
DIGEST

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HB 1003 Original

2022 Regular Session

Carpenter

Abstract: Creates the Louisiana Family and Medical Leave Benefits Act.

Proposed law provides that proposed law shall be known and may be cited as the "Louisiana Family and Medical Leave Benefits Act".

Proposed law provides definitions for application year, average weekly wage, base period, benefits, benefit year, commission, covered individual, employer, family member, federal Family and Medical Leave Act, fund, qualifying military exigency leave, secretary, serious health condition, and state's average weekly wage.

Proposed law provides that beginning one year after the effective date of proposed law, family and medical leave benefits shall be paid to an employee who is a covered individual and who meets any of the following situations:

- (1) The covered individual is caring for a new child during the first year after birth, adoption, or placement through foster care.
- (2) The covered individual is caring for a family member with a serious health condition that renders that family member unable to care for himself.
- (3) The covered individual has a serious health condition that makes him unable to perform the functions of his position of employment.
- (4) The covered individual is caring for a military servicemember who is the covered individual's family member.
- (5) The leave falls under "qualifying military exigency leave".

Proposed law provides that benefits shall be payable to a covered individual who is employed and who has paid into the La. Family and Medical Leave Account Fund for a base period or to a covered individual who is employed on a part-time basis and received compensation for a minimum of 820 hours in the last five calendar quarters.

Proposed law provides that the maximum weeks that benefits will be paid is 12 weeks. Proposed law further provides that an additional four weeks may be provided for cases involving a serious health condition.

Proposed law provides that benefits shall not be payable for the first five consecutive calendar days in an application year or waiting period that a covered individual is eligible for benefits.

Proposed law provides that the first payment of benefits shall be made within two weeks after the claim is filed and subsequent payments shall be made twice a month.

Proposed law provides that the family and medical leave benefits shall be based on the covered individual's average weekly wage in relation to the state's average weekly wage.

Proposed law provides that the covered individual's average weekly wage shall be calculated by dividing the number of weeks in the benefit by the covered individual's earnings.

Proposed law provides that after calculating the covered individual's average weekly wage, the covered individual's weekly benefit amount shall be determined and paid pursuant to the following:

- (1) If the covered individual's calculated average weekly wage is less than 50% of the state's average weekly wage then he shall be entitled to 90% of his average weekly wage.
- (2) If the covered individual's calculated average weekly wage is equal to or greater than 50% of the state's average weekly wage then he shall be entitled to 50% of his average weekly wage.

Proposed law provides that benefits paid pursuant to proposed law that would also qualify as a reason for leave in accordance with the federal Family and Medical Leave Act (FMLA), then benefits paid shall run concurrently with leave taken under federal FMLA.

Proposed law provides that the covered individual is entitled to be restored to an equivalent position of employment in the same manner as one is entitled to in accordance with federal FMLA, if the covered individual satisfies the standards for reinstatement.

Proposed law that a covered individual may take family and medical leave on an intermittent leave schedule; however, that intermittent leave schedule shall not exceed 24 consecutive weeks, unless it is determined to be medically necessary.

Proposed law provides that a self-employed individual may elect for coverage provided for in proposed law for an initial period of not less than three years or a subsequent period of not less than one year immediately following another period of coverage.

Proposed law provides that the self-employed individual shall file a written notice of election of coverage with the secretary of the La. Workforce Commission (LWC) on a form promulgated by the secretary. Proposed law further provides the election of coverage will become effective on the date the written notice was filed with the secretary of LWC.

Proposed law provides that a self-employed individual may withdraw from coverage within 30 days after the end of the three-year period of coverage or at any other times as the LWC may prescribe

by rule. Proposed law further provides that in order to withdraw, the self-employed individual must file a written notice with the secretary of LWC and the withdrawal shall take effect no later than 30 days after filing of the written notice.

Proposed law provides that if a covered individual willfully makes a false statement or misrepresentation in order to receive family and medical leave benefits, then the covered individual will be disqualified from receiving benefits for one year.

Proposed law provides that the LWC may seek repayment of benefits if benefits were paid erroneously or were paid as a result of willful misrepresentation or if a claim is rejected after benefits have been paid.

Proposed law provides that any covered individual who is denied restoration to an equivalent position or discriminated against shall be entitled to recover a civil penalty of \$200 per each violation. Proposed law provides that each day a violation occurs shall constitute as a separate offense.

Proposed law provides that the aforementioned penalty shall not exceed the total compensation the covered individual would have received had he not been on family or medical leave.

Proposed law provides that the LWC shall establish and administer a family and medical leave program and pay benefits as specified in proposed law.

Proposed law provides that the LWC shall notify an employer within five business days of a claim that was filed.

Proposed law provides for the creation of a special fund known as the La. Family and Medical Leave Account Fund (the fund) in the state treasury.

Proposed law provides that all monies deposited or paid into the fund shall be appropriated and made available to the secretary of the LWC and shall be expended solely for the purpose of defraying the cost of administration and the payment of benefits.

Effective upon the passage of an Act that provides that monies from family and medical leave premium payments be deposited into the La. Family and Medical Leave Act Fund.

Effective upon signature by governor or lapse of time for gubernatorial action.

(Amends R.S. 44.4.1(B)(12); Adds R.S. 23:671-688)