 (b) "EMPLOYEE" DOES NOT INCLUDE A SEASONAL WORKER, AS
18 DEFINED IN SECTION 8-73-106.

19 (8) (a) "EMPLOYER" MEANS ANY PERSON ENGAGED IN COMMERCE
20 OR AN INDUSTRY OR ACTIVITY AFFECTING COMMERCE THAT:

21 (I) EMPLOYS AT LEAST ONE PERSON FOR EACH WORKING DAY
22 DURING EACH OF TWENTY OR MORE CALENDAR WORKWEEKS IN THE
23 CURRENT OR IMMEDIATELY PRECEDING CALENDAR YEAR; OR

24 (II) PAID WAGES OF ONE THOUSAND FIVE HUNDRED DOLLARS OR
25 MORE DURING ANY CALENDAR QUARTER IN THE PRECEDING CALENDAR
26 YEAR.

27 (b) "EMPLOYER" INCLUDES:

1 (I) A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE
2 INTEREST OF AN EMPLOYER WITH REGARD TO ANY OF THE EMPLOYEES OF
3 THE EMPLOYER;

4 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER THAT ACQUIRES
5 ALL OF THE ORGANIZATION, TRADE, OR BUSINESS OR SUBSTANTIALLY ALL
6 OF THE ASSETS OF ONE OR MORE EMPLOYERS; AND

7 (III) THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF
8 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

9 (c) "EMPLOYER" DOES NOT INCLUDE A PERSON DESCRIBED IN
10 SUBSECTION (8)(a) OR (8)(b) OF THIS SECTION THAT IS A CARRIER AS
11 DEFINED IN 45 U.S.C. SEC. 151.

12 (9) "FAMILY MEMBER" MEANS:

13 (a) A COVERED INDIVIDUAL'S IMMEDIATE FAMILY MEMBER, AS
14 DEFINED IN SECTION 2-4-401 (3.7);

15 (b) A CHILD TO WHOM THE COVERED INDIVIDUAL STANDS IN LOCO
16 PARENTIS OR A PERSON WHO STOOD IN LOCO PARENTIS TO THE COVERED
17 INDIVIDUAL WHEN THE COVERED INDIVIDUAL WAS A MINOR; AND

18 (c) A PERSON WITH WHOM THE COVERED INDIVIDUAL HAS A
19 BLOOD-LIKE RELATIONSHIP THAT SHOWS FINANCIAL SUPPORT OR
20 OBLIGATION TO EACH OTHER AS DEFINED BY THE DIRECTOR BY RULE.

21 (10) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE
22 ACT OF 1993", AS AMENDED, PUB.L. 103-3, CODIFIED AT 29 U.S.C. SEC.
23 2601 ET SEQ.

24 (11) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL
25 BENEFITS AUTHORIZED BY THE FMLA.

26 (12) "HEALTH CARE PROVIDER" HAS THE SAME MEANING AS
27 "PROVIDER" AS DEFINED IN SECTION 10-16-102 (56).

1 (13) "INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION
2 10-1-102 (13).

3 (14) "LOCAL GOVERNMENT" HAS THE SAME MEANING AS SET
4 FORTH IN SECTION 29-1-304.5 (3)(b).

5 (15) "OFFICE" MEANS THE OFFICE OF PAID FAMILY AND MEDICAL
6 LEAVE IN THE DEPARTMENT OF LABOR AND EMPLOYMENT CREATED IN
7 SECTION 8-13.3-404.

8 (16) "PAID FAMILY AND MEDICAL LEAVE" OR "LEAVE" MEANS
9 LEAVE FROM WORK UNDER THIS PART 4.

10 (17) "PAID FAMILY AND MEDICAL LEAVE BENEFITS" OR "BENEFITS"
11 MEANS AN ELIGIBLE INDIVIDUAL'S WAGE REPLACEMENT PAID PURSUANT
12 TO SECTION 8-13.3-410 AND PAID FAMILY AND MEDICAL LEAVE.

13 (18) "PAID LEAVE PROTECTION FUND" OR "FUND" MEANS THE PAID
14 LEAVE PROTECTION FUND CREATED IN SECTION 8-13.3-412.

15 (19) "POLITICAL SUBDIVISION" HAS THE SAME MEANING AS SET
16 FORTH IN SECTION 1-7.5-103 (6).

- 17 (20) "QUALIFYING EVENT" MEANS:
- 18 (a) AN EVENT AUTHORIZED BY FMLA;
 - 19 (b) A COVERED INDIVIDUAL'S SERIOUS HEALTH CONDITION;
 - 20 (c) CARING FOR A COVERED INDIVIDUAL'S NEW CHILD DURING THE
21 FIRST YEAR AFTER THE BIRTH OR ADOPTION OF THE CHILD OR THE
22 PLACEMENT OF THE CHILD THROUGH FOSTER CARE;
 - 23 (d) CARING FOR A FAMILY MEMBER WHO HAS A SERIOUS HEALTH
24 CONDITION; OR
 - 25 (e) A QUALIFYING EXIGENCY;

26 (21) "QUALIFYING EXIGENCY" MEANS A NEED ARISING OUT OF A
27 FAMILY MEMBER'S ACTIVE DUTY SERVICE OR NOTICE OF AN IMPENDING

1 CALL OR ORDER TO ACTIVE DUTY IN THE ARMED FORCES, INCLUDING
2 PROVIDING FOR THE CARE OR OTHER NEEDS OF THE MILITARY MEMBER'S
3 CHILD OR OTHER FAMILY MEMBER, MAKING FINANCIAL OR LEGAL
4 ARRANGEMENTS FOR THE MILITARY MEMBER, ATTENDING COUNSELING,
5 ATTENDING MILITARY EVENTS OR CEREMONIES, SPENDING TIME WITH THE
6 MILITARY MEMBER DURING A REST AND RECUPERATION LEAVE OR
7 FOLLOWING RETURN FROM DEPLOYMENT, OR MAKING ARRANGEMENTS
8 FOLLOWING THE DEATH OF THE MILITARY MEMBER.

9 (22) "QUALIFYING YEAR" MEANS THE FIRST FOUR OF THE LAST FIVE
10 COMPLETED CALENDAR QUARTERS OR THE LAST FOUR COMPLETED
11 CALENDAR QUARTERS IMMEDIATELY PRECEDING THE FIRST DAY OF A
12 COVERED INDIVIDUAL'S APPLICATION YEAR.

13 (23) "SELF-INSURED EMPLOYER" MEANS AN EMPLOYER THAT
14 PROVIDES PAID FAMILY AND MEDICAL LEAVE BENEFITS THROUGH A
15 SELF-FUNDED PLAN CERTIFIED BY THE OFFICE PURSUANT TO SECTION
16 8-13.3-406.

17 (24) (a) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS,
18 INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT
19 INVOLVES:

20 (I) INPATIENT CARE IN A HOSPITAL OR RESIDENTIAL MEDICAL CARE
21 FACILITY;

22 (II) HOSPICE CARE IN ANY SETTING; OR

23 (III) CONTINUING TREATMENT OR ONGOING CARE BY A HEALTH
24 CARE PROVIDER.

25 (b) "SERIOUS HEALTH CONDITION" INCLUDES DOMESTIC ABUSE,
26 SEXUAL ASSAULT OR ABUSE, AND STALKING.

27 (25) "SEXUAL ASSAULT OR ABUSE" MEANS ANY ACT, ATTEMPTED

1 ACT, OR THREATENED ACT OF UNLAWFUL SEXUAL BEHAVIOR, AS
2 DESCRIBED IN SECTION 16-11.7-102 (3), OR SEXUAL ASSAULT, AS
3 DESCRIBED IN SECTION 18-3-402, COMMITTED BY ANY PERSON AGAINST
4 ANOTHER PERSON REGARDLESS OF THE RELATIONSHIP BETWEEN THE
5 ACTOR AND THE VICTIM.

6 (26) "STALKING" MEANS ANY ACT, ATTEMPTED ACT, OR
7 THREATENED ACT OF STALKING, AS DESCRIBED IN SECTION 18-3-602.

8 **8-13.3-404. Office of paid family and medical leave - creation**
9 **- enterprise - outreach - rules.** (1) THERE IS HEREBY CREATED IN THE
10 DEPARTMENT THE OFFICE OF PAID FAMILY AND MEDICAL LEAVE, THE HEAD
11 OF WHICH IS THE DIRECTOR.

12 (2) (a) THE OFFICE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF
13 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS THE
14 OFFICE RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE OFFICE
15 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN
16 GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO
17 STATE AND LOCAL GOVERNMENTS COMBINED. FOR AS LONG AS IT
18 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION, THE OFFICE IS
19 NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

20 (b) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION
21 (2) HAS ALL THE POWERS AND DUTIES AUTHORIZED BY THIS PART 4
22 PERTAINING TO PAID FAMILY AND MEDICAL LEAVE BENEFITS. THE PAID
23 LEAVE PROTECTION FUND CREATED IN SECTION 8-13.3-412 CONSTITUTES
24 PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION
25 (2).

26 (c) THE OFFICE IS CREATED FOR THE BUSINESS PURPOSE OF
27 DEVELOPING AND OVERSEEING A PAID FAMILY AND MEDICAL LEAVE

1 PROGRAM IN THE STATE IN ACCORDANCE WITH THIS PART 4. THE OFFICE
2 SHALL COLLECT MINIMAL FEES FROM EMPLOYERS FOR EACH EMPLOYEE TO
3 CREATE AND ADMINISTER EDUCATIONAL MATERIALS, DEVELOP AN
4 APPEALS PROCESS FOR THE DENIAL OF PAID FAMILY AND MEDICAL LEAVE
5 BENEFITS, AND CREATE A PAID LEAVE PROTECTION FUND TO PROVIDE
6 EMPLOYEES WITH UP TO TWO WEEKS OF PAID FAMILY AND MEDICAL LEAVE
7 BENEFITS DURING THE PENDENCY OF THE APPEAL OF A DENIED CLAIM.

8 (d) NOTHING IN THIS SUBSECTION (2) LIMITS OR RESTRICTS THE
9 AUTHORITY OF THE OFFICE TO EXPEND ITS REVENUES CONSISTENT WITH
10 THIS PART 4.

11 (e) THE OFFICE IS HEREBY AUTHORIZED TO ISSUE REVENUE BONDS
12 FOR THE EXPENSES OF THE OFFICE, WHICH BONDS MAY BE SECURED BY ANY
13 REVENUES OF THE OFFICE. REVENUE FROM THE BONDS ISSUED PURSUANT
14 TO THIS SUBSECTION (2) SHALL BE DEPOSITED INTO THE PAID LEAVE
15 PROTECTION FUND.

16 (3) THE STATE TREASURER MAY TRANSFER MONEY FROM THE
17 GENERAL FUND TO THE OFFICE FOR THE PURPOSE OF DEFRAYING EXPENSES
18 INCURRED BY THE OFFICE PRIOR TO THE RECEIPT OF BOND PROCEEDS OR
19 REVENUES BY THE OFFICE. THE OFFICE MAY ACCEPT AND EXPEND ANY
20 MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL
21 RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD
22 OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH
23 A TRANSFER CONSTITUTES A LOAN FROM THE STATE TREASURER TO THE
24 OFFICE AND SHALL NOT BE CONSIDERED A GRANT FOR PURPOSES OF
25 SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION. AS THE
26 OFFICE RECEIVES SUFFICIENT REVENUES IN EXCESS OF EXPENSES, THE
27 OFFICE SHALL REIMBURSE THE GENERAL FUND FOR THE PRINCIPAL AMOUNT

1 OF ANY LOAN FROM THE GENERAL FUND MADE BY THE STATE TREASURER
2 PLUS INTEREST AT A RATE SET BY THE STATE TREASURER. ANY MONEY
3 LOANED FROM THE GENERAL FUND TO THE OFFICE PURSUANT TO THIS
4 SUBSECTION (3) SHALL BE DEPOSITED INTO A SEPARATE ACCOUNT WITHIN
5 THE PAID LEAVE PROTECTION FUND.

6 (4) (a) BY JULY 1, 2021, AND FOR AS LONG AS EMPLOYERS ARE
7 REQUIRED TO OFFER PAID FAMILY AND MEDICAL LEAVE BENEFITS, THE
8 OFFICE SHALL DEVELOP AND IMPLEMENT MARKETING AND OUTREACH
9 SERVICES TO EDUCATE THE PUBLIC ABOUT THE AVAILABILITY OF PAID
10 FAMILY AND MEDICAL LEAVE BENEFITS UNDER THIS PART 4 FOR COVERED
11 INDIVIDUALS. THE OFFICE SHALL DETAIL THE OUTREACH PLAN IN RULE.

12 (b) THE OFFICE SHALL ENSURE THAT THE OUTREACH INFORMATION
13 EXPLAINS, IN AN EASY-TO-UNDERSTAND FORMAT, AT LEAST THE
14 FOLLOWING:

- 15 (I) ELIGIBILITY REQUIREMENTS FOR BENEFITS;
- 16 (II) WEEKLY BENEFIT AMOUNTS AND MAXIMUM BENEFITS
17 PAYABLE;
- 18 (III) NOTICE AND DOCUMENTATION REQUIREMENTS;
- 19 (IV) REINSTATEMENT AND NONDISCRIMINATION RIGHTS;
- 20 (V) CONFIDENTIALITY OF FILES AND RECORDS;
- 21 (VI) THE RELATIONSHIP BETWEEN EMPLOYMENT PROTECTION,
22 LEAVE FROM EMPLOYMENT, AND WAGE REPLACEMENT BENEFITS UNDER
23 THIS PART 4 AND OTHER LAWS, COLLECTIVE BARGAINING AGREEMENTS,
24 AND EMPLOYER POLICIES;
- 25 (VII) INFORMATION ABOUT APPLYING FOR BENEFITS AND THE
26 RIGHT TO APPEAL, INCLUDING INFORMATION ABOUT THE DIVISION OF
27 INSURANCE AS A RESOURCE FOR EMPLOYEE COMPLAINTS; AND

1 (VIII) ANY OTHER DETAILS OR INFORMATION ABOUT PAID FAMILY
2 AND MEDICAL LEAVE BENEFITS THE OFFICE DEEMS APPROPRIATE.

3 (c) THE OFFICE SHALL DEVELOP A NOTICE THAT DETAILS THE
4 REQUIREMENTS, BENEFITS, CLAIMS PROCESS, APPEAL RIGHTS, INCLUDING
5 THE POSSIBILITY OF RECOVERING ATTORNEY FEES AFTER A SUCCESSFUL
6 APPEAL, AND OTHER PERTINENT INFORMATION. EACH EMPLOYER SHALL
7 POST THE NOTICE IN A PROMINENT LOCATION IN THE WORKPLACE AND
8 NOTIFY ITS EMPLOYEES OF PAID FAMILY AND MEDICAL LEAVE BENEFITS, IN
9 WRITING, UPON HIRING AND UPON LEARNING OF AN EMPLOYEE
10 EXPERIENCING A QUALIFYING EVENT.

11 (d) THE OFFICE SHALL PROVIDE THE INFORMATION REQUIRED BY
12 THIS SUBSECTION (4) IN A MANNER THAT IS CULTURALLY COMPETENT AND
13 LINGUISTICALLY APPROPRIATE.

14 (e) THE DEPARTMENT MAY AWARD GRANTS TO LABOR OR
15 NONPROFIT ORGANIZATIONS TO BE USED BY THE ORGANIZATIONS TO
16 ASSIST WORKERS IN ENFORCING THEIR RIGHTS UNDER THIS PART 4,
17 INCLUDING OUTREACH, COMMUNITY-BASED EDUCATION EVENTS,
18 PRODUCING TRAINING MATERIALS, TECHNICAL ASSISTANCE, COUNSELING,
19 RESEARCH, AND REFERRAL SERVICES. THE DEPARTMENT SHALL
20 PROMULGATE RULES NECESSARY TO ADMINISTER THE GRANT PROGRAM.

21 (f) THE OFFICE SHALL MAINTAIN A HOTLINE TO ASSIST EMPLOYERS,
22 EMPLOYEES, AND THE GENERAL PUBLIC WITH QUESTIONS ABOUT
23 ELIGIBILITY AND ENFORCEMENT RELATED TO PAID FAMILY AND MEDICAL
24 LEAVE BENEFITS.

25 **8-13.3-405. Employers required to provide paid family and**
26 **medical leave benefits - repeal.** (1) (a) STARTING JULY 1, 2022, EACH
27 EMPLOYER IN THE STATE WITH TWENTY OR MORE EMPLOYEES SHALL

1 PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS AND
2 CORRESPONDING JOB PROTECTION TO EACH OF ITS EMPLOYEES IN
3 ACCORDANCE WITH THIS PART 4.

4 (b) (I) STARTING JULY 1, 2024, EACH EMPLOYER IN THE STATE
5 WITH TEN OR MORE EMPLOYEES SHALL PROVIDE PAID FAMILY AND
6 MEDICAL LEAVE BENEFITS AND CORRESPONDING JOB PROTECTION TO EACH
7 OF ITS EMPLOYEES IN ACCORDANCE WITH THIS PART 4.

8 (II) THIS SUBSECTION (1)(b)(II) AND SUBSECTION (1)(a) OF THIS
9 SECTION ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2029.

10 (c) SUBJECT TO DIRECTOR PROMULGATED RULES, STARTING JULY
11 1, 2026, EACH EMPLOYER IN THE STATE WITH NINE OR FEWER EMPLOYEES
12 SHALL PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS TO EACH OF
13 ITS EMPLOYEES IN ACCORDANCE WITH THIS PART 4.

14 (2) AN EMPLOYER COMPLIES WITH THE REQUIREMENTS OF THIS
15 PART 4 BY:

16 (a) CERTIFYING THAT THE EMPLOYER OFFERS SELF-FUNDED PAID
17 FAMILY AND MEDICAL LEAVE BENEFITS TO ITS EMPLOYEES IN
18 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION;

19 (b) CERTIFYING THAT ANOTHER EMPLOYER OF ITS EMPLOYEE HAS
20 COMPLIED WITH THE REQUIREMENTS OF THIS PART 4; OR

21 (c) OBTAINING A PAID FAMILY AND MEDICAL LEAVE INSURANCE
22 PLAN ISSUED BY AN INSURER THAT MEETS THE REQUIREMENTS OF ARTICLE
23 24 OF TITLE 10.

24 (4) AN EMPLOYER SHALL MAINTAIN RECORDS RELATED TO
25 COMPLIANCE WITH THIS PART 4 FOR FIVE YEARS. THE OFFICE MAY
26 PERIODICALLY INSPECT EMPLOYER RECORDS TO ENSURE COMPLIANCE
27 WITH THIS PART 4.

1 (5) (a) AN EMPLOYER MAY WITHHOLD NO MORE THAN ONE-HALF
2 OF ONE PERCENT OF THE EMPLOYEE'S WAGES TO APPLY TOWARD ANY
3 PREMIUM REQUIRED BY A PAID FAMILY AND MEDICAL LEAVE INSURANCE
4 PLAN ISSUED PURSUANT TO ARTICLE 24 OF TITLE 10. THE DIRECTOR SHALL
5 NOT APPLY THE PREMIUM TO WAGES THAT EXCEED EIGHTY PERCENT OF
6 THE CONTRIBUTION AND BENEFIT BASE LIMIT ESTABLISHED ANNUALLY BY
7 THE UNITED STATES SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF
8 THE FEDERAL "OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
9 AMENDMENTS OF 1965", AS AMENDED, PUB.L. 89-97.

10 (b) IF THE OFFICE FINDS THAT AN EMPLOYER HAS MISALLOCATED
11 OR MISUSED EMPLOYEE WAGES WITHHELD PURSUANT TO SUBSECTION
12 (5)(a) OF THIS SECTION, THE DIRECTOR OF THE DIVISION OF LABOR
13 STANDARDS AND STATISTICS SHALL INVESTIGATE THE EMPLOYER FOR
14 WAGE THEFT PURSUANT TO SECTION 8-4-111.

15 (6) NOTHING IN THIS PART 4 PROHIBITS AN EMPLOYER FROM
16 OFFERING PAID FAMILY AND MEDICAL LEAVE BENEFITS OR JOB PROTECTION
17 THAT IS MORE GENEROUS THAN THE PAID FAMILY AND MEDICAL LEAVE
18 BENEFITS AND JOB PROTECTION PROVIDED IN THIS PART 4.

19 **8-13.3-406. Certification of self-insured employers -**
20 **rules.** (1) THE DIRECTOR SHALL, BY RULE, DETERMINE THE FORM AND
21 MANNER IN WHICH AN EMPLOYER MAY CERTIFY THAT THE EMPLOYER
22 OFFERS SELF-FUNDED PAID FAMILY AND MEDICAL LEAVE BENEFITS TO ITS
23 EMPLOYEES CONSISTENT WITH THIS PART 4.

24 (2) IF THE DIRECTOR IS SATISFIED THAT AN EMPLOYER HAS THE
25 FINANCIAL AND ADMINISTRATIVE ABILITY TO PAY PAID FAMILY AND
26 MEDICAL LEAVE BENEFITS AND THAT THE EMPLOYER'S TANGIBLE ASSETS
27 MAKE REASONABLY CERTAIN THAT THE EMPLOYER CAN PAY ALL

1 OBLIGATIONS THAT MAY ARISE UNDER THIS PART 4, THE DIRECTOR MAY
2 CERTIFY THAT THE EMPLOYER HAS SATISFIED THE EMPLOYER'S
3 REQUIREMENTS UNDER THIS PART 4. IN MAKING THE DETERMINATION IN
4 THIS SUBSECTION (2), THE DIRECTOR SHALL CONSIDER THE EMPLOYER'S
5 RESERVES AND SURETY BONDS, IF ANY. THE DIRECTOR MAY GRANT
6 CERTIFICATION ON THE CONDITIONS PROVIDED IN THIS SECTION AND
7 OTHER CONDITIONS THE DIRECTOR FINDS NECESSARY OR DESIRABLE.

8 (3) (a) EACH EMPLOYER SEEKING CERTIFICATION SHALL FILE THE
9 MOST RECENT CERTIFIED AND INDEPENDENTLY AUDITED FINANCIAL
10 STATEMENT AND A COPY OF FORM 10K, IF ANY, FILED BY THE APPLICANT
11 WITH THE FEDERAL SECURITIES AND EXCHANGE COMMISSION.

12 (b) A SUBSIDIARY CORPORATION MAY SUBMIT THE CONSOLIDATED
13 FINANCIAL STATEMENT OF THE PARENT CORPORATION IN LIEU OF ITS OWN
14 INDIVIDUAL FINANCIAL STATEMENT. IF A SUBSIDIARY CORPORATION
15 SUBMITS THE STATEMENT, THE PARENT CORPORATION MUST GUARANTEE
16 THE LIABILITY OF THE SUBSIDIARY CORPORATION BY FILING AN
17 AGREEMENT OF ASSUMPTION AND GUARANTEE WITH THE DIRECTOR, IN
18 FORM AND MANNER DETERMINED BY THE DIRECTOR.

19 (4) A SELF-INSURED EMPLOYER MUST FURNISH SATISFACTORY
20 PROOF TO THE DIRECTOR OF THE EMPLOYER'S FINANCIAL ABILITY TO PAY
21 SUCH BENEFITS, IN WHICH CASE THE DIRECTOR SHALL REQUIRE THE
22 DEPOSIT OF SUCH SECURITIES AS THE DIRECTOR MAY DEEM NECESSARY.
23 THE NUMBER OF EMPLOYEES INVOLVED, THE COVERED PAYROLL OF
24 EMPLOYEES ELIGIBLE FOR BENEFITS, THE EXPOSURE, THE FINANCIAL
25 STANDING OF THE APPLICANT, AND OTHER FACTORS WHICH THE DIRECTOR
26 MAY DEEM PROPER SHALL BE GIVEN EFFECT IN FIXING THE AMOUNT.

27 (5) EACH SELF-INSURED EMPLOYER SHALL ANNUALLY FILE WITH

1 THE DIRECTOR:

2 (a) THE NUMBER OF ITS ELIGIBLE EMPLOYEES THAT HAVE TAKEN

3 PAID FAMILY AND MEDICAL LEAVE AND RECEIVED PAID FAMILY AND

4 MEDICAL LEAVE BENEFITS;

5 (b) THE NUMBER OF COVERED INDIVIDUALS WORKING FOR THE

6 EMPLOYER;

7 (c) THE NUMBER OF WEEKS FOR WHICH LEAVE WAS TAKEN;

8 (d) FOR PURPOSE FOR WHICH THE LEAVE WAS TAKEN;

9 (e) THE NUMBER OF CLAIMS THE EMPLOYER RECEIVED, INCLUDING

10 HOW MANY CLAIMS WERE GRANTED AND HOW MANY CLAIMS WERE

11 DENIED;

12 (c) THE AMOUNT OF COVERED PAYROLLS.

13 (6) FOR EACH COVERED INDIVIDUAL THAT LEAVES THE

14 EMPLOYMENT WITH A SELF-INSURED EMPLOYER, THE SELF-INSURED

15 EMPLOYER SHALL FILE WITH THE BOARD OF DIRECTORS OF THE HEALTH

16 BENEFIT EXCHANGE, CREATED IN ARTICLE 22 OF TITLE 10, IN THE FORM

17 AND MANNER DETERMINED BY THE COMMISSIONER OF THE DIVISION OF

18 INSURANCE, A NOTICE THAT THE PERSON IS A COVERED INDIVIDUAL AND

19 ELIGIBLE TO RECEIVE PAID FAMILY AND MEDICAL LEAVE BENEFITS IF THE

20 INDIVIDUAL EXPERIENCES A QUALIFYING EVENT.

21 (7) OTHER REPORTS REQUESTED BY THE DIRECTOR SHALL BE FILED

22 NOT LATER THAN FOURTEEN DAYS AFTER THE RECEIPT OF NOTICE OF THE

23 REQUEST.

24 (8) THE OBLIGATIONS OF A SELF-INSURED EMPLOYER INCLUDE ALL

25 OBLIGATIONS, PENALTIES, AND ENFORCEMENT MEASURES UNDER THIS

26 PART 4 FOR OTHER EMPLOYERS. THE DIRECTOR SHALL INVESTIGATE AND

27 INQUIRE DILIGENTLY FOR ANY VIOLATION OF THIS SECTION, ENFORCE THE

1 PROVISIONS OF THIS PART 4 GENERALLY, AND INSTITUTE ENFORCEMENT
2 ACTIONS AS THE DIRECTOR DEEMS PROPER.

3 (9) AN EMPLOYER THAT HAS TERMINATED ITS SELF-INSURED
4 STATUS OR AS TO WHICH APPROVAL AS A SELF-INSURED EMPLOYER HAS
5 BEEN WITHDRAWN MAY APPLY TO THE DIRECTOR FOR THE RETURN OF THE
6 EMPLOYER'S SECURITY DEPOSIT, CASH, LETTER OF CREDIT, OR
7 CANCELLATION OF THE SURETY BOND. AFTER THE LAPSE OF TWENTY-FOUR
8 MONTHS AND SATISFACTORY PROOF TO THE DIRECTOR THAT ALL CLAIMS
9 HAVE BEEN FINALLY ADJUDICATED AND PAID; THAT ALL FINES, PENALTIES,
10 EXPENSES AND ASSESSMENTS HAVE BEEN PAID; THAT THE BALANCE OF
11 EMPLOYEE CONTRIBUTIONS HAVE BEEN DISPOSED OF; AND THAT THE
12 SELF-FUNDING EMPLOYER HAS OTHERWISE COMPLIED WITH THE
13 APPLICABLE PROVISIONS OF LAW, REGULATIONS AND RULES, AND
14 PROVISIONS OF THE SELF-FUNDING AGREEMENT, THE DIRECTOR MAY
15 RELEASE THE SECURITIES OR CASH, LETTER OF CREDIT DEPOSITED, OR
16 PERMIT CANCELLATION OF THE SURETY BOND.

17 (10) THE DIRECTOR MAY REVOKE AN EMPLOYER'S CERTIFICATION
18 AS A SELF-INSURED EMPLOYER AT ANY TIME FOR GOOD CAUSE, INCLUDING
19 FAILURE TO COMPLY WITH REQUIREMENTS UNDER THIS PART 4 OR WITH
20 ANY ORDER OR DIRECTION OF THE DIRECTOR.

21 (11) ALL BOOKS, RECORDS AND PAYROLLS OF EMPLOYERS,
22 INCLUDING SELF-FUNDING EMPLOYERS, SHALL BE OPEN FOR INSPECTION BY
23 THE DIRECTOR OR BY ANY OFFICER OR EMPLOYEE OF THE OFFICE
24 DESIGNATED BY THE DIRECTOR FOR THE PURPOSE OF ASCERTAINING THE
25 AMOUNT OF WAGES AND THE NUMBER OF EMPLOYEES AND SUCH OTHER
26 INFORMATION AS MAY BE NECESSARY IN THE ADMINISTRATION OF THIS
27 PART 4. ANY PERSON WHO REFUSES TO ALLOW THE DIRECTOR OR THE

1 DIRECTOR’S DESIGNEE TO INSPECT ANY SUCH BOOKS, RECORDS OR
2 PAYROLLS RELATIVE TO THE ENFORCEMENT OF THIS PART 4 COMMITS A
3 MISDEMEANOR AND IS SUBJECT TO A FINE.

4 (12) THE OFFICE SHALL ANNUALLY AUDIT TWO PERCENT OF
5 SELF-INSURED EMPLOYERS.

6 (13) THE DIRECTOR SHALL ESTABLISH A FORM TO AID SELF-
7 INSURED EMPLOYERS IN DETERMINING WHETHER A COVERED INDIVIDUAL
8 IS ELIGIBLE FOR PAID FAMILY AND MEDICAL LEAVE BENEFITS. IN PREPARING
9 THE FORM, THE DIRECTOR SHALL CONSIDER ANY AVAILABLE FORMS USED
10 TO AID EMPLOYERS FOR PURPOSES OF FMLA.

11 **8-13.3-407. Optional coverage for paid family and medical**

12 **leave benefits - rules.** (1) (a) BEGINNING JANUARY 1, 2024, AN
13 INDIVIDUAL WHO DOES NOT WORK FOR AN EMPLOYER REQUIRED BY THIS
14 PART 4 TO PROVIDE THE INDIVIDUAL PAID FAMILY AND MEDICAL LEAVE
15 BENEFITS MAY PURCHASE A PAID FAMILY AND MEDICAL LEAVE PLAN
16 PURSUANT TO ARTICLE 24 OF TITLE 10 OR PAY FOR COVERAGE PURSUANT
17 TO THIS SECTION.

18 (b) PAID FAMILY AND MEDICAL LEAVE BENEFITS PROVIDED IN THIS
19 SECTION ARE NOT AVAILABLE FOR EMPLOYERS WHO ARE REQUIRED TO
20 PROVIDE BENEFITS PURSUANT TO SECTION 8-13.3-405 UNLESS:

21 (I) PREMIUMS FOR A PAID FAMILY AND MEDICAL LEAVE PLAN
22 ISSUED IN ACCORDANCE WITH ARTICLE 24 OF TITLE 10 COST MORE THAN
23 _____ PERCENT OF STATEWIDE PAYROLL FOR A PERIOD EXCEEDING
24 TWELVE MONTHS;

25 (II) FEWER THAN _____ INSURERS OFFER PAID FAMILY AND
26 MEDICAL LEAVE INSURANCE PLANS PURSUANT TO ARTICLE 24 OF TITLE 10;
27 OR

1 (III) FEWER THAN _____ INSURERS OFFER PAID FAMILY AND
2 MEDICAL LEAVE INSURANCE PLANS IN HARD-TO-INSURE GEOGRAPHIC
3 AREAS OR INDUSTRIES, AS DETERMINED BY THE DIRECTOR BY RULE.

4 (c) BEGINNING APRIL 1, 2024, THE OFFICE SHALL PAY BENEFITS TO
5 INDIVIDUALS WHO HAVE ELECTED COVERAGE PURSUANT TO THIS SECTION
6 AND ARE TAKING FAMILY AND MEDICAL LEAVE FOR A QUALIFYING EVENT.

7 (2) THE DIRECTOR SHALL, BY RULE, ESTABLISH THE PREMIUM
8 AMOUNT THAT AN INDIVIDUAL ELECTING COVERAGE IS REQUIRED TO PAY
9 FOR COVERAGE. THE PREMIUM MUST BE COMMUNITY-RATED AS DEFINED
10 IN SECTION 10-24-101 (1) AND MUST NOT EXCEED ONE-HALF OF ONE
11 PERCENT OF AN INDIVIDUAL'S WAGES. THE DIRECTOR SHALL NOT APPLY
12 THE PREMIUM TO WAGES THAT EXCEED EIGHTY PERCENT OF THE
13 CONTRIBUTION AND BENEFIT BASE LIMIT ESTABLISHED ANNUALLY BY THE
14 UNITED STATES SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF THE
15 FEDERAL "OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE
16 AMENDMENTS OF 1965", AS AMENDED, PUB.L. 89-97.

17 (3) THE OFFICE SHALL PARTICIPATE IN THE RISK ADJUSTMENT
18 MECHANISM FOR PAID FAMILY AND MEDICAL LEAVE INSURANCE PLANS
19 PURSUANT TO SECTION 10-24-107.

20 (4) (a) THE OFFICE SHALL RESPOND TO A CLAIM FOR PAID FAMILY
21 AND MEDICAL LEAVE BENEFITS IN THE SAME TIME FRAMES AS EMPLOYERS
22 SPECIFIED IN SECTION 8-13.3-411

23 (b) AN INDIVIDUAL MAY APPEAL THE DENIAL OF A CLAIM BY THE
24 OFFICE IN THE SAME MANNER AS AN EMPLOYEE MAY APPEAL A CLAIM BY
25 A SELF-INSURED EMPLOYER AS SPECIFIED IN SECTION 8-13.3-411.

26 **8-13.3-408. Paid family and medical leave - eligibility -**
27 **rules.** (1) BEGINNING JULY 1, 2022, EXCEPT AS PROVIDED IN SUBSECTION

1 (2) OF THIS SECTION AND SUBJECT TO SECTION 8-13.3-405 (1), AN
2 INDIVIDUAL IS ELIGIBLE TO TAKE PAID FAMILY AND MEDICAL LEAVE IF THE
3 INDIVIDUAL:

4 (a) IS TAKING FAMILY AND MEDICAL LEAVE FOR A QUALIFYING
5 EVENT;

6 (b) IS A COVERED INDIVIDUAL;

7 (c) WORKS FOR AN EMPLOYER WHO IS REQUIRED TO OFFER PAID
8 FAMILY AND MEDICAL LEAVE BENEFITS PURSUANT TO SECTION 8-13.3-405
9 OR HAS INDEPENDENTLY PURCHASED A PAID FAMILY AND MEDICAL LEAVE
10 INSURANCE PLAN IN ACCORDANCE WITH ARTICLE 24 OF TITLE 10; AND

11 (d) (I) NOTIFIES THE INDIVIDUAL'S EMPLOYER OF THE INTENT TO
12 TAKE PAID FAMILY AND MEDICAL LEAVE FROM WORK FOR A QUALIFYING
13 EVENT.

14 (II) IN ANY CASE IN WHICH THE NECESSITY FOR PAID FAMILY AND
15 MEDICAL LEAVE BENEFITS IS FORESEEABLE, THE INDIVIDUAL SHALL
16 PROVIDE THE INDIVIDUAL'S EMPLOYER WITH NOT LESS THAN THIRTY DAYS'
17 NOTICE BEFORE THE DATE THE LEAVE IS TO BEGIN OF THE INDIVIDUAL'S
18 INTENTION TO TAKE LEAVE UNDER THIS PART 4. IF THE NECESSITY FOR
19 LEAVE IS NOT FORESEEABLE OR PROVIDING THIRTY DAYS' NOTICE IS NOT
20 POSSIBLE, THE INDIVIDUAL SHALL PROVIDE THE NOTICE AS SOON AS
21 PRACTICABLE.

22 (III) IN ADVANCE OF OR DURING ANY APPLICATION FOR PAID
23 FAMILY AND MEDICAL LEAVE BENEFITS, AN EMPLOYEE MAY DESIGNATE
24 ONE OR MORE ADULTS AS A FAMILY AND MEDICAL LEAVE PROXY
25 EMPOWERED TO PURSUE AND SUPPORT THE EMPLOYEE'S CLAIM TO PAID
26 FAMILY AND MEDICAL LEAVE BENEFITS. THE FAMILY AND MEDICAL LEAVE
27 PROXY MAY ACT FOR THE EMPLOYEE BY NOTIFYING, COMMUNICATING

1 WITH, MAKING REQUESTS TO, AND MAKING FILINGS WITH THE EMPLOYEE'S
2 EMPLOYER, THE INSURER OFFERING THE PAID FAMILY AND MEDICAL LEAVE
3 INSURANCE PLAN, ANY APPLICABLE GOVERNMENT ENTITY, AND ANY
4 OTHER PERSON THE PROXY OR EMPLOYEE DEEMS NECESSARY. IF AN
5 EMPLOYER PROVIDES EMPLOYEES A HANDBOOK, A MANUAL, OR POLICIES
6 PERTAINING TO EMPLOYMENT WITH THE EMPLOYER OR HAS AN INTERNAL
7 WEBSITE FOR EMPLOYEES, THE EMPLOYER MUST INCLUDE IN THOSE
8 DOCUMENTS OR ON THE EMPLOYER'S INTERNAL WEBSITE A COPY OF A
9 FAMILY AND MEDICAL LEAVE PROXY FORM THAT EMPLOYEES MAY
10 COMPLETE AND SUBMIT TO THE EMPLOYER.

11 (IV) THE COMMISSIONER OF THE DIVISION OF INSURANCE IN THE
12 DEPARTMENT OF REGULATORY AGENCIES SHALL PROMULGATE RULES TO
13 DEVELOP POLICIES REGARDING THE FORM AND MANNER IN WHICH AN
14 EMPLOYEE IS REQUIRED TO NOTIFY AN INSURER OF THE EMPLOYEE'S
15 INTENT TO TAKE PAID FAMILY AND MEDICAL LEAVE. THE RULES MUST
16 INCLUDE A REQUIREMENT OF WRITTEN NOTICE AND PROOF OF NEED. IN
17 PROMULGATING THE RULES, THE COMMISSIONER SHALL CONSIDER THE
18 EMPLOYEE'S RIGHT TO PRIVACY.

19 (2) (a) SUBJECT TO LIMITATIONS ESTABLISHED BY THE DIRECTOR
20 BY RULE, REGARDLESS OF WHETHER A COVERED INDIVIDUAL HAS
21 DESIGNATED A PROXY PURSUANT TO SUBSECTION (1)(c)(III) OF THIS
22 SECTION, WHEN THE COVERED INDIVIDUAL IS UNABLE TO NOTIFY THE
23 EMPLOYER DUE TO A SERIOUS HEALTH CONDITION, THE COVERED
24 INDIVIDUAL'S FAMILY MEMBER MAY NOTIFY, COMMUNICATE WITH, MAKE
25 REQUESTS TO, AND MAKE FILINGS WITH THE COVERED INDIVIDUAL'S
26 EMPLOYER, THE INSURER OFFERING THE PAID FAMILY AND MEDICAL LEAVE
27 INSURANCE PLAN, ANY APPLICABLE GOVERNMENT ENTITY, AND ANY

1 OTHER PERSON THE FAMILY MEMBER OR COVERED INDIVIDUAL DEEMS
2 NECESSARY PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION.

3 (b) NOTWITHSTANDING SUBSECTION (2)(a) OF THIS SECTION, IF A
4 COVERED INDIVIDUAL IS TAKING OR PLANNING TO TAKE PAID FAMILY AND
5 MEDICAL LEAVE BECAUSE OF DOMESTIC ABUSE, SEXUAL ASSAULT OR
6 ABUSE, OR STALKING, AN EMPLOYER SHALL NOT ACCEPT A NOTIFICATION
7 OF INTENT TO TAKE LEAVE FROM THE INDIVIDUAL ACCUSED OF DOMESTIC
8 ABUSE, SEXUAL ASSAULT OR ABUSE, OR STALKING IF THE EMPLOYER
9 KNOWS THE INDIVIDUAL SUBMITTING THE NOTIFICATION OF INTENT TO
10 TAKE LEAVE IS THE INDIVIDUAL ACCUSED.

11 **8-13.3-409. Duration of benefits - reports - repeal. (1) (a)**

12 EMPLOYERS WITH TWENTY OR MORE EMPLOYEES SHALL, IN ANY
13 CONSECUTIVE FIFTY-TWO-WEEK PERIOD, PROVIDE AN ELIGIBLE INDIVIDUAL
14 WITH AT LEAST THE FOLLOWING AMOUNTS OF PAID FAMILY AND MEDICAL
15 LEAVE:

16 (I) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2022 AND ON OR
17 BEFORE JUNE 30, 2025, EIGHT WEEKS;

18 (II) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2025 AND ON OR
19 BEFORE JUNE 30, 2027, TEN WEEKS;

20 (III) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2027, TWELVE
21 WEEKS;

22 (b) EMPLOYERS WITH TEN OR MORE EMPLOYEES SHALL, IN ANY
23 CONSECUTIVE FIFTY-TWO-WEEK PERIOD, PROVIDE AN ELIGIBLE INDIVIDUAL
24 WITH AT LEAST THE FOLLOWING AMOUNTS OF PAID FAMILY AND MEDICAL
25 LEAVE:

26 (I) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2024 AND ON OR
27 BEFORE JUNE 30, 2025, EIGHT WEEKS;

1 (II) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2025 AND ON OR
2 BEFORE JUNE 30, 2027, TEN WEEKS;

3 (III) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2027, TWELVE
4 WEEKS;

5 (c) IF THE DIRECTOR PROMULGATES RULES SO PROVIDING,
6 EMPLOYERS WITH NINE OR FEWER EMPLOYEES SHALL, IN ANY
7 CONSECUTIVE FIFTY-TWO-WEEK PERIOD, PROVIDE AN ELIGIBLE INDIVIDUAL
8 WITH AT LEAST THE FOLLOWING AMOUNTS OF PAID FAMILY AND MEDICAL
9 LEAVE:

10 (I) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2022 AND ON OR
11 BEFORE JUNE 30, 2025, EIGHT WEEKS;

12 (II) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2025 AND ON OR
13 BEFORE JUNE 30, 2027, TEN WEEKS;

14 (III) FOR LEAVE BEGINNING ON OR AFTER JULY 1, 2027, TWELVE
15 WEEKS;

16 (2) NO LATER THAN JANUARY 1, 2025, JANUARY 1, 2027, AND
17 JANUARY 1, 2029, THE DIRECTOR SHALL REPORT TO THE GOVERNOR, THE
18 HOUSE OF REPRESENTATIVE COMMITTEES ON BUSINESS AFFAIRS AND
19 LABOR, PUBLIC HEALTH CARE AND HUMAN SERVICES, AND HEALTH AND
20 INSURANCE, AND THE SENATE COMMITTEES ON BUSINESS, LABOR, AND
21 TECHNOLOGY AND HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR
22 COMMITTEES, REGARDING THE FEASIBILITY OF AND THE STEPS NECESSARY
23 FOR EXPANDING PAID FAMILY AND MEDICAL LEAVE TO SEASONAL
24 WORKERS, AS DEFINED IN SECTION 8-73-106, EMPLOYEES WHO WORK FOR
25 EMPLOYERS WITH FEWER THAN TEN EMPLOYEES, AND EMPLOYEES OF
26 LOCAL GOVERNMENTS THAT HAVE OPTED OUT OF PARTICIPATION IN
27 ACCORDANCE WITH SECTION 8-13.3-414.

1 **8-13.3-410. Amount of benefits - maximum weekly benefit -**
2 **rules.** (1) (a) FOR LEAVE TAKEN PURSUANT TO THIS PART 4, AN INSURER,
3 INCLUDING A SELF-INSURED EMPLOYER, SHALL PAY AN ELIGIBLE
4 INDIVIDUAL AN AMOUNT THAT IS AT LEAST EQUAL TO THE INDIVIDUAL'S
5 WEEKLY BENEFIT AMOUNT, CALCULATED AS FOLLOWS:

6 (I) NINETY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
7 FOR ALL WAGES THAT ARE LESS THAN FIFTY PERCENT OF THE AVERAGE
8 WEEKLY WAGE; AND

9 (II) FIFTY PERCENT OF THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE
10 FOR ALL WAGES THAT EQUAL OR EXCEED FIFTY PERCENT OF THE AVERAGE
11 WEEKLY WAGE.

12 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, THE
13 MAXIMUM BENEFIT AMOUNT MUST NOT EXCEED ONE THOUSAND DOLLARS
14 PER WEEK. STARTING JANUARY 1, 2025, THE OFFICE SHALL ANNUALLY
15 ADJUST THE MAXIMUM WEEKLY BENEFIT AMOUNT TO AN AMOUNT EQUAL
16 TO NINETY PERCENT OF THE AVERAGE WEEKLY WAGE.

17 (2) FOR PURPOSES OF CALCULATING AN ELIGIBLE INDIVIDUAL'S
18 WEEKLY BENEFIT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION,
19 THE ELIGIBLE INDIVIDUAL'S WEEKLY WAGE IS ONE-THIRTEENTH OF THE
20 WAGES PAID DURING THE QUARTER OF THE ELIGIBLE INDIVIDUAL'S BASE
21 PERIOD, AS DEFINED IN SECTION 8-70-103 (2), OR ALTERNATIVE BASE
22 PERIOD, AS DEFINED IN SECTION 8-70-103 (1.5), IN WHICH THE TOTAL
23 WAGES WERE HIGHEST. FOR PURPOSES OF THIS SUBSECTION (2), WAGES
24 INCLUDE SALARY, WAGES, TIPS, COMMISSIONS, AND OTHER COMPENSATION
25 AS DETERMINED BY THE DIRECTOR BY RULE.

26 (3) AN ELIGIBLE INDIVIDUAL MAY TAKE INTERMITTENT LEAVE IN
27 INCREMENTS OF ONE HOUR OR SHORTER IF CONSISTENT WITH THE

1 INCREMENTS THE EMPLOYER TYPICALLY USES TO MEASURE EMPLOYEE
2 LEAVE; EXCEPT THAT BENEFITS ARE NOT PAYABLE UNTIL THE ELIGIBLE
3 INDIVIDUAL ACCUMULATES AT LEAST ONE DAY OR EIGHT HOURS OF LEAVE.

4 (4) THE INSURER SHALL NOT REDUCE THE WEEKLY BENEFIT
5 AMOUNT BY THE AMOUNT OF WAGE REPLACEMENT THAT AN ELIGIBLE
6 INDIVIDUAL RECEIVES WHILE ON PAID FAMILY AND MEDICAL LEAVE UNDER
7 ANY OF THE FOLLOWING CONDITIONS, UNLESS THE AGGREGATE AMOUNT
8 AN ELIGIBLE INDIVIDUAL WOULD RECEIVE WOULD EXCEED THE ELIGIBLE
9 INDIVIDUAL'S WEEKLY WAGE:

10 (a) A TEMPORARY DISABILITY POLICY OR PROGRAM OF AN
11 EMPLOYER; OR

12 (b) ACCRUED PAID LEAVE, INCLUDING SICK, VACATION, OR
13 PERSONAL TIME, THAT AN ELIGIBLE INDIVIDUAL VOLUNTARILY ELECTS TO
14 TAKE.

15 **8-13.3-411. Denials of claims by an employer or insurer -**
16 **appeals - rules - report.** (1) (a) AFTER RECEIVING A CLAIM FOR FAMILY
17 AND MEDICAL LEAVE BENEFITS, A SELF-INSURED EMPLOYER OR AN
18 EMPLOYER, OTHER THAN A SELF-INSURED EMPLOYER, THAT HAS FAILED TO
19 PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS THROUGH A PLAN ,
20 SHALL, WITHIN THE TIMELINE DETERMINED BY THE DIRECTOR, BY RULE,
21 SEND THE EMPLOYEE EITHER:

22 (I) A DECISION ON THE CLAIM, WHICH, IN THE CASE OF A DENIAL,
23 MUST INCLUDE A WRITTEN EXPLANATION OF THE REASONS AND BASIS FOR
24 THE DENIAL; OR

25 (II) A REQUEST FOR ADDITIONAL INFORMATION THAT THE
26 EMPLOYER REASONABLY BELIEVES IS NECESSARY TO DECIDE THE CLAIM,
27 INCLUDING A DEADLINE TO PROVIDE THE REQUESTED INFORMATION. AN

1 EMPLOYER THAT RECEIVES ADDITIONAL INFORMATION PURSUANT TO THIS
2 SUBSECTION (1)(a)(II) SHALL MAKE A DECISION ON THE CLAIM WITHIN THE
3 TIMELINE DETERMINED BY THE DIRECTOR BY RULE.

4 (b) IF AN INSURER FAILS TO COMPLY WITH THE TIMELINES
5 DETERMINED BY THE DIRECTOR PURSUANT TO IN SUBSECTION (1)(a) OF
6 THIS SECTION, THE CLAIM IS AUTOMATICALLY APPROVED.

7 (2) (a) ANY EMPLOYEE, OR THE EMPLOYEE'S APPOINTED PROXY OR
8 ATTORNEY, MAY APPEAL A CLAIM DENIAL TO THE OFFICE WITHIN
9 THIRTY-FIVE CALENDAR DAYS AFTER THE NOTICE OF THE CLAIM DENIAL IN
10 THE FORM AND MANNER DETERMINED BY THE DIRECTOR BY RULE.

11 (b) THE DIRECTOR SHALL:

12 (I) PROMULGATE RULES FOR THE APPEAL OF DENIED CLAIMS;

13 (II) CREATE AND MAINTAIN A WEB-BASED SYSTEM FOR FILING AND
14 MANAGING CLAIM APPEALS;

15 (III) DESIGNATE A HEARING OFFICER UPON RECEIVING A CLAIM
16 APPEAL.

17 (c) THE OFFICE, HEARING OFFICERS, PARTIES, AND COURTS HAVE
18 ALL POWERS, RIGHTS, AND RESPONSIBILITIES GRANTED BY SECTION
19 8-4-111.5 AS TO CLAIM APPEALS AND ENFORCEMENT POWERS; EXCEPT
20 THAT DECISIONS ON APPEALS MAY BE BASED ON THE EMPLOYER'S DENIAL,
21 THE EMPLOYEE'S APPEAL FILING, AND ANY SUBSEQUENT SUBMISSIONS
22 THAT MAY BE PERMITTED, WITHOUT THE REQUIREMENT OF A HEARING.

23 (d) ANY PARTY TO THE APPEAL MAY APPEAL THE HEARING
24 OFFICER'S DECISION BY COMMENCING AN ACTION FOR JUDICIAL REVIEW IN
25 THE DISTRICT COURT OF COMPETENT JURISDICTION WITHIN THIRTY-FIVE
26 CALENDAR DAYS AFTER THE DATE THE DECISION IS MAILED. THE HEARING
27 OFFICER'S DECISION CONSTITUTES A FINAL AGENCY ACTION PURSUANT TO

1 SECTION 24-4-106.

2 (3) IF THE HEARING OFFICER REVERSES A CLAIM DENIAL, THE
3 HEARING OFFICER SHALL ORDER EACH EMPLOYER OF THE EMPLOYEE,
4 JOINTLY AND SEVERALLY, TO PAY, IN ADDITION TO THE AMOUNT OF PAID
5 FAMILY AND MEDICAL LEAVE BENEFITS OWED:

6 (a) TO THE EMPLOYEE:

7 (I) AN ADDITIONAL TEN TO ONE HUNDRED PERCENT OF THE PAY
8 OWED THROUGH THE DATE THE EMPLOYER MAKES PAYMENT FOLLOWING
9 THE APPEAL DECISION, OR A MAXIMUM PERIOD OF FOUR WEEKS,
10 WHICHEVER IS SHORTER; AND

11 (II) OUT-OF-POCKET COSTS INCURRED BY THE EMPLOYEE IN
12 PURSUING THE APPEAL AND EITHER REASONABLE ATTORNEY FEES OR
13 REASONABLE FEES FOR REPRESENTATION PROVIDED BY AN EMPLOYEES
14 NON-LAWYER APPOINTED PROXY IN CASES WHERE SUCH APPOINTED PROXY
15 IS EMPLOYED BY A LABOR OR NON-PROFIT ORGANIZATION THAT
16 REGULARLY ASSISTS IN ENFORCEMENT OF THIS PART 4 OR IN
17 COMMUNITY-BASED EDUCATION REGARDING THIS PART 4.

18 (b) TO THE OFFICE FOR DEPOSIT INTO THE PAID LEAVE PROTECTION
19 FUND CREATED IN SECTION 8-13.3-412, FIVE HUNDRED DOLLARS TO
20 COMPENSATE FOR THE COST OF THE DENIAL; AND

21 (c) IN THE CASE OF AN EMPLOYER THAT FAILED TO PROVIDE PAID
22 FAMILY AND MEDICAL LEAVE BENEFITS COVERAGE, AN ORDER TO PAY A
23 FINE IN AN AMOUNT AUTHORIZED BY SECTION 8-1-140 FOR EMPLOYER
24 VIOLATIONS.

25 (4) UPON A SHOWING OF A REASONABLE BASIS TO BELIEVE THAT
26 AN EMPLOYER MAY HAVE VIOLATED THE DUTY TO PROVIDE PAID FAMILY
27 AND MEDICAL LEAVE BENEFITS, THE OFFICE MAY INVESTIGATE, PURSUANT

1 TO PROCEDURES ESTABLISHED BY THE DIRECTOR BY RULE. IF THE OFFICE
2 FINDS AN EMPLOYER HAS FAILED TO PROVIDE PAID FAMILY AND MEDICAL
3 LEAVE BENEFITS, THE OFFICE MAY ISSUE DETERMINATIONS THAT INCLUDE
4 RELIEF AUTHORIZED BY THIS SECTION AND SECTION 8-1-140 .
5 DETERMINATIONS ARE SUBJECT TO APPEAL PURSUANT TO THIS SECTION
6 AND PROMULGATED RULES.

7 (5) (a) DURING THE PENDENCY OF AN APPEAL OF A CLAIM DENIAL,
8 THE OFFICE SHALL PAY THE EMPLOYEE TWO WEEKS OF PAID FAMILY AND
9 MEDICAL LEAVE BENEFITS, CALCULATED PURSUANT TO SECTION
10 8-13.3-410 FROM THE PAID LEAVE PROTECTION FUND, UNLESS THE
11 DIRECTOR DETERMINES THAT PAYMENT FOR A SHORTER PERIOD OF TIME IS
12 NECESSARY FOR THE PAID LEAVE PROTECTION FUND TO REMAIN SOLVENT.

13 (b) IF THE DENIAL IS REVERSED ON APPEAL, THE HEARING OFFICER
14 SHALL ORDER THE INSURER OR EMPLOYER THAT DENIED THE CLAIM TO
15 REIMBURSE THE PAID LEAVE PROTECTION FUND THE AMOUNT PAID THE
16 EMPLOYEE PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

17 (5) NO LATER THAN AUGUST 31, 2023, AND EVERY AUGUST 31
18 THEREAFTER, THE DIRECTOR SHALL SUBMIT A REPORT TO THE
19 COMMISSIONER OF INSURANCE DETAILING STATISTICS AND OUTCOMES
20 RELATED TO THE APPEAL PROCESS PROVIDED IN THIS SECTION.

21 **8-13.3-412. Paid leave protection fund - creation - rules.** THERE
22 IS HEREBY CREATED IN THE STATE TREASURY THE PAID LEAVE PROTECTION
23 FUND. THE FUND CONSISTS OF A FEE PAID BY EACH EMPLOYER THAT
24 OFFERS PAID FAMILY AND MEDICAL LEAVE BENEFITS FOR EACH EMPLOYEE
25 IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE , PREMIUMS PAID
26 BY INDIVIDUALS WHO HAVE ELECTED COVERAGE PURSUANT TO SECTION,
27 AND DEPOSITS INTO THE FUND MADE PURSUANT TO SECTIONS 8-13.3-411

1 (3)(b) AND 8-13.3-412 (4)(h). MONEY IN THE FUND MAY BE USED ONLY TO
2 REIMBURSE EMPLOYEES FOR CLAIMS APPEALED PURSUANT TO SECTION
3 8-13.3-408, TO PAY FOR THE CLAIMS APPEAL PROCESS, AND TO PAY PAID
4 FAMILY AND MEDICAL LEAVE BENEFITS TO INDIVIDUALS WHO HAVE
5 ELECTED COVERAGE. INTEREST EARNED ON THE INVESTMENT OF MONEY
6 IN THE FUND REMAINS IN THE FUND. MONEY IN THE FUND IS
7 CONTINUOUSLY APPROPRIATED TO THE OFFICE FOR THE PURPOSE OF THIS
8 SECTION.

9 **8-13.3-413. Employer to provide employment protection for**
10 **employees taking paid family and medical leave - rules - complaints**
11 **- fines - damages.**

12 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS
13 SECTION, AN ELIGIBLE INDIVIDUAL WHO TAKES PAID FAMILY AND MEDICAL
14 LEAVE UNDER FMLA OR THIS PART 4 FOR THE INTENDED PURPOSE OF THE
LEAVE IS ENTITLED, ON RETURN FROM THE LEAVE:

15 (a) TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF
16 EMPLOYMENT HELD BY THE ELIGIBLE INDIVIDUAL WHEN THE LEAVE
17 COMMENCED WITH THE SAME BENEFITS, PAY, AND OTHER TERMS AND
18 CONDITIONS OF EMPLOYMENT; OR

19 (b) TO BE RESTORED TO AN EQUIVALENT POSITION WITH
20 EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND
21 CONDITIONS OF EMPLOYMENT.

22 (2) SUBSECTION (1) OF THIS SECTION APPLIES ONLY TO:

23 (a) EMPLOYERS WITH TWENTY OR MORE EMPLOYEES, FOR LEAVE
24 BEGINNING ON OR AFTER JULY 1, 2022, AND ON OR BEFORE JUNE 30, 2025;

25 (b) EMPLOYERS WITH TEN OR MORE EMPLOYEES, FOR LEAVE
26 BEGINNING ON OR AFTER JULY 1, 2025.

27 (3) (a) AN EMPLOYER SHALL NOT INTERFERE WITH, RESTRAIN, OR

1 DENY THE EXERCISE OF OR THE ATTEMPT TO EXERCISE ANY RIGHT
2 PROVIDED UNDER THIS PART 4.

3 (b) AN EMPLOYER SHALL NOT DISCHARGE OR IN ANY OTHER
4 MANNER DISCRIMINATE AGAINST ANY INDIVIDUAL FOR OPPOSING ANY
5 PRACTICE MADE UNLAWFUL BY THIS SECTION.

6 (c) AN EMPLOYER SHALL NOT DISCHARGE OR IN ANY OTHER
7 MANNER DISCRIMINATE AGAINST ANY INDIVIDUAL BECAUSE THE
8 INDIVIDUAL HAS:

9 (I) FILED ANY CHARGE, OR HAS INSTITUTED OR CAUSED TO BE
10 INSTITUTED ANY PROCEEDING, UNDER OR RELATED TO THIS SECTION;

11 (II) GIVEN, OR IS ABOUT TO GIVE, ANY INFORMATION IN
12 CONNECTION WITH ANY INQUIRY OR PROCEEDING RELATING TO ANY RIGHT
13 PROVIDED UNDER THIS PART 4;

14 (III) TESTIFIED, OR IS ABOUT TO TESTIFY, IN ANY INQUIRY OR
15 PROCEEDING RELATING TO ANY RIGHT PROVIDED UNDER THIS PART 4; OR

16 (IV) REQUESTED PAID FAMILY AND MEDICAL LEAVE BENEFITS OR
17 TAKEN PAID FAMILY AND MEDICAL LEAVE IN ACCORDANCE WITH THIS PART
18 4.

19 (4) (a) THE OFFICE SHALL ENFORCE THIS SECTION, INCLUDING
20 ESTABLISHING A SYSTEM USING MULTIPLE MEANS OF COMMUNICATION TO
21 RECEIVE COMPLAINTS REGARDING NONCOMPLIANCE WITH THIS PART 4.
22 ANY INDIVIDUAL AGGRIEVED BY A VIOLATION OF THIS PART 4 MAY FILE A
23 COMPLAINT WITH THE OFFICE AGAINST AN EMPLOYER THAT HAS IS NOT
24 COVERED BY A PAID FAMILY AND MEDICAL LEAVE PLAN ISSUED IN
25 ACCORDANCE WITH ARTICLE 24 OF TITLE 10 FOR A VIOLATION OF THIS
26 PART 4.

27 (b) UPON RECEIVING A COMPLAINT ALLEGING A VIOLATION OF THIS

1 PART 4, THE OFFICE SHALL INVESTIGATE THE COMPLAINT IN A TIMELY
2 MANNER AND MAY RESOLVE THE COMPLAINT THROUGH MEDIATION
3 BETWEEN THE AGGRIEVED INDIVIDUAL AND THE EMPLOYER IF THE
4 AGGRIEVED INDIVIDUAL AND THE EMPLOYER EACH AGREE TO MEDIATE
5 AND AGREE TO THE RESOLUTION.

6 (c) IN INVESTIGATING A COMPLAINT FOR A VIOLATION OF THIS
7 PART 4, THE OFFICE MAY CONSIDER INFORMATION VOLUNTARILY
8 SUBMITTED BY AN INSURER.

9 (d) A COMPLAINT BROUGHT IN ACCORDANCE WITH THIS SECTION
10 MUST BE FILED WITHIN TWO YEARS AFTER THE DATE OF THE LAST EVENT
11 CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS
12 BROUGHT.

13 (f) THE OFFICE SHALL RULE ON A COMPLAINT WITHIN ONE
14 HUNDRED EIGHTY DAYS AFTER THE COMPLAINT IS FILED.

15 (g) AN AGGRIEVED INDIVIDUAL SHALL NOT BRING A CIVIL ACTION
16 IN A COURT OF COMPETENT JURISDICTION UNTIL:

17 (I) A COMPLAINT BROUGHT UNDER THIS SECTION HAS BEEN RULED
18 UPON BY THE OFFICE;

19 (II) MEDIATION IS COMPLETE AND THE COMPLAINT IS RESOLVED;
20 OR

21 (III) ONE HUNDRED EIGHTY DAYS HAVE ELAPSED FROM THE DATE
22 THE COMPLAINT WAS FILED.

23 (h) AN EMPLOYER WHO VIOLATES THIS SECTION IS SUBJECT TO
24 ECONOMIC DAMAGES, LIQUIDATED DAMAGES, ATTORNEY FEES, AND
25 EQUITABLE RELIEF INCLUDING, PROSPECTIVE INJUNCTIVE RELIEF OR
26 REINSTATEMENT TO EMPLOYMENT, ATTORNEY FEES, OR OTHER RELIEF
27 UNDER 29 U.S.C. SEC. 2617 (a)(1).

1 (I) THE DIRECTOR, BY RULE, SHALL ESTABLISH AN ESCALATING
2 FINE STRUCTURE FOR EMPLOYERS, INCLUDING SELF-INSURED EMPLOYERS,
3 WHO VIOLATE THIS PART 4. THE DIRECTOR SHALL TRANSFER ANY FINES
4 COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR
5 DEPOSIT IN THE PAID LEAVE PROTECTION FUND.

6 **8-13.3-414. Local government may opt out.** IN THE ABSENCE OF
7 A COLLECTIVE BARGAINING AGREEMENT TO THE CONTRARY, AN EMPLOYER
8 THAT IS A LOCAL GOVERNMENT MAY OPT OUT OF THE REQUIREMENTS OF
9 THIS PART 4 THROUGH AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE
10 MEMBERS OF A GOVERNING BODY OF THE LOCAL GOVERNMENT, ACTING
11 THROUGH ORDINANCE OR RESOLUTION.

12 **8-13.3-415. Coordination of benefits - rules.** (1) (a) LEAVE
13 TAKEN UNDER THIS PART 4 RUNS CONCURRENTLY WITH ANY FMLA LEAVE
14 OR LEAVE TAKEN UNDER PART 2 OF THIS ARTICLE 13.3. IF A PERIOD OF
15 FAMILY AND MEDICAL LEAVE RECEIVED BY AN EMPLOYEE UNDER THIS
16 PART 4 IS CONCURRENTLY DESIGNATED AS LEAVE PURSUANT TO THE
17 FMLA OR PART 2 OF THIS ARTICLE 13.3, THE EMPLOYER SHALL NOTIFY
18 THE EMPLOYEE OF THE DESIGNATION AND SHALL ALSO PROVIDE THE
19 EMPLOYEE WITH THE NOTICE REQUIRED UNDER 29 CFR 825.300 (d).

20 (b) AN EMPLOYER MAY REQUIRE THAT PAYMENT MADE OR LEAVE
21 TAKEN UNDER THIS PART 4 BE MADE OR TAKEN CONCURRENTLY OR
22 OTHERWISE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED
23 UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER AN
24 EMPLOYER POLICY OR EMPLOYMENT CONTRACT, AS APPLICABLE. THE
25 EMPLOYER SHALL GIVE ITS EMPLOYEES WRITTEN NOTICE OF THIS
26 REQUIREMENT.

27 (c) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS

1 SECTION, AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO USE OR
2 EXHAUST TIME OFF UNDER AN EMPLOYER POLICY, INCLUDING PAID TIME
3 OFF, VACATION TIME, OR SICK TIME, PRIOR TO USE OF LEAVE UNDER THIS
4 PART 4. IN ADDITION, AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO
5 CHARGE ALL OR PART OF THE EMPLOYEE'S LEAVE UNDER THIS PART 4 TO
6 UNUSED ACCRUALS OR OTHER PAID TIME OFF, INCLUDING VACATION TIME
7 AND SICK TIME, EXCEPT WHERE THE EMPLOYER MAINTAINS A SEPARATE
8 BANK OF PAID TIME SOLELY FOR THE PURPOSE OF LEAVE UNDER THIS PART
9 4.

10 (d) SUBJECT TO THE LIMITATIONS UNDER SECTION 8-13.3-410 (4),
11 AN EMPLOYEE MAY SUPPLEMENT THE PAID FAMILY AND MEDICAL LEAVE
12 BENEFITS THE EMPLOYEE IS RECEIVING, THROUGH VACATION, SICK, OR
13 OTHER PAID TIME OFF, TO ENSURE THAT THE EMPLOYEE IS RECEIVING ONE
14 HUNDRED PERCENT OF THE EMPLOYEE'S WEEKLY WAGE. NOTHING IN THIS
15 SUBSECTION (1)(d) REQUIRES AN EMPLOYEE TO RECEIVE OR USE, OR AN
16 EMPLOYER TO PROVIDE, ADDITIONAL PAID TIME OFF AS DESCRIBED IN THIS
17 SUBSECTION (1)(d).

18 (2) (a) FOR A COVERED INDIVIDUAL WHO IS ELIGIBLE FOR PAID
19 FAMILY AND MEDICAL LEAVE BENEFITS DUE TO A SERIOUS HEALTH
20 CONDITION RESULTING FROM AN ACCIDENT, INJURY, OR OCCUPATIONAL
21 DISEASE FOR WHICH THE RIGHT OF COMPENSATION EXISTS UNDER SECTION
22 8-41-301, THE WEEKLY BENEFIT AMOUNT SHALL BE REDUCED, BUT NOT
23 BELOW ZERO, BY AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF:

24 (I) ANY TEMPORARY DISABILITY BENEFITS PAID FOR THAT WEEK
25 PURSUANT TO SECTION 8-42-105 OR 8-42-106; OR

26 (II) PERMANENT TOTAL DISABILITY BENEFITS PAID PURSUANT TO
27 SECTION 8-42-111.

1 (b) NOTWITHSTANDING ANY OTHER LAW, BENEFITS PAID TO AN
2 INDIVIDUAL UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO",
3 ARTICLES 40 TO 47 OF THIS TITLE 8, SHALL NOT BE REDUCED OR OFFSET
4 BASED ON THE RECEIPT OF PAID FAMILY AND MEDICAL LEAVE BENEFITS
5 PURSUANT TO THIS PART 4.

6 (c) COMBINED WORKERS' COMPENSATION BENEFITS AND PAID
7 FAMILY AND MEDICAL LEAVE BENEFITS PAID IN ACCORDANCE WITH
8 SUBSECTION (2)(a) OF THIS SECTION MUST NOT EXCEED A COVERED
9 INDIVIDUAL'S WEEKLY WAGE. WHERE COMBINED BENEFITS WOULD
10 OTHERWISE EXCEED THE COVERED INDIVIDUAL'S WEEKLY WAGE, THE
11 OFFSET PROVIDED FOR IN SUBSECTION (2)(a) OF THIS SECTION SHALL BE
12 INCREASED TO ENSURE COMBINED BENEFITS DO NOT EXCEED THE COVERED
13 INDIVIDUAL'S WEEKLY WAGE.

14 (d) (I) WHERE BENEFITS HAVE BEEN PAID PRIOR TO A
15 DETERMINATION OF ELIGIBILITY FOR TEMPORARY DISABILITY BENEFITS OR
16 PERMANENT TOTAL DISABILITY BENEFITS UNDER THE "WORKERS'
17 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF THIS TITLE 8,
18 PAID FAMILY AND MEDICAL LEAVE BENEFITS MAY BE RETROACTIVELY
19 REDUCED AS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION ONCE
20 WORKERS' COMPENSATION BENEFITS HAVE BEEN PAID. THE DIRECTOR MAY
21 ADOPT RULES TO DEVELOP A PROCEDURE FOR RECOVERING EXCESS
22 BENEFITS, WHICH MAY INCLUDE THE ASSERTION OF A LIEN AGAINST ANY
23 TEMPORARY DISABILITY BENEFITS OR PERMANENT TOTAL DISABILITY
24 BENEFITS PAID PURSUANT TO ARTICLES 40 TO 47 OF THIS TITLE 8. IF A
25 WORKERS' COMPENSATION CLAIM IS BROUGHT BY THE COVERED
26 INDIVIDUAL, AND THE COVERED INDIVIDUAL INCURS A PERSONAL
27 LIABILITY TO PAY ATTORNEY FEES AND COSTS, THE AMOUNT OF THE LIEN

1 MUST NOT EXCEED THE PAID FAMILY AND MEDICAL LEAVE BENEFITS, LESS
2 THE AMOUNT OF THOSE ATTORNEY FEES AND COSTS.

3 (II) A LIEN OR RECOVERY OF EXCESS BENEFITS PURSUANT TO THIS
4 SUBSECTION (2)(d) IS NOT A REDUCTION OR OFFSET OF BENEFITS PAID TO
5 AN INDIVIDUAL FOR PURPOSES OF SUBSECTION (2)(a) OF THIS SECTION.

6 (e) IF A COVERED INDIVIDUAL IS CONCURRENTLY ELIGIBLE FOR
7 BENEFITS DUE TO A SERIOUS HEALTH CONDITION RESULTING FROM AN
8 ACCIDENT, INJURY, OR OCCUPATIONAL DISEASE FOR WHICH THE RIGHT OF
9 COMPENSATION EXISTS UNDER SECTION 8-41-301 AND UNDER THIS PART
10 4 FOR A PURPOSE UNRELATED TO THAT SERIOUS HEALTH CONDITION, THE
11 PAID FAMILY AND MEDICAL LEAVE BENEFITS SHALL BE REDUCED BY AN
12 AMOUNT TO BE DETERMINED BY THE DIRECTOR BY RULE. COMBINED
13 WORKERS' COMPENSATION BENEFITS AND PAID FAMILY AND MEDICAL
14 LEAVE BENEFITS IN ACCORDANCE WITH THIS SUBSECTION (2)(e) MUST NOT
15 EXCEED A COVERED INDIVIDUAL'S WEEKLY WAGE. THE DIRECTOR SHALL
16 ADOPT RULES TO ESTABLISH THE PROCESS AND REQUIRED
17 DOCUMENTATION REQUIRED FOR CONCURRENT RECEIPT OF BENEFITS.

18 (3) (a) THIS PART 4 DOES NOT DIMINISH:

19 (I) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE UNDER
20 A COLLECTIVE BARGAINING OR PARTNERSHIP AGREEMENT, EMPLOYER
21 POLICY, OR EMPLOYMENT CONTRACT; OR

22 (II) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE
23 BARGAINING OR PARTNERSHIP AGREEMENT, EMPLOYER POLICY, OR
24 EMPLOYMENT CONTRACT, AS APPLICABLE, INCLUDING A REQUIREMENT TO
25 PROVIDE GREATER LEAVE THAN FMLA LEAVE OR PAID FAMILY AND
26 MEDICAL LEAVE BENEFITS.

27 (b) AFTER THE EFFECTIVE DATE OF THIS PART 4, AN EMPLOYER

1 POLICY ADOPTED OR RETAINED MUST NOT DIMINISH AN EMPLOYEE'S RIGHT
2 TO BENEFITS UNDER THIS PART 4. ANY AGREEMENT BY AN EMPLOYEE TO
3 WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS PART 4 IS VOID AS AGAINST
4 PUBLIC POLICY.

5 **8-13.3-416. Erroneous payments - disqualification for benefits**
6 **- penalties - rules.** (1) A COVERED INDIVIDUAL WHO, IN CONNECTION
7 WITH AN APPLICATION FOR BENEFITS UNDER THIS PART 4, WILLFULLY
8 MAKES A FALSE STATEMENT OR MISREPRESENTATION REGARDING A
9 MATERIAL FACT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT IS
10 DISQUALIFIED FROM:

11 (a) PAID FAMILY AND MEDICAL LEAVE BENEFITS FOR ONE YEAR
12 AFTER THE DATE THE OFFICE DISCOVERS THE FALSE STATEMENT,
13 MISREPRESENTATION, OR WILLFUL FAILURE TO REPORT A MATERIAL FACT;
14 AND

15 (b) EMPLOYMENT PROTECTION, AS PROVIDED IN SECTION
16 8-13.3-413 (1).

17 (2) IF PAID FAMILY AND MEDICAL LEAVE BENEFITS ARE PAID
18 ERRONEOUSLY OR AS A RESULT OF WILLFUL MISREPRESENTATION, OR IF A
19 CLAIM FOR PAID FAMILY AND MEDICAL LEAVE BENEFITS IS REJECTED
20 AFTER BENEFITS ARE PAID, THE OFFICE MAY SEEK REPAYMENT OF BENEFITS
21 FROM THE RECIPIENT. THE DIRECTOR SHALL EXERCISE DISCRETION TO
22 WAIVE, IN WHOLE OR IN PART, THE AMOUNT OF ANY REPAYMENTS WHERE
23 THE RECOVERY WOULD BE AGAINST EQUITY AND GOOD CONSCIENCE. THE
24 DIRECTOR MAY ADOPT RULES TO DEVELOP A PROCEDURE FOR RECOVERING
25 ERRONEOUS PAYMENTS OF BENEFITS.

26 **8-13.3-417. Rules.** THE DIRECTOR MAY ADOPT RULES AS
27 NECESSARY OR AS SPECIFIED IN THIS PART 4 FOR THE IMPLEMENTATION

1 AND ADMINISTRATION OF THIS PART 4. THE DIRECTOR SHALL PROMULGATE
2 RULES RELATED TO EMPLOYEE AND EMPLOYER RIGHTS AND OBLIGATIONS
3 CONSISTENT WITH THE SCOPE OF FMLA REGULATIONS IN 29 CFR PART
4 825.

5 **8-13.3-418. State personnel director's authority for family and**
6 **medical leave for state employees.** (1) FROM JULY 1, 2020 THROUGH
7 JUNE 30, 2022, THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH PAID
8 FAMILY AND MEDICAL LEAVE BENEFITS FOR STATE EMPLOYEES. THE PAID
9 FAMILY AND MEDICAL LEAVE BENEFITS MUST, AT A MINIMUM, BE
10 SUBSTANTIALLY THE SAME AS THE PAID FAMILY AND MEDICAL LEAVE
11 BENEFITS PROVIDED BY THIS PART 4.

12 (2) BEGINNING ON JULY 1, 2022, THE STATE PERSONNEL DIRECTOR
13 SHALL ESTABLISH PAID FAMILY AND MEDICAL LEAVE BENEFITS FOR STATE
14 EMPLOYEES IN AN AMOUNT EQUAL TO OR GREATER THAN THE BENEFITS IN
15 THIS PART 4.

16 **SECTION 2.** In Colorado Revised Statutes, **add** article 24 to title
17 10 as follows:

18 **ARTICLE 24**

19 **Paid Family and Medical Leave Insurance**

20 **10-24-101. Definitions.** AS USED IN THIS ARTICLE 24, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "COMMUNITY-RATED" MEANS A RATING METHODOLOGY IN
23 WHICH THE PREMIUM FOR ALL COVERED PERSONS IS THE SAME AND IS
24 BASED ON THE EXPERIENCE OF THE ENTIRE STATEWIDE POOL OF RISKS
25 COVERED BY THAT POLICY OR CONTRACT FORM WITHOUT REGARD TO
26 GEOGRAPHY, INDUSTRY, OR PERSONAL CHARACTERISTICS SUCH AS AGE,
27 SEX, GENDER, HEALTH STATUS, OR OCCUPATION.

1 (2) "PAID FAMILY AND MEDICAL LEAVE INSURANCE PLAN" OR
2 "PLAN" MEANS A PLAN TO PAY WAGE REPLACEMENT BENEFITS FOR AN
3 ELIGIBLE INDIVIDUAL WHO TAKES PAID FAMILY AND MEDICAL LEAVE
4 PURSUANT TO PART 4 OF ARTICLE 13.3 OF TITLE 8.

5 (3) "PROGRAM" MEANS THE PAID FAMILY AND MEDICAL LEAVE
6 INSURANCE PROGRAM CREATED IN SECTION 10-24-102.

7 (4) "RISK ADJUSTMENT MECHANISM" MEANS THE PROCESS USED TO
8 EQUALIZE THE PER MEMBER, PER MONTH CLAIM AMOUNTS AMONG
9 INSURERS IN ORDER TO PROTECT INSURERS FROM DISPROPORTIONATE
10 ADVERSE RISKS.

11 **10-24-102. Paid family and medical leave insurance program**
12 **- created - powers and duties.** (1) THERE IS HEREBY CREATED IN THE
13 DIVISION THE PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM,
14 THE HEAD OF WHICH IS THE COMMISSIONER. THE PROGRAM IS CREATED TO
15 MONITOR AND ENFORCE INSURER COMPLIANCE WITH THIS ARTICLE 24,
16 ADMINISTER THE RISK ADJUSTMENT MECHANISM SPECIFIED IN SECTION
17 10-24-107, ASSIST WITH CONSUMER COMPLAINTS RELATED TO INSURERS,
18 COLLECT DATA, AND AUDIT INSURERS.

19 (2) THE PROGRAM CONSTITUTES AN ENTERPRISE FOR PURPOSES OF
20 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AS LONG AS THE
21 PROGRAM RETAINS AUTHORITY TO ISSUE REVENUE BONDS AND THE
22 PROGRAM RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL
23 REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL
24 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. FOR AS LONG AS
25 IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SECTION, THE
26 PROGRAM IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
27 CONSTITUTION.

1 (3) THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SECTION HAS
2 ALL THE POWERS AND DUTIES AUTHORIZED BY THIS SECTION PERTAINING
3 TO THE ADMINISTRATION OF PAID FAMILY AND MEDICAL LEAVE INSURANCE
4 PLANS AND THE REGULATION OF INSURERS OFFERING PAID FAMILY AND
5 MEDICAL LEAVE INSURANCE PLANS.

6 (4) THE PROGRAM IS CREATED FOR THE BUSINESS PURPOSE OF
7 DEVELOPING A REGULATED AND STABLE INSURANCE MARKETPLACE THAT
8 MINIMIZES BARRIERS TO ENTRY AND ALLOWS INSURERS TO OFFER
9 AFFORDABLE PAID FAMILY AND MEDICAL LEAVE INSURANCE PLANS THAT
10 MEET THE REQUIREMENTS OF THIS ARTICLE 24.

11 (5) THE COMMISSIONER SHALL:

12 (a) SET PREMIUM RATES FOR PLANS;

13 (b) MONITOR AND ENFORCE INSURER COMPLIANCE TO PROTECT
14 INSURANCE CONSUMERS AND POLICYHOLDERS;

15 (c) ADMINISTER THE RISK ADJUSTMENT MECHANISM TO ENSURE A
16 FAIR AND EFFICIENT MARKETPLACE;

17 (d) ASSIST WITH CONSUMER COMPLAINTS RELATED TO INSURERS
18 TO PROTECT CONSUMER RIGHTS;

19 (e) COLLECT DATA TO ENSURE THE PROGRAM IS WORKING
20 EFFICIENTLY AND EFFECTIVELY; AND

21 (f) CONDUCT AUDITS OF INSURERS TO ENSURE APPROPRIATE
22 MARKETPLACE CONDUCT.

23 (6) NOTHING IN THIS SECTION LIMITS OR RESTRICTS THE
24 AUTHORITY OF THE PROGRAM TO EXPEND ITS REVENUES CONSISTENT WITH
25 THIS SECTION.

26 (7) THE PROGRAM IS HEREBY AUTHORIZED TO ISSUE REVENUE
27 BONDS FOR THE EXPENSES OF THE PROGRAM, WHICH BONDS MAY BE

1 SECURED BY ANY REVENUES OF THE PROGRAM.
2 (8) THE STATE TREASURER MAY TRANSFER MONEY FROM THE
3 GENERAL FUND TO THE PROGRAM FOR THE PURPOSE OF DEFRAYING
4 EXPENSES INCURRED BY THE PROGRAM PRIOR TO THE RECEIPT OF BOND
5 PROCEEDS OR REVENUES BY THE PROGRAM. THE PROGRAM MAY ACCEPT
6 ANDEXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY
7 STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE
8 THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY
9 CONCLUSION, SUCH A TRANSFER CONSTITUTES A LOAN FROM THE STATE
10 TREASURER TO THE PROGRAM AND SHALL NOT BE CONSIDERED A GRANT
11 FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE
12 CONSTITUTION. AS THE PROGRAM RECEIVES SUFFICIENT REVENUES IN
13 EXCESS OF EXPENSES, THE PROGRAM SHALL REIMBURSE THE GENERAL
14 FUND FOR THE PRINCIPAL AMOUNT OF ANY LOAN FROM THE GENERAL FUND
15 MADE BY THE STATE TREASURER PLUS INTEREST AT A RATE SET BY THE
16 STATE TREASURER. ANY MONEY LOANED FROM THE GENERAL FUND TO
17 THE OFFICE PURSUANT TO THIS SUBSECTION (3) SHALL BE DEPOSITED INTO
18 A SEPARATE ACCOUNT WITHIN THE PAID FAMILY AND MEDICAL LEAVE
19 INSURANCE ENTERPRISE FUND, WHICH IS HEREBY CREATED IN THE STATE
20 TREASURY.

21 **10-24-103. Paid family and medical leave insurance plans -**
22 **requirements - insurer fees - rules.** (1) AN INSURER MAY OFFER A PAID
23 FAMILY AND MEDICAL LEAVE INSURANCE PLAN IN THE STATE. AT A
24 MINIMUM, AN INSURER OFFERING A PLAN PURSUANT TO THIS ARTICLE 24
25 SHALL:

26 (a) PROVIDE WAGE REPLACEMENT FOR PAID FAMILY AND MEDICAL
27 LEAVE TAKEN IN ACCORDANCE WITH PART 4 OF ARTICLE 13.3 OF TITLE 8

1 IN AN AMOUNT THAT MEETS OR EXCEEDS THE AMOUNTS REQUIRED IN PART
2 4 OF ARTICLE 13.3 OF TITLE 8;

3 (b) COMPLY WITH THE APPLICABLE REQUIREMENTS OF PART 4 OF
4 ARTICLE 13.3 OF TITLE 8;

5 (c) OFFER THE PLAN TO SEASONAL WORKERS, AS DEFINED IN
6 SECTION 8-73-106, SELF-EMPLOYED WORKERS, AND ANY OTHER
7 INTERESTED EMPLOYERS AND EMPLOYEES;

8 (d) COMPLY WITH THE RATES ESTABLISHED BY THE
9 COMMISSIONER;

10 (e) PAY THE REQUIRED INSURER FEES AS ESTABLISHED BY THE
11 COMMISSIONER BY RULE IN ACCORDANCE WITH SUBSECTION (2) OF THIS
12 SECTION;

13 (f) PARTICIPATE AS A MEMBER INSURER IN THE LIFE AND HEALTH
14 INSURANCE PROTECTION ASSOCIATION CREATED IN ARTICLE 20 OF THIS
15 TITLE 10;

16 (g) COMPLY WITH ANY OTHER REQUIREMENTS ESTABLISHED BY
17 THE COMMISSIONER BY RULE; AND

18 (h) OFFER THE PLAN ON THE COLORADO HEALTH BENEFIT
19 EXCHANGE, CREATED IN ARTICLE 22 OF TITLE 10.

20 (2) AN INSURER OFFERING A PLAN PURSUANT TO THIS ARTICLE 24
21 SHALL PAY TO THE PROGRAM AN INSURER FEE IN THE AMOUNT
22 DETERMINED BY THE COMMISSIONER BY RULE. THE FEES ARE TO BE USED
23 FOR THE PURPOSE OF ADMINISTERING THE PAID FAMILY AND MEDICAL
24 LEAVE INSURANCE PROGRAM. THE COMMISSIONER SHALL DEPOSIT THE
25 FEES IN THE PAID FAMILY AND MEDICAL LEAVE INSURANCE ENTERPRISE
26 FUND.

27 **10-24-104. Claims - appeals - required payments. (1) IN**

1 COORDINATION WITH THE DIRECTOR OF THE OFFICE OF PAID FAMILY AND
2 MEDICAL LEAVE CREATED IN SECTION 8-13.3-404, THE COMMISSIONER
3 SHALL ADOPT RULES TO ESTABLISH PROCESSES AND PROCEDURES FOR
4 PROTECTING CONSUMERS AND THE DENIAL AND APPEAL OF CLAIMS
5 RELATED TO PAID FAMILY AND MEDICAL LEAVE INSURANCE PLANS. THE
6 COMMISSIONER SHALL COORDINATE THE CLAIMS AND APPEALS PROCESS
7 FOR PAID FAMILY AND MEDICAL LEAVE BENEFITS WITH THE DIRECTOR OF
8 THE DEPARTMENT OF LABOR AND EMPLOYMENT, TO ENSURE CLEAR LINES
9 OF ACCOUNTABILITY AND AUTHORITY FOR RESPONDING TO EMPLOYER,
10 EMPLOYEE, AND INSURER COMPLIANCE WITH THE DELIVERY OF PAID
11 FAMILY AND MEDICAL BENEFITS AS OUTLINED IN THIS ARTICLE AND IN
12 PART 4 OF ARTICLE 13.3 OF TITLE 8.

13 (2) THE COMMISSIONER HAS AUTHORITY OVER ALL ASPECTS OF
14 THE CLAIMS ADMINISTRATION AND ADJUDICATION PROCESS FOR PAID
15 FAMILY AND MEDICAL LEAVE INSURANCE PLANS. IN CONSULTATION AND
16 COORDINATION WITH THE DIRECTORS OF THE DEPARTMENT OF LABOR AND
17 EMPLOYMENT AND THE OFFICE OF PAID FAMILY AND MEDICAL LEAVE , THE
18 COMMISSIONER SHALL PROMULGATE RULES TO ESTABLISH PROCEDURES
19 AND TIMELINES FOR THE FOLLOWING:

20 (a) EMPLOYEE NOTIFICATION OF INTENT TO TAKE LEAVE TO THE
21 EMPLOYER AND THE INSURER, INCLUDING APPROPRIATE PROCEDURES FOR
22 HANDLING CONFIDENTIAL AND PRIVATE INFORMATION;

23 (b) FILING BENEFIT CLAIMS WITH THE INSURER OR THE EMPLOYER
24 IN THE CASE OF A SELF-FUNDED EMPLOYER, INCLUDING ACCEPTABLE
25 PROOF OF COVERAGE DOCUMENTATION;

26 (c) INSURER DETERMINATIONS OF CLAIMS AND NOTIFICATION OF
27 DECISIONS TO THE EMPLOYEE AND EMPLOYER;

1 (d) EMPLOYEE APPEALS OF BENEFIT DENIALS.

2 (e) IN ESTABLISHING CLAIMS AND APPEALS PROCESSES FOR PAID
3 FAMILY AND MEDICAL LEAVE INSURANCE PLANS, THE COMMISSIONER
4 SHALL CREATE AN EXPEDITED PROCESS THAT IS CONSUMER-FRIENDLY AND
5 ENSURES PROMPT PAYMENT OF CLAIMS.

6 (f) THE COMMISSIONER SHALL DETERMINE APPROPRIATE
7 PENALTIES FOR INSURERS THAT FAIL TO ADHERE TO REQUIRED PROCESSES
8 AND PROCEDURES FOR THE PROPER ADMINISTRATION AND ADJUDICATION
9 OF PAID FAMILY LEAVE BENEFITS, INCLUDING CLAIM APPEALS AND
10 DENIALS. PENALTIES FOR NONCOMPLIANCE MAY INCLUDE, BUT ARE NOT
11 LIMITED TO, THE PENALTIES AND REMEDIES AVAILABLE UNDER THE UNFAIR
12 METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES
13 IN THE BUSINESS OF INSURANCE, AS OUTLINED IN SECTION 10-3-1104, AND
14 THE UNREASONABLE DELAY OR DENIAL OF BENEFITS FOUND IN 10-3-1116.

15 **10-24-105. Guaranteed issuance of paid family and medical**
16 **leave insurance plans.** (1) (a) SUBJECT TO SUBSECTION (4) OF THIS
17 SECTION, EACH INSURER THAT OFFERS A PAID FAMILY AND MEDICAL LEAVE
18 INSURANCE PLAN IN THIS STATE SHALL ISSUE ANY APPLICABLE PLAN TO
19 ANY INDIVIDUAL WHO APPLIES FOR THE PLAN AND AGREES TO MAKE THE
20 REQUIRED PREMIUM PAYMENTS AND SATISFY THE OTHER REASONABLE
21 PROVISIONS OF THE PLAN CONSISTENT WITH THIS ARTICLE 24.

22 (b) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
23 EACH INSURER THAT OFFERS A PAID FAMILY AND MEDICAL LEAVE
24 INSURANCE PLAN IN THIS STATE SHALL ISSUE ANY PAID FAMILY AND
25 MEDICAL LEAVE INSURANCE PLAN TO ANY EMPLOYER THAT APPLIES FOR
26 THE PLAN AND AGREES TO MAKE THE REQUIRED PREMIUM PAYMENTS AND
27 SATISFY THE OTHER REASONABLE PROVISIONS OF THE PLAN CONSISTENT

1 WITH THIS ARTICLE 24.

2 (2) THE COVERAGE MUST EXTEND TO ALL EMPLOYEES WHO ARE
3 COVERED INDIVIDUALS AS DEFINED IN SECTION 8-13.3-403 (2).

4 (3) AN INSURER SHALL NOT APPLY A WAITING PERIOD FOR PLAN
5 BENEFITS FOR AN EMPLOYEE WHO IS AN ELIGIBLE INDIVIDUAL PURSUANT
6 TO SECTION 8-13.3-408.

7 (4) (a) AN INSURER IS NOT REQUIRED TO ISSUE A PLAN IF:

8 (I) FOR ANY PERIOD OF TIME THE INSURER DEMONSTRATES, AND
9 THE COMMISSIONER DETERMINES, THAT THE INSURER DOES NOT HAVE THE
10 FINANCIAL RESERVES NECESSARY TO UNDERWRITE ADDITIONAL
11 COVERAGE; AND

12 (II) THE INSURER IS APPLYING THIS SUBSECTION (4)(a) UNIFORMLY
13 TO ALL EMPLOYERS IN THIS STATE CONSISTENT WITH APPLICABLE STATE
14 LAW AND WITHOUT REGARD TO THE CLAIMS EXPERIENCE OF OR ANY
15 RISK-RELATED FACTOR RELATING TO THE EMPLOYER AND ITS EMPLOYEES.

16 (b) AN INSURER THAT DENIES COVERAGE IN ACCORDANCE WITH
17 SUBSECTION (4)(a)(I) OF THIS SECTION SHALL NOT OFFER A PLAN IN THIS
18 STATE UNTIL THE LATER OF:

19 (I) ONE HUNDRED EIGHTY DAYS AFTER THE DATE THE COVERAGE
20 IS DENIED; OR

21 (II) THE DATE ON WHICH THE INSURER DEMONSTRATES TO THE
22 COMMISSIONER THAT IT HAS SUFFICIENT FINANCIAL RESERVES TO
23 UNDERWRITE ADDITIONAL COVERAGE.

24 **10-24-106. Premium rates established by the commissioner -**
25 **limitations - rules.** (1) THE COMMISSIONER SHALL, BY RULE, ESTABLISH
26 THE PREMIUM RATES AT WHICH INSURERS SHALL OFFER A PLAN.

27 (2) THE RATES ESTABLISHED BY THE COMMISSIONER MUST:

- 1 (a) NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY
- 2 DISCRIMINATORY;
- 3 (b) BE ACTUARIALLY JUSTIFIED;
- 4 (c) ALLOW FOR INSURERS TO ESTABLISH SUFFICIENT RESERVES TO
- 5 COVER EXPECTED CLAIMS;
- 6 (d) BE STATEWIDE COMMUNITY RATED;
- 7 (e) BE BASED ON RELEVANT ACTUARIAL FACTORS, INCLUDING
- 8 ESTIMATED CLAIMS, AND PROVIDE FOR A MARGIN FOR PROFIT AND
- 9 ADMINISTRATIVE COSTS NOT TO EXCEED TWENTY-FIVE PERCENT;
- 10 (f) NOT VARY BASED ON GEOGRAPHIC LOCATION OF THE EMPLOYER
- 11 OR EMPLOYEE; AND
- 12 (g) BE SET UNIFORMLY FOR ALL EMPLOYEES.

13 **10-24-107. Risk adjustment mechanism - rules.** (1) THE
14 COMMISSIONER SHALL PROMULGATE RULES NECESSARY FOR THE
15 IMPLEMENTATION OF A RISK ADJUSTMENT MECHANISM BY WHICH:

- 16 (a) INSURERS ARE ASSESSED A CHARGE IF THE ACTUARIAL RISK OF
- 17 THEIR ENROLLEES FOR THAT YEAR IS LESS THAN THE AVERAGE ACTUARIAL
- 18 RISK OF ALL ENROLLEES IN ALL PLANS IN THE STATE FOR THAT YEAR; AND
- 19 (b) INSURERS RECEIVE A PAYMENT IF THE ACTUARIAL RISK FOR
- 20 THEIR ENROLLEES IS GREATER THAN THE AVERAGE ACTUARIAL RISK OF
- 21 ALL ENROLLEES IN ALL PLANS IN THE STATE FOR THAT YEAR.

22 (2) THE COMMISSIONER SHALL ADMINISTER THE RISK ADJUSTMENT
23 MECHANISM DIRECTLY OR SELECT A THIRD-PARTY ADMINISTRATOR.

24 **10-24-108. Audits.** (1) THE COMMISSIONER MAY:

- 25 (a) IN THE FORM AND MANNER DETERMINED BY THE
- 26 COMMISSIONER, REQUIRE AN INSURER OFFERING A PLAN PURSUANT TO THIS
- 27 ARTICLE 24 TO FILE A REPORT RELATING A CLAIM, INCLUDING DATES OF

1 COMMENCEMENT AND TERMINATION OF BENEFIT PAYMENTS AND THE
2 AMOUNT OF BENEFITS PAID PURSUANT TO THIS ARTICLE 24.

3 (b) REQUIRE AN INSURER TO PROVIDE ANNUAL INFORMATION
4 SPECIFYING THE AGGREGATE AMOUNTS OF BENEFITS PAID, THE NUMBER OF
5 CLAIMS ALLOWED AND DENIED, THE AVERAGE AMOUNT OF WEEKLY WAGE
6 BENEFITS PAID, THE AVERAGE DURATION OF BENEFIT PERIODS, THE
7 AMOUNT OF PAYROLLS COVERED, AND ANY OTHER INFORMATION THE
8 COMMISSIONER FINDS NECESSARY TO ADMINISTER THIS ARTICLE 24. IF THE
9 INSURER PROVIDES BENEFITS FOR MORE THAN ONE EMPLOYER, THE
10 COMMISSIONER MAY REQUIRE THE INFORMATION SPECIFIED IN THIS
11 SUBSECTION (1)(b) TO BE SHOWN SEPARATELY FOR EMPLOYERS THAT
12 PROVIDE ONLY BENEFITS THAT ARE SUBSTANTIALLY THE SAME AS
13 BENEFITS REQUIRED IN THIS ARTICLE 24.

14 **10-24-109. Rules.** (1) THE COMMISSIONER MAY PROMULGATE
15 RULES NECESSARY TO EFFECTUATE THIS ARTICLE 24.

16 (2) THE COMMISSIONER SHALL PROMULGATE RULES TO DEVELOP
17 POLICIES REGARDING THE FORM AND MANNER IN WHICH AN EMPLOYEE IS
18 REQUIRED TO NOTIFY AN INSURER OF THE EMPLOYEE'S INTENT TO TAKE
19 PAID FAMILY AND MEDICAL LEAVE. THE RULES MUST INCLUDE A
20 REQUIREMENT OF WRITTEN NOTICE AND PROOF OF NEED. IN
21 PROMULGATING THE RULES, THE COMMISSIONER SHALL CONSIDER THE
22 EMPLOYEE'S RIGHT TO PRIVACY.

23 **SECTION 3.** In Colorado Revised Statutes, 8-1-140, **add** (4) as
24 follows:

25 **8-1-140. Violation - penalty.** (4) (a) IN AN INVESTIGATION OF
26 EMPLOYER RETALIATION OR INTERFERENCE WITH EMPLOYEE RIGHTS, OR
27 OF FAILURE TO PROVIDE PAID FAMILY AND MEDICAL LEAVE BENEFITS

1 PURSUANT TO PART 4 OF ARTICLE 13.3 OF THIS TITLE 8, IF AN
2 INVESTIGATION YIELDS A DETERMINATION THAT:

3 (I) RIGHTS OF MULTIPLE EMPLOYEES HAVE BEEN VIOLATED, THE
4 VIOLATION AS TO EACH EMPLOYEE IS A SEPARATE VIOLATION FOR
5 PURPOSES OF FINES, PENALTIES, OR OTHER REMEDIES; AND

6 (II) A VIOLATION COST AN EMPLOYEE THE EMPLOYEE'S JOB, THE
7 DETERMINATION MAY INCLUDE AN ORDER TO REINSTATE THE EMPLOYEE,
8 TO PAY THE EMPLOYEE'S LOST PAY UNTIL REINSTATEMENT OR FOR A
9 REASONABLE PERIOD IF REINSTATEMENT IS DETERMINED NOT TO BE
10 FEASIBLE, OR BOTH.

11 (b) THE DEPARTMENT SHALL EMPLOY A STRATEGIC ENFORCEMENT
12 UNIT TO INVESTIGATE AND ISSUE DETERMINATIONS AS TO POSSIBLE
13 VIOLATIONS OF EMPLOYEE RIGHTS RELATED TO PAID FAMILY AND MEDICAL
14 LEAVE BENEFITS INCLUDING FAILURE TO PROVIDE PAID FAMILY AND
15 MEDICAL LEAVE BENEFITS, FAILURE TO PROVIDE EMPLOYMENT
16 RESTORATION AFTER PAID FAMILY AND MEDICAL LEAVE, INTERFERENCE
17 WITH PAID FAMILY AND MEDICAL LEAVE RIGHTS, AND DISCRIMINATION
18 AGAINST ANY PERSON FOR EXERCISING RIGHTS RELATED TO PAID FAMILY
19 AND MEDICAL LEAVE BENEFITS, PARTICIPATING IN PROCEEDINGS RELATED
20 TO PAID FAMILY AND MEDICAL LEAVE BENEFITS, AND OPPOSING OTHER
21 UNLAWFUL PRACTICES RELATED TO PAID FAMILY AND MEDICAL LEAVE
22 BENEFITS.

23 (c) DETERMINATIONS UNDER THIS SUBSECTION (4) ARE
24 APPEALABLE PURSUANT TO SECTION 8-4-111.5 AND RULES PROMULGATED
25 BY THE DEPARTMENT REGARDING APPEALS AND STRATEGIC
26 ENFORCEMENT.

27 **SECTION 4.** In Colorado Revised Statutes, 10-1-304, **amend** (1)

1 as follows:

2 **10-1-304. Authority and scope of market conduct surveillance**

3 - **rules.** (1) The commissioner may conduct market conduct surveillance
4 of any company as often as the commissioner, in the commissioner's sole
5 discretion, deems appropriate; EXCEPT THAT THE COMMISSIONER SHALL
6 CONDUCT AN EXAMINATION OF EACH INSURER OFFERING A PAID FAMILY
7 AND MEDICAL LEAVE INSURANCE PLAN PURSUANT TO ARTICLE 24 OF THIS
8 TITLE 10 AT LEAST ONCE EVERY THREE YEARS. When initiating market
9 conduct surveillance and in determining its nature, scope, and frequency,
10 the commissioner may consider any market analysis performed pursuant
11 to section 10-1-303 and any other criteria as set forth in the most recent
12 available edition of the Market Regulation Handbook.

13 **SECTION 5.** In Colorado Revised Statutes, 10-1-305, **amend** (1)
14 as follows:

15 **10-1-305. Market conduct examinations.** (1) The commissioner
16 may conduct a market conduct examination of any company as often as
17 the commissioner, in the commissioner's sole discretion, deems
18 appropriate; except that the commissioner shall:

19 (a) Rely upon the state of domicile to conduct market conduct
20 examinations of those eligible nonadmitted insurers regulated in
21 accordance with article 5 of this title 10; AND

22 (b) CONDUCT AN EXAMINATION OF EACH INSURER OFFERING A PAID
23 FAMILY AND MEDICAL LEAVE INSURANCE PLAN PURSUANT TO ARTICLE 24
24 OF THIS TITLE 10 AT LEAST ONCE EVERY THREE YEARS.

25 **SECTION 6.** In Colorado Revised Statutes, **add** 10-22-109.5 as
26 follows:

27 **10-22-109.5. Paid family and medical leave insurance**

1 **plans.** (1) BEGINNING JULY 1,2022, THE BOARD MAY ASSESS A SPECIAL
2 FEE AGAINST INSURERS IN AN AMOUNT NECESSARY TO PROVIDE FUNDING
3 FOR THE EXCHANGE AND NOT TO EXCEED REASONABLE COSTS INCURRED
4 BY THE EXCHANGE. THE BOARD SHALL DETERMINE THE AMOUNT OF THE
5 SPECIAL FEE BASED ON THE BOARD-APPROVED FINANCIAL PLAN AND
6 ANTICIPATED BUDGETARY NEEDS FOR THE UPCOMING YEAR TO COMPLY
7 WITH THIS ARTICLE 22.

8 (2) AMOUNTS ASSESSED AGAINST INSURERS PURSUANT TO THIS
9 SUBSECTION ARE NOT PREMIUMS FOR ANY PURPOSE, INCLUDING THE
10 COMPUTATION OF STATE TAX, OR AGENTS' COMMISSION. IF AN INSURER
11 FAILS TO PAY THE SPECIAL FEE, THE COMMISSIONER MAY, AFTER PROPER
12 NOTICE AND HEARING, SUSPEND OR REVOKE THE INSURER'S CERTIFICATE
13 OF AUTHORITY TO OFFER PAID FAMILY AND MEDICAL LEAVE INSURANCE
14 PLANS IN THIS STATE.

15 (3) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
16 THIS SECTION, WHICH RULES MUST INCLUDE:

17 (a) THE TIME PERIODS FOR THE BILLING AND COLLECTION OF THE
18 SPECIAL FEES; AND

19 (b) THE PROCESS FOR DETERMINING THE ALLOCATION OF THE
20 ASSESSMENT AMONG INSURERS, INCLUDING THE PROCESS FOR OBTAINING
21 ACCURATE INFORMATION ABOUT THE NUMBER OF BENEFIT PRODUCTS
22 ISSUED WITHIN THE SIX MONTHS PRIOR TO THE ASSESSMENT.

23 (4) AS USED IN THIS SECTION:

24 (a) "INSURER" HAS THE SAME MEANING AS SET FORTH IN SECTION
25 10-1-102 (13);

26 (b) "PAID FAMILY AND MEDICAL LEAVE INSURANCE PLAN" HAS THE
27 SAME MEANING AS SET FORTH IN SECTION 10-24-101 (2).

1 **SECTION 7.** In Colorado Revised Statutes, 24-50-104, **add**
2 (7)(e) as follows:

3 **24-50-104. Job evaluation and compensation - state employee**
4 **reserve fund - created - definitions - repeal. (7) Leaves.** (e) THE
5 STATE PERSONNEL DIRECTOR MAY ESTABLISH, ADMINISTER, AND ADOPT
6 LEAVE POLICIES, INCLUDING PAID FAMILY AND MEDICAL LEAVE BENEFITS
7 PURSUANT TO PART 4 OF ARTICLE 13.3 OF TITLE 8, ACCORDING TO BEST
8 PRACTICES, AS DETERMINED BY THE STATE PERSONNEL DIRECTOR.

9 **SECTION 8. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.