

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General and Housing to which was referred House Bill
3 No. 66 entitled “An act relating to paid family and medical leave insurance”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 **Sec. 1.** 21 V.S.A. § 471 is amended to read:

8 § 471. DEFINITIONS

9 As used in this subchapter:

10 (1) “Commissioner” means the Commissioner of Labor.

11 (2) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

12 (3) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

13 (4) “Employer” means an individual, organization, or governmental
14 body, partnership, association, corporation, legal representative, trustee,
15 receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,
16 air, or express company doing business in or operating within this State which
17 a person who for the purposes of parental leave and safe leave employs 10 or
18 more individuals who are employed for an average of at least 30 hours per
19 week during a year and for the purposes of family leave employs 15 or more
20 individuals for an average of at least 30 hours per week during a year.

1 ~~(2)~~(5) “Employee” means a person who, in consideration of direct or
2 indirect gain or profit, has been continuously employed by the same employer
3 for a period of one year for an average of at least 30 hours per week. [For
4 purposes of safe leave only, “employee” means a person who in consideration
5 of direct or indirect gain or profit, has been continuously employed by the
6 same employer for a period of six months for an average of at least 20 hours
7 per week.]

8 ~~(3)~~(6) “Family leave” means a leave of absence from employment by an
9 employee who works for an employer which employs 15 or more individuals
10 who are employed for an average of at least 30 hours per week during the year
11 for one of the following reasons:

12 (A) the serious ~~illness~~ health condition of the employee; or

13 (B) the serious ~~illness~~ health condition of the employee’s ~~child,~~
14 stepchild or ward who lives with the employee, foster child, parent, spouse, or
15 parent of the employee’s spouse family member.

16 ~~(4)~~(7) “Parental leave” means a leave of absence from employment by
17 an employee who works for an employer which employs 10 or more
18 individuals who are employed for an average of at least 30 hours per week
19 during the year for one of the following reasons:

20 (A) the employee’s pregnancy;

21 (B) recovery from childbirth or miscarriage;

1 ~~(A)~~(C) the birth of the employee’s child and to care for or bond with
2 the child within one year after the child’s birth; or

3 ~~(B)~~(D) the initial placement of a child ~~46~~ 18 years of age or younger
4 with the employee for the purpose of adoption or foster care and to care for or
5 bond with the child within one year after the placement for adoption or foster
6 care.

7 (8) “Family member” means:

8 (A) regardless of age, an employee’s biological, adopted, or foster
9 child; an employee’s stepchild or legal ward; a child of the employee’s spouse
10 or civil union or domestic partner; a child to whom the employee stands in loco
11 parentis; or an individual to whom the employee stood in loco parentis when
12 the individual was under 18 years of age;

13 (B)(i) a parent of an employee or an employee’s spouse or civil union
14 or domestic partner, regardless of whether the relationship to the employee or
15 employee’s spouse or civil union or domestic partner is a biological, foster,
16 adoptive, or step relationship;

17 (ii) a legal guardian of an employee or employee’s spouse or civil
18 union or domestic partner; or

19 (iii) a person who stands in loco parentis for the employee or who
20 stood in loco parentis when the employee or employee’s spouse or civil union
21 or domestic partner was under 18 years of age;

1 (C) A person to whom the employee is legally married under the laws
2 of any state or a civil union or domestic partner of an employee;

3 (D) A grandparent, grandchild, or sibling of the employee or the
4 employee’s spouse or civil union or domestic partner, regardless of whether
5 the relationship to the employee or the employee’s spouse or civil union or
6 domestic partner is a biological, foster, adoptive, or step relationship; or

7 (E) As shown by the employee, any other individual with whom the
8 employee has a significant personal bond that is or is like a family relationship,
9 regardless of biological or legal relationship under the totality of the
10 circumstances surrounding the relationship, including:

11 (i) evidence of shared financial responsibility, such as a shared
12 lease, common ownership of property, joint liability for bills, and beneficiary
13 designations;

14 (ii) evidence of responsibility for the other’s personal well-being,
15 including emergency contact designations or an advance directive, as that term
16 is defined pursuant to 18 V.S.A. § 9701;

17 (iii) evidence showing an expectation of care created by the
18 relationship or the prior provision of care, or both;

19 (iv) cohabitation for a period of at least six months or geographic
20 proximity; and

1 (v) other similar evidence demonstrating a significant personal
2 bond.

3 (9) “Health care provider” means a licensed health care provider or a
4 health care provider as defined pursuant to 29 C.F.R. § 825.125.

5 (10) “In loco parentis” means a relationship in which an individual has
6 day-to-day responsibilities to care for and financially support a child.

7 (11) “Safe leave” means a leave of absence from employment by an
8 employee because:

9 (A) the employee or the employee’s family member is a victim or
10 alleged victim of domestic violence, sexual assault, or stalking;

11 (B) the employee is using the leave for one of the following reasons
12 related to the domestic violence, sexual assault, or stalking:

13 (i) to seek or obtain medical care, counseling, or social or legal
14 services, either for themselves or for a family member;

15 (ii) to recover from injuries;

16 (iii) to participate in safety planning, either for themselves or for a
17 family member;

18 (iv) to relocate or secure safe housing, either for themselves or for
19 a family member; or

20 (v) to meet with a State’s Attorney or law enforcement officer;

21 and

1 (C) the employee is not the perpetrator or alleged perpetrator of the
2 domestic violence, sexual assault, or stalking.

3 ~~(5)~~(12) “Serious ~~illness~~ health condition” means:

4 (A) an accident, illness, injury, disease, or physical or mental
5 condition that:

6 ~~(A)~~(i) poses imminent danger of death;

7 ~~(B)~~(ii) requires inpatient care in a hospital, hospice, or residential
8 medical care facility; or

9 ~~(C)~~(iii) requires continuing in-home care under the direction of
10 treatment by a physician health care provider; or

11 (B) rehabilitation from an accident, illness, injury, disease, or
12 physical or mental condition described in subdivision (A) of this subdivision
13 (12), including residential treatment for substance use disorder.

14 (13) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

15 (14) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

16 Sec. 2. 21 V.S.A. § 472 is amended to read:

17 § 472. LEAVE

18 (a)(1) During any 12-month period, an employee shall be entitled to take
19 unpaid leave for a period not to exceed 12 weeks:

20 ~~(A)~~(A) for parental leave, during the employee’s pregnancy and
21 following the birth of an employee’s child or within a year following the initial

1 ~~placement of a child 16 years of age or younger with the employee for the~~
2 ~~purpose of adoption; or~~

3 ~~(2)(B) for family leave, for the serious illness of the employee or the~~
4 ~~employee's child, stepchild or ward of the employee who lives with the~~
5 ~~employee, foster child, parent, spouse, or parent of the employee's spouse.~~

6 (2) In addition to the leave provided pursuant to subdivision (1) of this
7 subsection, during any 12-month period an employee shall be entitled to take
8 unpaid leave for a period not to exceed 12 weeks for safe leave.

9 (b) During the leave, at the employee's option, the employee may use
10 accrued sick leave or, vacation leave or, any other accrued paid leave, ~~not to~~
11 ~~exceed six weeks~~ or short-term disability insurance or other insurance benefits.
12 Utilization of accrued paid leave or insurance benefits shall not extend the
13 leave provided ~~herein~~ by this section.

14 * * *

15 (d) The employer shall post and maintain in a conspicuous place in and
16 about each of ~~his or her~~ its places of business printed notices of the provisions
17 of this subchapter on forms provided by the Commissioner of Labor.

18 (e)(1) An employee shall give the employee's employer reasonable written
19 notice of intent to take leave under this subchapter section. Notice shall
20 include the date the leave is expected to commence and the estimated duration
21 of the leave.

1 (2) In the case of the adoption or birth of a child, an employer shall not
2 require that notice be given more than six weeks prior to the anticipated
3 commencement of the leave.

4 (3) In the case of an unanticipated serious health condition, a
5 miscarriage, an unanticipated need for safe leave, or a premature birth, the
6 employee shall give the employer notice of the commencement of the leave as
7 soon as practicable.

8 (4)(A) In the case of serious illness health condition of the employee or
9 a member of the employee’s family, an employer may require certification
10 from a physician to verify the condition and the amount and necessity for the
11 leave requested.

12 (B) An employer may require an employee to provide documentation
13 of the need for safe leave. An employee may provide documentation from any
14 one of the following sources:

15 (i) a court or a law enforcement or other government agency;

16 (ii) a domestic violence, sexual assault, or stalking assistance
17 program;

18 (iii) a legal, clerical, medical, or other professional from whom the
19 employee, or the employee’s family member, received counseling or other
20 assistance concerning domestic violence, sexual assault, or stalking; or

1 (iv) a self-certification of the employee's, or the employee's
2 family member's, status as a victim of domestic violence, sexual assault, or
3 stalking, signed under penalty of perjury, on a standard form adopted for that
4 purpose by:

5 (I) a federal or State government entity, including the Vermont
6 Department for Children and Families; or

7 (II) a nonprofit organization that provides support services to
8 protected tenants.

9 (C) An employer shall not disclose any private medical information
10 or information relating to a safe leave that the employer receives pursuant to
11 this subdivision (4) except to the extent the disclosure is permitted by law and:

12 (i) consented to by the employee in writing;

13 (ii) required pursuant to a court order; or

14 (iii) required pursuant to State or federal law.

15 (5) An employee may return from leave earlier than estimated upon
16 approval of the employer.

17 (6) An employee shall provide reasonable notice to the employer of his
18 or her ~~the~~ need to extend leave to the extent provided by this chapter.

19 (f) Upon return from leave taken under this subchapter, an employee shall
20 be offered the same or comparable job at the same level of compensation,
21 employment benefits, seniority, or any other term or condition of the

1 employment existing on the day leave began. This ~~subchapter~~ subsection shall
2 not apply if, prior to requesting leave, the employee had been given notice or
3 had given notice that the employment would terminate. This subsection shall
4 not apply if the employer can demonstrate by clear and convincing evidence
5 that:

6 (1) during the period of leave the employee's job would have been
7 terminated or the employee laid off for reasons unrelated to the leave or the
8 condition for which the leave was granted; or

9 (2) the employee performed unique services and hiring a permanent
10 replacement during the leave, after giving reasonable notice to the employee of
11 intent to do so, was the only alternative available to the employer to prevent
12 substantial and grievous economic injury to the employer's operation.

13 (g) An employer may adopt a leave policy more generous than the leave
14 policy provided by this subchapter. Nothing in this subchapter shall be
15 construed to diminish an employer's obligation to comply with any collective
16 bargaining agreement or any employment benefit program or plan ~~which~~ that
17 provides greater leave rights than the rights provided by this subchapter. A
18 collective bargaining agreement or employment benefit program or plan may
19 not diminish rights provided by this subchapter. ~~Notwithstanding the~~
20 ~~provisions of this subchapter, an employee may, at the time a need for parental~~
21 ~~or family leave arises, waive some or all the rights under this subchapter~~

1 ~~provided the waiver is informed and voluntary and any changes in conditions~~
2 ~~of employment related to any waiver shall be mutually agreed upon between~~
3 ~~employer and employee.~~

4 (h) Except for the serious illness health condition of the employee [or safe
5 leave when the employee is the victim or alleged victim], an employee who
6 does not return to employment with the employer who provided the leave shall
7 return to the employer the value of any compensation that the employer paid to
8 or on behalf of the employee during the leave, except payments for accrued
9 ~~sick leave or vacation leave.~~ An employer may elect to waive the rights
10 provided pursuant to this subsection.

11 Sec. 3. 21 V.S.A. § 471 is amended to read:

12 § 471. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (4) “Employer” means a person who for the purposes of parental leave
16 and safe leave employs 10 or more individuals who are employed for an
17 average of at least 30 hours per week during a year and for the purposes of
18 family leave employs 15 or more individuals for an average of at least 30 hours
19 per week during a year employs one or more individuals in Vermont.

20 (5) “Employee” means a person who;

1 (A) in consideration of direct or indirect gain or profit, has been
2 continuously employed by the same employer:

3 (i) for a period of one year for an average of at least 30 hours per
4 week; or

5 (ii) [For purposes of safe leave only, “employee” means a person
6 who in consideration of direct or indirect gain or profit, has been continuously
7 employed by the same employer for a period of six months for an average of at
8 least 20 hours per week]; or

9 (B) is employed by an employer and, during at least two of the last
10 four completed calendar quarters, has received payments with respect to
11 services performed for the employer from which the employer is required to
12 withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

13 (6) “Family leave” means a leave of absence from employment by an
14 employee for one of the following reasons:

15 (A) the serious health condition of the employee;

16 (B) the serious health condition of the employee’s family member.

17 (7) “Parental leave” means a leave of absence from employment by an
18 employee for one of the following reasons:

19 (A)(C) the employee’s pregnancy;

20 (B)(D) recovery from childbirth or miscarriage;

1 ~~(E)~~(E) the birth of the employee’s child and to care for or bond with
2 the child within one year after the child’s birth; or

3 ~~(D)~~(F) the initial placement of a child 18 years of age or younger
4 with the employee for the purpose of adoption or foster care and to care for or
5 bond with the child within one year after the placement for adoption or foster
6 care.

7 ~~(8)~~(7) “Family member” means:

* * *

9 ~~(9)~~(8) “Health care provider” means a licensed health care provider or a
10 health care provider as defined pursuant to 29 C.F.R. § 825.125.

11 ~~(10)~~(9) “In loco parentis” means a relationship in which an individual
12 has day-to-day responsibilities to care for and financially support a child.

13 ~~(11)~~(10) “Safe leave” means a leave of absence from employment by an
14 employee because:

* * *

16 ~~(12)~~(11) “Serious health condition” means:

* * *

18 ~~(13)~~(12) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

19 ~~(14)~~(13) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

20 Sec. 4. 21 V.S.A. § 472 is amended to read:

21 § 472. LEAVE

1 (a)(1) During any 12-month period, an employee shall be entitled to take
2 unpaid leave for a period not to exceed 12 weeks:

3 ~~(A) for parental leave; or~~

4 ~~(B) for family leave.~~

5 (2) In addition to the leave provided pursuant to subdivision (1) of this
6 subsection, during any 12-month period an employee shall be entitled to take
7 unpaid leave for a period not to exceed 12 weeks for safe leave.

8 (b) During the leave, at the employee's option, the employee may use
9 accrued sick leave, vacation leave, any other accrued paid leave, Family and
10 Medical Leave Insurance benefits pursuant to chapter 26 of this Title, or short-
11 term disability insurance or other insurance benefits. Utilization of accrued
12 paid leave, Family and Medical Leave Insurance benefits, or insurance benefits
13 shall not extend the leave provided by this section.

14 * * *

15 Sec. 5. 21 V.S.A. chapter 26 is added to read:

16 CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

17 § 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

18 (a) The Division of Family and Medical Leave is established in the Office
19 of the Treasurer to administer the Family and Medical Leave Insurance
20 Program established pursuant to this chapter.

1 (b)(1) The Treasurer shall appoint a Director of the Division. The Director
2 shall be a full-time State employee and exempt from the classified system and
3 shall serve at the pleasure of the Treasurer.

4 (2) The Director shall be responsible for:

5 (A) the operation and supervision of the Division of Family and
6 Medical Leave;

7 (B) the implementation of this chapter and any rules adopted
8 pursuant to section 2064 of this chapter; and

9 (C) employing staff as necessary to implement and carry out the
10 provisions of this chapter.

11 **§ 2052.** FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

12 SPECIAL FUND

13 (a) The Family and Medical Leave Insurance Program is established within
14 the Division of Family and Medical Leave for the provision of Family and
15 Medical Leave Insurance benefits to qualified individuals pursuant to the
16 provisions of this chapter.

17 (b) The Family and Medical Leave Insurance Special Fund is created
18 pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by
19 the Director and the Commissioner of Taxes for the administration of the
20 Family and Medical Leave Insurance Program, for the payment of benefits
21 provided pursuant to the provisions of this chapter, and for necessary costs

1 incurred in administering the Fund. All interest earned on Fund balances shall
2 be credited to the Fund.

3 (c) The Fund shall consist of:

4 (1) contributions collected pursuant to section 2054 of this chapter;

5 (2) amounts recovered or collected pursuant to sections 2062 and 2063
6 of this chapter; and

7 (3) any amounts appropriated to the Fund.

8 (d) The Director may seek and accept grants from any source, public or
9 private, to be dedicated for deposit into the Fund.

10 § 2053. CONTRIBUTIONS; RATE; COLLECTION

11 (a) The following contribution rates shall apply to employees and enrolled
12 self-employed individuals.

13 (1)(A) Contributions for employees shall equal 0.55 percent of each
14 employee's covered wages.

15 (B) An employer may deduct and withhold up to one half of the
16 contribution required for each employee from the employee's covered wages
17 and shall remit the full amount of the contribution required for the employee to
18 the Department of Taxes pursuant to the provisions of subsection (c) of this
19 section.

1 (C) As used in this subdivision (1), the term “covered wages” means
2 all wages paid to an employee by an employer up to an amount equal to two
3 times the maximum Social Security Contribution and Benefit Base.

4 (2)(A) Contributions from enrolled self-employed individuals shall
5 equal 0.55 percent of each enrolled self-employed individual’s covered work
6 income.

7 (B) As used in this subdivision (2), the term “covered work income”
8 means self-employment work income earned by an enrolled self-employed
9 individual in Vermont up to an amount equal to two times the maximum Social
10 Security Contribution and Benefit Base.

11 (b)(1) Annually, on or before October 1, the Director shall establish the rate
12 of contribution for the coming year. The Director shall annually set the rate so
13 that it generates contributions in an amount equal to the sum of the projected
14 amount necessary to provide benefits pursuant to this chapter during the next
15 calendar year plus a reserve equal to at least nine months of the projected
16 benefit payments for the next calendar year plus the projected cost to
17 administer the Program during the next calendar year minus any balance
18 projected to be remaining in the Fund from the prior calendar year.

19 (2) The rate of contribution shall be the same for the covered wages of
20 employees and the covered work income of enrolled self-employed individuals
21 and shall not exceed one percent.

1 (3) In the event that the Director determines that the rate of contribution
2 for any calendar year shall be one percent, the Director shall, not more than 14
3 days after making the determination, submit a written report to the Joint Fiscal
4 Committee, the House Committees on Appropriations, on General and
5 Housing, and on Ways and Means, and the Senate Committees on
6 Appropriations, on Economic Development, Housing and General Affairs, and
7 on Finance that provides a detailed explanation of the reason for the increase,
8 whether the rate is sufficient to pay the projected benefits and administrative
9 costs during the next calendar year while maintaining the required reserve, the
10 solvency of the Fund, and recommended legislative action to reduce the rate of
11 contribution in the following calendar year.

12 (c)(1) The Commissioner of Taxes shall collect the contributions required
13 pursuant to this section and shall deposit them into the Fund.

14 (2)(A) Employers shall withhold contributions pursuant to subdivision
15 (a)(1) of this section from wages that employers pay to employees as if the
16 contributions were Vermont income tax subject to the withholding
17 requirements of 32 V.S.A. chapter 151, subchapter 4. The administrative and
18 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the
19 contribution and withholding requirements under this section as if the
20 contributions due pursuant to subdivision (a)(1) of this section were Vermont
21 income tax.

1 (B) Employers shall be responsible for the full amount of any unpaid
2 contributions due pursuant to subdivision (a)(1) of this section.

3 (3) Enrolled self-employed individuals shall make installment payments
4 of estimated contributions pursuant to subdivision (a)(2) of this section from
5 the enrolled self-employed individual’s covered work income as if the
6 contributions were Vermont income tax subject to the estimated payment
7 requirements of 32 V.S.A. chapter 151, subchapter 5. The administrative and
8 enforcement provisions of 32 V.S.A. chapter 151 shall apply to the estimated
9 payment requirement under this section as if the contributions due pursuant to
10 subdivision (a)(2) of this section were Vermont income tax.

11 (d) An employer with an approved private plan pursuant to section 2060 of
12 this chapter shall not be required to withhold and pay contributions pursuant to
13 this section.

14 § 2054. BENEFITS

15 (a)(1) A qualified individual shall be permitted to receive a total of not
16 more than 12 weeks of benefits in a 12-month period for family and medical
17 leave and safe leave taken by the employee.

18 (2) A qualified individual may use up to two out of the 12 weeks of
19 benefits available to the individual during a 12-month period for bereavement
20 leave.

1 (b) A qualified individual awarded benefits under this section shall receive
2 100 percent of the individual’s average weekly earnings or an amount equal to
3 the State average weekly wage determined pursuant to section 1338 of this
4 title, whichever is less.

5 (c) A qualified individual may receive benefits for an intermittent leave or
6 leave for a portion of a week. The benefit amount for an intermittent leave or
7 leave for a portion of a week shall be calculated in increments of one full day
8 or one-fifth of the qualified individual’s weekly benefit amount.

9 (d) Benefits paid pursuant to this chapter may be used as wage replacement
10 for a leave taken pursuant to section 472 of this title or the federal Family and
11 Medical Leave Act, 29 U.S.C. §§ 2611–2654. The receipt of benefits paid
12 pursuant to this chapter shall not extend the leave provided pursuant to
13 section 472 of this title or the federal Family and Medical Leave Act.

14 § 2055. ELIGIBILITY

15 An individual shall be eligible to receive benefits pursuant to the provisions
16 of this chapter if:

17 (1) the individual is an employee or an enrolled self-employed individual
18 who:

19 (A) earned wages from which contributions were withheld pursuant
20 to section 2054 of this chapter in two of the last four calendar quarters;

1 (B) made contributions to the Fund on covered work income that was
2 earned during two of the last four calendar quarters; or

3 (C) both;

4 (2) the individual is unable to work because the individual:

5 (A) has a serious **health condition**;

6 (B) is caring for a family member with a serious **health condition**;

7 (C) is pregnant;

8 (D) is recovering from childbirth or miscarriage;

9 (E) is caring for a new child during the first year following the birth,
10 adoption, or placement for foster care of that child;

11 (F) is taking safe leave; or

12 (G) is taking a bereavement leave; and

13 (3) the Director determines that the individual is not disqualified
14 pursuant to section 2066 of this chapter.

15 § 2056. APPLICATION FOR BENEFITS

16 (a)(1) An employee or enrolled self-employed individual, or the
17 employee's or enrolled self-employed individual's agent, may apply for
18 benefits pursuant to this chapter by filing an application with the Division in a
19 form approved by the Director.

20 (2) An employee or enrolled self-employed individual, or the
21 employee's or enrolled self-employed individual's agent, shall, to the extent

1 possible, submit documentation of the need for the leave together with the
2 application filed pursuant to subdivision (1) or this subsection. The Director
3 shall specify acceptable forms of documentation on the application form.

4 (b)(1) The Division shall review each application and any accompanying
5 documentation and determine if the employee or enrolled self-employed
6 individual is eligible to receive benefits pursuant to section 2055 of this
7 chapter not later than five business days after the date the application is filed
8 with the Division.

9 (2) Notwithstanding subdivision (1) of this subsection, the Director may
10 extend the time in which to make a determination by not more than 15 business
11 days if necessary to obtain documents or information that are needed to make
12 the determination.

13 (c) An employee or enrolled self-employed individual may file an
14 application for benefits up to 60 calendar days before an anticipated family and
15 medical leave, safe leave, or bereavement leave or, in the event of a premature
16 birth, an unanticipated serious health condition, safe leave or, the death of a
17 family member within 60 calendar days after commencing a family and
18 medical leave, safe leave, or bereavement leave.

19 § 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

20 (a) Benefits shall be paid to a qualified individual for the time period
21 beginning on the day the qualified individual's leave began.

1 **(b) A qualified individual’s first benefit payment shall be sent within 14**
2 **calendar days after the qualified individual’s claim is approved or the**
3 **individual’s leave begins, whichever is later, and subsequent payments shall be**
4 **sent biweekly.**

5 **(c)(1) Except as otherwise provided pursuant to section 2062 of this**
6 **chapter and subdivision (2) and (3) of this subsection, benefits paid pursuant to**
7 **the provisions of this chapter shall not be assignable before payment and shall**
8 **be exempt from all claims of creditors, and from levy, execution, attachment,**
9 **trustee process, and any other remedy provided for the recovery or collection**
10 **of a debt.**

11 **(2)(A) An individual filing a new claim for benefits pursuant to this**
12 **chapter shall, at the time of filing, notify the Division of whether the individual**
13 **owes child support obligations.**

14 **(B) If, during the review of the individual’s application, the Director**
15 **determines that the individual has outstanding, unpaid child support**
16 **obligations, the Director shall deduct and withhold an amount necessary to pay**
17 **the outstanding, unpaid child support obligations from any benefits payable to**
18 **the individual pursuant to this chapter and remit that amount to the appropriate**
19 **child support enforcement agency. [The amount deducted and withheld from**
20 **an individual’s benefits pursuant to this subdivision (B) shall not exceed 50**
21 **percent of the benefit payment to the individual.]**

1 (C) In the absence of any outstanding, unpaid child support
2 obligation, an individual may request that the Director deduct and withhold a
3 specified amount from the individual’s benefits and remit that amount to the
4 appropriate entity as payment of the individual’s child support obligations.

5 (3) If an individual has outstanding Vermont State tax liability, the
6 Director shall deduct and withhold the outstanding amount from the benefits
7 payable to the individual pursuant to this chapter and remit it to the
8 Commissioner of Taxes. [The amount deducted and withheld from an
9 individual’s benefits pursuant to this subdivision shall not exceed 50 percent of
10 the benefit payment to the individual.]

11 (d)(1) An individual filing a claim for benefits pursuant to this chapter
12 shall, at the time of filing, be advised that Family and Medical Leave Insurance
13 benefits may be subject to income tax and that the individual’s benefits may be
14 subject to withholding.

15 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
16 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
17 followed in relation to the payment of benefits.

18 § 2058. ELECTIVE COVERAGE

19 (a) A self-employed individual may elect to obtain coverage through the
20 Program for an initial period of three years by filing a notice of the election
21 with the Division on a form provided by the Director.

1 (b) A self-employed individual who elects to obtain coverage pursuant to
2 this section shall agree as a condition of obtaining coverage to provide to the
3 Director and the Commissioner of Taxes any documentation of the self-
4 employed individual’s work income and any related information that the
5 Director, in consultation with the Commissioner of Taxes, determines is
6 necessary.

7 (c)(1) An enrolled self-employed individual may terminate the coverage at
8 the end of the initial three-year period by providing the Director with written
9 notice of the termination at least 30 calendar days before the end of the period.

10 (2) An enrolled self-employed individual who does not terminate
11 coverage at the end of the initial three-year period may terminate the coverage
12 at the end of any succeeding annual period by providing the Director with
13 written notice of the termination at least 30 calendar days before the end of the
14 period.

15 (3) Notwithstanding subdivisions (1) and (2) of this subsection, an
16 enrolled self-employed individual who becomes an employee or stops working
17 in Vermont may elect to terminate coverage pursuant to this section by
18 providing the Director with 30 calendar days’ written notice in accordance
19 with rules adopted by the Director.

1 (d) Nothing in this section shall be construed to prevent an individual who
2 is both an employee and a self-employed individual from electing to obtain
3 coverage pursuant to this section.

4 § 2059. EMPLOYER OPTION; PRIVATE PLAN

5 (a)(1) As an alternative to and in lieu of participating in the Program, an
6 employer may, upon approval by the Director, comply with the requirements
7 of this chapter through a private plan that provides to all of its employees
8 benefits that are equal to or more generous than the benefits provided pursuant
9 to this chapter.

10 (2) An employer may elect to provide such benefits by:

11 (A) establishing and maintaining to the satisfaction of the Director
12 necessary self-insurance; or

13 (B) purchasing insurance coverage from an insurance carrier
14 authorized to provide family and medical leave insurance in this State.

15 (b)(1) The Director shall approve a private plan under this section upon
16 making a determination that it:

17 (A) provides leave for periods that are equal to or more generous than
18 the leave provided pursuant to this chapter;

19 (B) provides coverage for all employees who would otherwise be
20 eligible for benefits pursuant to this chapter;

21 (C) costs employees the same or less than the employees' portion of

1 the contribution would be pursuant to subsection 2054(a) of this chapter;

2 (D) provides coverage for all forms of leave for which benefits may
3 be paid pursuant to this chapter;

4 (E) provides wage replacement in an amount that is equal to or
5 greater than the rate of wage replacement provided pursuant to section 2055 of
6 this chapter;

7 (F) imposes no additional restrictions or conditions on the use of paid
8 leave benefits beyond the restrictions and conditions that are established
9 pursuant to this chapter and the rules adopted by the Director; and

10 (G) satisfies any additional requirements established in rules adopted
11 by the Director in consultation with the Commissioner of Financial Regulation.

12 (2) Nothing in this section shall be construed to require the benefits
13 provided by a private insurance or benefit plan to be identical to the benefits
14 provided pursuant to this chapter.

15 (c)(1)(A) An employer shall submit an application to the Director for
16 approval of a new or modified private plan on or before October 15 of the
17 calendar year prior to when it is proposed to take effect.

18 (B) The Director shall make a determination and notify the employer
19 of whether its application has been approved on or before December 1. If the
20 application is approved, the Director shall also provide a copy of the notice to
21 the Commissioner of Taxes on or before December 1.

1 (2) Following the approval of its private plan, an employer shall cease to
2 participate in the Program beginning on the next January 1 and the approval
3 shall remain in effect until it is terminated pursuant to subdivision (3) of this
4 subsection.

5 (3) An employer with an approved private plan may terminate the
6 approval effective January 1 of any year by filing notice of termination with
7 the Director and the Commissioner of Taxes on or before November 1 of the
8 prior year.

9 (d) A contested determination or a denial of benefits under a private plan
10 approved pursuant to this section shall be subject to appeal pursuant to section
11 2061 of this chapter.

12 (e)(1) The Director may terminate the approval of a private plan approved
13 pursuant to this section if the Director determines that the terms and conditions
14 of the plan have been violated, including if the plan:

15 (A) fails to pay benefits in a timely manner or in a manner that is
16 consistent with the plan's terms;

17 (B) misuses private plan funds;

18 (C) fails to submit required reports to the Director; or

19 (D) fails to comply with any applicable provisions of law or with
20 rules adopted by the Director.

1 (2) The Director shall provide notice to the employer of the proposed
2 termination that includes the date on which the approval will terminate and the
3 reason for the termination.

4 (3) An employer may appeal the termination to the Director in
5 accordance with rules adopted by the Director.

6 (f) Each employee covered by an approved private plan on the date it is
7 terminated shall, for purposes of determining eligibility for benefits pursuant to
8 the provisions of this chapter, be treated as if the employer had paid
9 contributions for that employee pursuant to the provisions of section 2053 of
10 this chapter throughout the period of the employee's employment with the
11 employer.

12 § 2060. APPEALS

13 (a)(1) An employer or individual aggrieved by a decision of the Director
14 relating to eligibility for benefits, the amount of benefits that a qualified
15 individual is entitled to receive, or the amount of contributions due may file
16 with the Director a petition for reconsideration within 30 calendar days after
17 receipt of the decision. The petition shall set forth in detail the grounds upon
18 which it is claimed that the decision is erroneous and may include materials
19 supporting that claim.

20 (2) If an employer petitions the Director to reconsider a decision relating
21 to an application for benefits or the amount of benefits that a qualified

1 individual is entitled to receive, the Director shall promptly notify the
2 individual who applied for the benefits of the petition by ordinary, certified, or
3 electronic mail and provide the individual with an opportunity to file an answer
4 to the employer's petition.

5 (3) The Director shall promptly notify the employer or individual, or
6 both, as appropriate, of the Director's decision by ordinary, certified, or
7 electronic mail.

8 (b) An employer or individual aggrieved by the Director's decision on
9 reconsideration may file an appeal with the Supreme Court within 30 calendar
10 days after receiving the decision.

11 (c) Any determination, redetermination, finding of fact, conclusion of law,
12 decision, order, or judgment entered or made pursuant to this section shall only
13 be binding on the Division and all parties in that proceeding and is not binding,
14 conclusive, or admissible in any separate or subsequent action between an
15 individual and any other party brought before an arbitrator, court, or judge of
16 this State or of the United States, regardless of whether the prior proceeding
17 was between the same or related parties or involved the same facts.

18 § 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

19 (a)(1) An individual who intentionally makes a false statement or
20 representation for the purpose of obtaining any benefit or payment or to avoid
21 payment of any required contributions under the provisions of this chapter,

1 whether for themselves or for any other person, after notice and opportunity for
2 hearing, shall be prohibited from receiving benefits pursuant to this chapter for
3 a period of not less than one year and not more than three years as determined
4 to be appropriate by the Director.

5 (2) The penalty imposed pursuant to this section shall be in addition to
6 any liability incurred by the individual pursuant to section 2063 of this chapter.

7 (b) A person who intentionally makes a false statement to avoid payment of
8 any required contributions under the provisions of this chapter shall, after
9 notice and an opportunity for a hearing, be liable for:

10 (1) the full amount of unpaid contributions; and

11 (2) an administrative penalty of not more than \$5,000.00.

12 (c)(1) The administrative penalty imposed pursuant to subsection (b) of this
13 section may be collected in a civil action in Superior Court brought in the
14 name of the Director. If the action is successful, the Director shall be entitled
15 to recover the Division's costs and reasonable attorney's fees incurred in
16 bringing the action.

17 (2) Any amounts recovered and any penalties collected pursuant to this
18 section shall be deposited in the Fund.

19 § 2062. OVERPAYMENT OF BENEFITS; COLLECTION

20 (a)(1) Any individual who by nondisclosure or misrepresentation of a
21 material fact, by either the individual or another person, receives benefits that

1 the individual is not eligible to receive shall be liable to repay to the Division
2 the amount received in excess of the amount, if any, that the individual is
3 eligible to receive.

4 **[Option 1]**

5 (2)(A) Notwithstanding the provisions of subdivision (1) of this
6 subsection, an individual shall not be liable to repay an overpayment of
7 benefits if the overpayment results from the Division mistakenly approving the
8 individual's application for benefits.

9 (B) Notwithstanding the provisions of subdivision (1) of this
10 subsection, with respect to an overpayment caused by any other mistake of the
11 Division or by an unintentional error or omission of another person, the
12 Director:

13 (i) may waive an overpayment, in whole or in part, if the amount
14 of the overpayment is greater than [10] percent of the benefit amount the
15 individual was actually entitled to; and

16 (ii) shall waive the full amount of an overpayment if the amount
17 of the overpayment is equal to [10] percent or less of the benefit amount the
18 individual was actually entitled to.

19 **[Option 2:]**

20 (2) Notwithstanding the provisions of subdivision (1) of this subsection,
21 the Director may waive an overpayment, in whole or in part, if it was:

1 (A) caused by the Division’s mistake or an unintentional error or
2 omission by another person; and

3 (B) the Director determines that requiring repayment would be
4 against equity and good conscience.

5 [Option 3:]

6 (2) Notwithstanding the provisions of subdivision (1) of this subsection,
7 the Director shall waive an overpayment if it was:

8 (A) caused by the Division’s mistake or an unintentional error or
9 omission by another person; and

10 (B) the Director determines that requiring repayment would be
11 against equity and good conscience.

12 (3) Upon determining that an individual is liable for an overpayment of
13 benefits pursuant to subdivision (1) of this subsection, the Director shall
14 provide the individual with notice of the determination. The notice shall
15 include a statement that the individual is liable to repay to the Division the
16 amount of overpaid benefits and shall identify the basis of the overpayment
17 and the time period in which the benefits were paid. The notice shall also
18 provide information regarding the individual’s right to appeal the
19 determination pursuant to the provisions of section 2061 of this chapter.

20 (4) The determination shall be made within not more than three years
21 after the date of the overpayment.

1 (b)(1) An individual liable under this section shall repay the overpaid
2 amount to the Director for deposit into the Fund.

3 (2) The Director may collect the amounts due under this section in a
4 civil action in the Superior Court.

5 (3) An individual may, at any time, request that the Director reduce or
6 waive the amount for which the individual is liable pursuant to subsection (a)
7 of this section. Upon receipt of a request, the Director may reduce or waive
8 the amount for which an individual is liable for good cause or as the Director
9 deems appropriate and just.

10 (c) If an individual is liable to repay any amount pursuant to this section,
11 the Director may withhold, in whole or in part, any future benefits payable to
12 the individual pursuant to this chapter and credit the withheld benefits against
13 the amount due from the individual until it is repaid in full.

14 (d) In addition to the remedy provided pursuant to this section, an
15 individual who intentionally misrepresented or failed to disclose a material fact
16 with respect to the individual's claim for benefits may be subject to the
17 penalties provided pursuant to section 2062 of this chapter.

18 § 2063. RULEMAKING

19 (a) The Commissioner of Taxes, in consultation with the Director, shall
20 adopt rules as necessary to implement the provisions of this chapter related to
21 the collection of contributions pursuant to section 2053 of this chapter.

1 (b) The Director shall adopt rules as necessary to implement all other
2 provisions of this chapter.

3 § 2064. CONFIDENTIALITY OF INFORMATION

4 (a) Information obtained from an employer or individual in the
5 administration of this chapter and determinations of an individual's right to
6 receive benefits that reveal an employer's or individual's identity in any
7 manner shall be kept confidential and shall be exempt from public inspection
8 and copying under the Public Records Act. Such information shall not be
9 admissible as evidence in any action or proceeding other than one brought
10 pursuant to the provisions of this chapter.

11 (b) Notwithstanding subsection (a) of this section:

12 (1) an individual or the individual's agent may be provided with
13 information to the extent necessary for the proper presentation of the
14 individual's claim for benefits or to inform the individual of the individual's
15 existing or prospective rights to benefits; and

16 (2) an employer may be provided with information that the Director or
17 the Commissioner of Financial Regulation or of Taxes determines is necessary
18 to enable the employer to discharge fully its obligations and protect its rights
19 under this chapter.

20 § 2065. DISQUALIFICATIONS

1 (a) An individual shall be disqualified from receiving benefits for any week
2 in which the individual has received:

3 (1)(A) compensation for temporary total disability under the workers’
4 compensation law of any state or under a similar law of the United States; or

5 (B) compensation for temporary partial disability related to the
6 serious health condition for which the individual is seeking benefits pursuant to
7 this chapter; or

8 (2) unemployment compensation benefits under the law of any state.

9 (b) An individual shall be disqualified from receiving benefits for any day
10 in which the individual has received:

11 (1) wages; or

12 (2) remuneration for vacation leave, sick leave, or any other accrued
13 paid leave.

14 § 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

15 (a) An employer shall not discharge or in any other manner retaliate against
16 an employee who exercises or attempts to exercise the rights provided pursuant
17 to this chapter. The provisions against retaliation in subdivision 495(a)(8) of
18 this title shall apply to this chapter.

19 (b) An employer shall not interfere with, restrain, or otherwise prevent an
20 employee from exercising or attempting to exercise the employee’s rights
21 pursuant to this chapter.

1 (c) An employer shall not treat any leave for which benefits are provided
2 pursuant to this chapter as an absence that may lead to or result in discipline,
3 discharge, demotion, suspension, or any other adverse employment action.

4 (d) An employee aggrieved by a violation of the provisions of this section
5 may bring an action in Superior Court seeking compensatory and punitive
6 damages or equitable relief, including restraint of prohibited acts, restitution of
7 wages or other benefits, reinstatement, costs, reasonable attorney’s fees, and
8 other appropriate relief.

9 § 2067. NOTICE

10 (a) An employer shall post and maintain in a conspicuous place in and
11 about each of its places of business printed notices of the provisions of this
12 chapter on forms provided by the Director.

13 (b) An employer shall provide written notice of the provisions of this
14 chapter to new employees within 30 calendar days after the date on which they
15 are hired.

16 § 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

17 (a) Nothing in this chapter shall be construed to diminish an employer’s
18 obligation to comply with any collective bargaining agreement, employer
19 policy, or employment agreement that provides more generous benefits than
20 the benefits provided pursuant to this chapter.

1 (b) Nothing in this chapter shall be construed to diminish any rights,
2 privileges, and protections provided to an employee pursuant to a collective
3 bargaining agreement, employer policy, or employment agreement.

4 (c)(1) An employee taking family and medical leave shall be entitled to all
5 of the rights and protections provided pursuant to section 472 of this title and
6 the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654.

7 (2) An employee taking safe leave shall be entitled to all of the rights
8 and protections provided pursuant to section 472d of this title.

9 (d) Any agreement to waive the rights and protections provided to an
10 employee pursuant to this chapter shall be void.

11 (e) An employee taking bereavement leave for which benefits are paid
12 pursuant to this chapter shall be entitled to the following rights and protections:

13 (1) Upon return from the leave, the employee shall be offered the same
14 or a comparable job at the same level of compensation, employment benefits,
15 seniority, or any other term or condition of the employment existing on the day
16 the leave began.

17 (A) The provisions of this subdivision (1) shall not apply if, prior to
18 requesting leave, the employee had been given notice or had given notice that
19 the employment would terminate.

20 (B) The provisions of this subdivision (1) shall not apply if the
21 employer can demonstrate by clear and convincing evidence that:

1 (i) during the period of leave the employee’s job would have been
2 terminated or the employee laid off for reasons unrelated to the leave; or

3 (ii) the employee performed unique services and hiring a
4 permanent replacement during the leave, after giving reasonable notice to the
5 employee of intent to do so, was the only alternative available to the employer
6 to prevent substantial and grievous economic injury to the employer’s
7 operation.

8 (2) The employer shall continue the employee’s employment benefits
9 for the duration of the leave at the level and under the conditions coverage
10 would be provided if the employee continued in employment continuously for
11 the duration of the leave. The employer may require that the employee
12 contribute to the cost of the employment benefits during the leave at the
13 existing rate of employee contribution.

14 § 2069. DEFINITIONS

15 As used in this chapter:

16 (1) “Agent” means an individual who holds a valid power of attorney
17 for an employee or self-employed individual or another legal authorization to
18 act on the employee or self-employed individual’s behalf that is acceptable to
19 the Director.

20 (2) “Average weekly earnings” means the sum of a qualified
21 individual’s wages, if any, upon which contributions have been paid pursuant

1 to section 2054 of this chapter during the individual’s two highest-earning
2 quarters plus the qualified individual’s self-employment income, if any, upon
3 which contributions have been paid pursuant to section 2054 of this chapter
4 during the individual’s two highest-earning quarters divided by 26.

5 (3) “Benefits” means Family and Medical Leave Insurance benefits
6 provided pursuant to this chapter.

7 (4) “Bereavement leave” means a leave of absence from employment or
8 self-employment by an individual due to the death of the individual’s family
9 member that occurs not more than one year after the family member’s death.

10 Bereavement leave includes leave taken in relation to the administration or
11 settlement of the deceased family member’s estate. Leave taken in relation to
12 the administration or settlement of the deceased family member’s estate may
13 occur more than one year after the family member’s death.

14 (5) “Director” means the Director of the Division of Family and Medical
15 Leave.

16 (6) “Division” means the Division of Family and Medical Leave in the
17 Office of the Treasurer.

18 (7) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

19 (8) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

20 (9) “Employee” means an individual who receives payments with
21 respect to services performed for an employer from which the employer is

1 required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151,
2 subchapter 4.

3 (10) “Employer” means a person who employs one or more employees.

4 (11) “Enrolled self-employed individual” means a self-employed
5 individual who has obtained coverage under the Program pursuant to section
6 2059 of this chapter.

7 (12) “Family and medical leave” means a leave of absence from
8 employment or from self-employment by a qualified individual for one of the
9 following reasons:

10 (A) the qualified individual’s own serious health condition;

11 (B) to care for a family member with a serious health condition;

12 (C) the qualified individual’s pregnancy;

13 (D) recovery from childbirth or miscarriage;

14 (E) the birth of the qualified individual’s child and to care for or bond
15 with the qualified individual’s child within one year after the child’s birth;

16 (F) the initial placement of a child 18 years of age or younger with
17 the qualified individual for the purpose of adoption or foster care and to care
18 for or bond with the child within one year after the placement for adoption or
19 foster care; or

1 (G) a qualifying exigency arising out of a qualified individual’s
2 family member’s active duty service in the U.S. Armed Forces or notice of an
3 impending call or order to active duty in the U.S. Armed Forces.

4 (13) “Family member” means:

5 (A) regardless of age, a qualified individual’s biological, adopted, or
6 foster child; a qualified individual’s stepchild or legal ward; a child of the
7 qualified individual’s spouse or civil union or domestic partner; a child to
8 whom the qualified individual stands in loco parentis; or an individual to
9 whom the qualified individual stood in loco parentis when the individual was
10 under 18 years of age;

11 (B)(i) a parent of a qualified individual or qualified individual’s
12 spouse or civil union or domestic partner, regardless of whether the
13 relationship to the qualified individual or qualified individual’s spouse or civil
14 union or domestic partner is a biological, foster, adoptive, or step relationship;

15 (ii) a legal guardian of a qualified individual or qualified
16 individual’s spouse or civil union or domestic partner; or

17 (iii) a person who stands in loco parentis for the qualified
18 individual or who stood in loco parentis when the qualified individual or
19 qualified individual’s spouse or civil union or domestic partner was under 18
20 years of age;

1 (C) a person to whom the qualified individual is legally married
2 under the laws of any state or a civil union or domestic partner of a qualified
3 individual;

4 (D) a grandparent, grandchild, or sibling of the qualified individual or
5 qualified individual’s spouse or civil union or domestic partner, regardless of
6 whether the relationship to the qualified individual or the qualified individual’s
7 spouse or civil union or domestic partner is a biological, foster, adoptive, or
8 step relationship; or

9 (E) as shown by the qualified individual, any other individual with
10 whom the qualified individual has a significant personal bond that is or is like
11 a family relationship, regardless of biological or legal relationship, under the
12 totality of the circumstances surrounding the relationship, including:

13 (i) evidence of shared financial responsibility, such as a shared
14 lease, common ownership of property, joint liability for bills, and beneficiary
15 designations;

16 (ii) evidence of responsibility for the other’s personal well-being,
17 including emergency contact designations or an advance directive, as that term
18 is defined pursuant to 18 V.S.A. § 9701;

19 (iii) evidence showing an expectation of care created by the
20 relationship or the prior provision of care, or both;

1 (iv) cohabitation for a period of at least six months or geographic
2 proximity; and

3 (v) other similar evidence demonstrating a significant personal
4 bond.

5 (14) “Health care provider” means a licensed health care provider or a
6 health care provider as defined pursuant to 29 C.F.R. § 825.125.

7 (15) “Highest earning quarters” means the two calendar quarters of the
8 last four completed calendar quarters when an individual earned the highest
9 combined total of wages upon which contributions were paid pursuant to
10 section 2054 of this chapter and self-employment income upon which
11 contributions were paid pursuant to section 2054 of this chapter.

12 (16) “In loco parentis” means a relationship in which an individual has
13 day-to-day responsibilities to care for and financially support a child.

14 (17) “Program” means the Family and Medical Leave Insurance
15 Program created pursuant to this chapter.

16 (18) “Qualified individual” means an employee or enrolled self-
17 employed individual who:

18 (A) satisfies the eligibility requirements established pursuant to
19 section 2056 of this chapter; and

20 (B) has submitted an application and all necessary documentation of
21 the need for the leave pursuant to section 2057 of this chapter.

1 (19) “Qualifying exigency” means a qualifying exigency related to
2 active duty service in the U.S. Armed Forces that is identified pursuant to 29
3 C.F.R. § 825.126.

4 (20) “Safe leave” means a leave of absence from employment or self-
5 employment by a qualified individual because:

6 (A) the qualified individual or the qualified individual’s family
7 member is a victim of domestic violence, sexual assault, or stalking;

8 (B) the qualified individual is using the leave for one of the following
9 reasons related to the domestic violence, sexual assault, or stalking:

10 (i) to seek or obtain medical care, counseling, or social or legal
11 services, either for themselves or for a family member;

12 (ii) to recover from injuries;

13 (iii) to participate in safety planning, either for themselves or for a
14 family member;

15 (iv) to relocate or secure safe housing, either for themselves or for
16 a family member; or

17 (v) to meet with a State’s Attorney or law enforcement officer;

18 and

19 (C) the qualified individual is not the alleged perpetrator of the
20 domestic violence, sexual assault, or stalking.

1 (21) “Self-employed individual” means a sole proprietor or partner
2 owner of an unincorporated business, the sole member of an LLC, or the sole
3 shareholder of a corporation.

4 (22) “Self-employment income” has the same meaning as in 26 U.S.C.
5 § 1402.

6 (23) “Serious health condition” means:

7 (A) an accident, illness, injury, disease, or physical or mental
8 condition that:

9 (i) poses imminent danger of death;

10 (ii) requires inpatient care in a hospital, hospice, or residential
11 medical care facility; or

12 (iii) requires continuing treatment by a health care provider; or

13 (B) rehabilitation from an accident, illness, injury, disease, or
14 physical or mental condition described in subdivision (A) of this subdivision
15 (23), including residential treatment for substance use disorder.

16 (24) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

17 (25) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

18 (26) “U.S. Armed Forces” means:

19 (A) the U.S. Army, Navy, Air Force, Marine Corps, Space Force, and
20 Coast Guard;

1 (B) a reserve component of the U.S. Army, Navy, Air Force, Marine
2 Corps, Space Force, and Coast Guard; or

3 (C) the National Guard of any state.

4 (27) “Wages” means payments that are included in the definition of
5 wages set forth in 26 U.S.C. § 3401.

6 Sec. 6. 32 V.S.A. § 3102(e) is amended to read:

7 (e) The Commissioner may, in the Commissioner’s discretion and subject
8 to such conditions and requirements as the Commissioner may provide,
9 including any confidentiality requirements of the Internal Revenue Service,
10 disclose a return or return information:

11 * * *

12 (22) To the Treasurer, the Commissioner of Financial Regulation, and to
13 the Director of the Division of Family and Medical Leave, provided the return
14 or return information relates to the provision of family and medical leave
15 insurance under 21 V.S.A. chapter 26.

16 Sec. 7. ADOPTION OF RULES

17 (a) On or before April 1, 2025, the Director of the Division of Family and
18 Medical Leave shall adopt rules necessary to implement the provisions of 21
19 V.S.A. chapter 26.

1 (b) On or before April 1, 2025, the Commissioner of Taxes, in consultation
2 with the Director of the Division of Family and Medical Leave, shall adopt
3 rules as necessary to carry out the provisions of 21 V.S.A. §§ 2054 and 2070.

4 (c) On or before April 1, 2025, the Commissioner of Financial Regulation,
5 in consultation with the Director of the Division of Family and Medical Leave,
6 shall adopt rules as necessary to carry out the provisions of 21 V.S.A. § 2060.

7 **Sec. 8. EDUCATION AND OUTREACH**

8 (a) On or before June 1, 2025, the Director of the Division of Family and
9 Medical Leave shall develop and make available on the Division’s website
10 information and materials to educate and inform employers and employees
11 about the Family and Medical Leave Insurance Program established pursuant
12 to 21 V.S.A. chapter 26.

13 (b) The Director shall make available translations of all information and
14 materials created pursuant to subsection (a) of this section on the Division’s
15 website in the five most commonly spoken languages in Vermont after
16 English.

17 (c) The Division’s website shall be accessible to individuals with
18 disabilities in accordance with WCAG 2.1 AA or a similar updated standard.

1 **Sec. 9.** APPROPRIATION; ADVANCE PAYMENT OF STATE

2 CONTRIBUTIONS

3 (a) The amount of \$20,000,000.00 is appropriated to the Family and
4 Medical Leave Insurance Special Fund from the General Fund.

5 (b) The amount appropriated pursuant to subsection (a) of this section shall
6 be considered an advance payment of the State's portion of the contributions
7 due for State employees pursuant to 21 V.S.A. § 2054(a). The State shall
8 receive a credit against the contributions due from the State pursuant to 21
9 V.S.A. § 2054 equal to 100 percent of the State's portion of the contributions
10 due until the cumulative amount of the credit equals the amount appropriated
11 pursuant to subsection (a) of this section.

12 **Sec. 10.** ADEQUACY OF RESERVES; REPORT

13 Annually, on or before January 15, 2026, 2027, 2028, and 2029, the
14 Director of the Division of Family and Medical Leave, in consultation with the
15 Commissioners of Finance and Management, of Financial Regulation, and of
16 Taxes, shall submit a written report to the House Committees on
17 Appropriations; on General and Housing; and on Ways and Means and the
18 Senate Committees on Appropriations; on Economic Development, Housing
19 and General Affairs; and on Finance regarding the amount and adequacy of the
20 reserves in the Family and Medical Leave Insurance Special Fund and any

1 recommendations for legislative action necessary to ensure that an adequate
2 reserve is maintained in the Fund.

3 **Sec. 11. PRIVATE PLANS; INITIAL APPROVAL**

4 (a) Notwithstanding any provisions of 21 V.S.A. § 2059 to the contrary, an
5 employer wishing to utilize a private plan to meet their obligations pursuant to
6 21 V.S.A. chapter 26 beginning on October 1, 2026 shall submit an application
7 for approval of a private plan pursuant to the applicable requirements of 21
8 V.S.A. § 2059 on or before January 15, 2026.

9 (b) The Commissioner shall determine if the proposed plan satisfies the
10 requirements of 21 V.S.A. § 2059 and notify the employer of whether its
11 application has been approved not later than March 1, 2026. If the application
12 is approved, the Commissioner shall provide a copy of the notice to the
13 Commissioners of Taxes.

14 (c) An employer that receives approval for a private plan pursuant to this
15 section shall, beginning on April 1, 2026, be exempt from withholding and
16 paying contributions as provided pursuant to 21 V.S.A. 2053(d).

17 **Sec. 12. EFFECTIVE DATES**

18 (a) This section and Secs. 1, 2, 5, 6, 7, 8, 9, 10, and 11 shall take effect on
19 July 1, 2023.

20 (b) Secs. 3 and 4 shall take effect on October 1, 2026.

1 (c) Contributions shall begin to be paid pursuant to 21 V.S.A. § 2053 on
2 July 1, 2025, and, beginning on October 1, 2026, employees may begin to
3 apply for and receive benefits pursuant to 21 V.S.A. chapter 26.
4
5
6
7
8

9 (Committee vote: _____)

10 _____
11 Representative _____

12 FOR THE COMMITTEE