

**Summary of H.66 (Paid Family and Medical Leave Insurance:
as Proposed by House General and Housing**

Sec. 1. Amends 21 V.S.A. § 471 (Eff. July 1, 2023)

- Adds definition of family member
- Adds definition of safe leave
 - Makes related amendments to the definition of employer (10 or more employees working an average of 30 hours/week) and employee (employed for 6 months and working 20 hours/week)
- Clarifies that parental leave includes leave to recover from childbirth or miscarriage and must occur within one year after birth/adoption
- Replaces definition of “serious illness” with “serious health condition,” which clarifies coverage for:
 - Injuries
 - Inpatient care in hospice and residential treatment facilities
 - Continuing treatment by a healthcare provider (rather than just a physician)
 - Rehabilitation from an injury or illness (including substance use disorder treatment)
- Define health care providers to include licensed health care providers, a health care provider authorized to practice in a foreign country the employee is visiting or where their family member is visiting or resides, and Christian Science practitioners
 - Essentially identical to the requirements under the federal Family and Medical Leave Act
- Adds cross-references to existing definitions of domestic partner, domestic violence, sexual assault, and stalking

Sec. 2. Amends 21 V.S.A. § 472 (Eff. July 1, 2023)

- Permits employees to take up to an additional 12 weeks in a 12-month period for safe leave
- Permits employees to elect to use up to 12 weeks of accrued paid leave (increased from 6) or private insurance benefits
- Clarifies notice requirements in the event of an unanticipated need for leave
- Establishes documentation that may be provided for safe leave
- Eliminates language permitting employee to waive leave rights

Sec. 3. Amends 21 V.S.A. § 471 (Eff. October 1, 2026)

- Amends definition of employer to extend coverage of job protected leave law to all Vermont employers
- Amends definition of employee to entitle employees receiving Paid Family and Medical Leave Insurance benefits to job-protected leave
- Combines definitions of family leave and parental leave into a single definition of “family leave”

Sec. 4. Amends 21 V.S.A. § 473 (Eff. October 1, 2026)

- Reflects combination of definitions of “family” and “parental” leaves
- Permits employees to elect to use Family and Medical Leave Insurance benefits as wage replacement during the leave

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Sec. 5. Creates 21 V.S.A. ch. 26: Family and Medical Leave Insurance

21 V.S.A. § 2051. Division of Family and Medical Leave; Director

- Creates Division of Family and Medical Leave in the Office of the Treasurer
- Establishes that Office will be run by a director that is appointed by and serves at the pleasure of the Treasurer

21 V.S.A. § 2052. Family and Medical Leave Insurance Program; Special Fund

- Creates Family and Medical Leave Insurance Program in the Division
- Creates a Special Fund for the Program
 - Fund consists of contributions collected
 - Fund can be spent on benefits and cost of administering the Program

21 V.S.A. § 2053. Contributions; Rate; Collection

- Establishes initial rate of contributions as 0.55%
 - 50-50 employer/employee split, employees cannot be required to pay more than 1/2 or 0.275%
 - Self-employed individuals must pay full 0.55% rate if they choose to participate
- Rate is updated annually by the Division
 - Determined based on projected benefits and administration costs plus 75% reserve
- Contributions are paid to the Department of Taxes in the same manner as income tax withholding on wages or quarterly payments on self-employment income
- Employers may opt out of withholding/paying contributions by establishing an approved private plan pursuant to 21 V.S.A. § 2059

21 V.S.A. § 2054. Benefits

- Up to 12 weeks total in a 12-month period
 - May use up to 12 weeks for family or safe leave
 - May use up to 2 out of the 12 weeks for bereavement leave
- Wage replacement is 100% up to State average weekly wage (Currently ~\$1,135/week)
- Benefits can be paid in increments of one day
- Benefits may be used as wage replacement for job-protected leave from work

21 V.S.A. § 2055. Eligibility

- Must be an employee or a self-enrolled individual who:
 - Made contributions in 2 of last 4 calendar quarters
 - Is unable to work due to:
 - Serious health condition
 - Caring for family member with serious health condition
 - Pregnancy
 - Recovery from childbirth or miscarriage
 - Caring for newborn, newly adopted child, or newly placed foster child within 1 year after birth/adoption/placement
 - Safe leave
 - Bereavement leave
 - Is not receiving disqualifying income pursuant to 21 V.S.A. § 2065

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21 V.S.A. § 2056. Application for Benefits

- Requires application and, to the extent possible, necessary documentation
 - Can be submitted by employee, enrolled self-employed individual, or employee/individual's agent
- Applications must be reviewed within 5 business days
 - Director can extend time by additional 15 business days if further documentation is required to approve leave
- Applications can be submitted up to 60 days before or up to 60 days after the leave begins

21 V.S.A. § 2057. Payment of Benefits; Tax Withholding

- Benefits are payable for full period of leave
- Benefit payments begin within 14 days after start of leave or approval of application, whichever is later
- Benefits cannot be garnished, except for child support, unpaid State taxes, or to recover overpaid benefits from a prior claim
- Benefits are subject to income tax withholding

21 V.S.A. § 2058. Elective Coverage

- Permits self-employed individuals to enroll in the Program
- Initial enrollment is three years and year-to-year after that
- Must agree to provide documentation of income to the Program
- Can be covered by Program as both an employee and self-employed individual (benefits based on combined wages and self-employment income)

21 V.S.A. § 2059. Employer Option; Private Plan

- Employers may opt-out of Program by providing private coverage to their employees
- Coverage can be provided through an insurance policy or self-insurance
- Must be approved by the Director
- Must provide:
 - Same or better
 - length and types of leave
 - Coverage for employees
 - Cost to employees
 - Wage replacement
 - Cannot impose any additional restrictions on use of leave
- Employer may opt-in or opt-out at the beginning of each calendar year
- Disputes regarding coverage under a private plan are appealable to the Division
- Private plan approval can be terminated if it fails to comply with requirements
- Employees covered by terminated private plan are treated as if they were enrolled in State Program

21 V.S.A. § 2060. Appeals

- Decisions relating to benefits or contributions may be appealed within 30 calendar days

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- Director's decision on appeal may be appealed to VT Supreme Court within 30 calendar days

21 V.S.A. § 2061. False Statement or Representation; Penalty

- Any person who makes an intentional false statement to obtain benefits or avoid paying contributions can be barred from receiving benefits for 1-3 years
- Employer that makes an intentional false statement to avoid payment of contributions can be fined up to \$5,000 in addition to being required to pay unpaid amounts

21 V.S.A. § 2062. Overpayment of Benefits; Collection

- Individuals are liable to repay any overpaid benefits they receive
 - Repayment is waived if (1) overpayment was caused by Division's mistake or unintentional error by a third-party **and** (2) requiring repayment would be "against equity and good conscience"
- Individual has right to appeal the determination of an overpayment
- Director may, upon request of the individual, reduce or waive overpayment for good cause

21 V.S.A. § 2063. Rulemaking

- Provides rulemaking authority to Director of Division of Family and Medical Leave Insurance and to Commissioner of Taxes

21 V.S.A. § 2064. Confidentiality of Information

- Any information that might reveal an individual or employer's identity is confidential and is not subject to the Public Records Act
- Individuals and employers may be provided with information as necessary to allow them to exercise their rights in relation to the Program

21 V.S.A. § 2065. Disqualifications

- An individual is disqualified from receiving benefits in any week that they are receiving:
 - Workers' compensation benefits for a temporary total disability
 - Workers' compensation benefits for a temporary partial disability related to the serious health condition for which the individual is seeking Family and Medical Leave Insurance benefits
 - Unemployment Insurance benefits
- An individual is disqualified from receiving benefits for any day that they are receiving:
 - Wages
 - Payments for accrued vacation leave, sick leave, or other accrued paid leave

21 V.S.A. § 2066. Protection from Retaliation or Interference

- Prohibits retaliation against any employee who exercises or attempts to exercise their right to seek Program benefits
- Prohibits interference with the right to seek benefits
- Prohibits employers from disciplining employees for taking leave that they receive benefits for

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- Creates a private right of action for employees who are retaliated against or whose rights are interfered with

21 V.S.A. § 2067. Notice

- Requires employers to post notice of the provisions of the chapter and to provide a copy of the notice to new employees

21 V.S.A. § 2068. Employer Obligations; Employee Rights

- Employers must comply with collective bargaining agreements, policies, and employment contracts that provide more generous benefits
- Collective bargaining agreements, employer policies, and employment contracts cannot limit any rights under the Program
- Employees are entitled to job protection under Vermont law (sections 1-4 of the bill) and the federal Family and Medical Leave Act
- Employees taking bereavement leave have the same job protection rights as employees taking family leave or safe leave

21 V.S.A. § 2069. Definitions

- In addition to highlighted definitions and changes from sections 1 and 3:
 - Average weekly earning is two highest earning quarters in last 4 completed quarters, divided by 26
 - Bereavement leave includes leave to settle or administer a family member's estate
 - Qualifying exigency has the same meaning as under FMLA

Sec. 6. Amends 32 V.S.A. § 3102(e)

- Provides authority for Commissioner of Taxes to share tax information with Division of Family and Medical Leave Insurance

Sec. 7. Adoption of Rules

- Requires rules to be adopted by April 1, 2025

Sec. 8. Education and Outreach

- Requires Division to develop and make available educational and outreach materials for employees and employers by June 1, 2025

Sec. 9. Appropriations; Advance Payment of State Contributions

- Appropriates \$20,000,000 for the Program to cover startup costs
- Amount will be credited against contributions due from State for State employees

Sec. 10. Adequacy of Reserves; Report

- Requires annual reports on the adequacy of the Program's reserves in January of 2026, 2027, 2028, and 2029

Sec. 11. Private Plans; Initial Approval

- Allows employers to have a private plan approved for the 2026 calendar year
- Employers with an approved plan will:

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- Be exempt from paying contributions in 2026
- Required to begin providing benefits on or before October 1, 2026
- Refunded any contributions paid in 2025

Sec. 12. Effective Dates

- Contributions begin being paid on July 1, 2025 and benefits become available on October 1, 2026