

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred House Bill No.
3 107 entitled “An act relating to paid family leave” respectfully reports that it
4 has considered the same and recommends that the bill be amended by striking
5 out all after the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. PURPOSE

7 It is the intent of the General Assembly that:

8 (1) the Family and Medical Leave Insurance Program established by this
9 Act shall provide employees with affordable Family and Medical Leave
10 Insurance benefits;

11 (2) the Commissioner of Labor shall seek a private insurance carrier to
12 provide the benefits required under the Program; and

13 (3) if the Commissioner is able to identify an insurance carrier that can
14 provide the required benefits at a lower administrative cost than would be
15 possible if benefits were provided by the Department of Labor, the
16 Commissioner shall enter into a contract with that insurance carrier to
17 administer the Program and provide the benefits required by this act.

18 Sec. 2. 21 V.S.A. chapter 5, subchapter 13 is added to read:

19 Subchapter 13. Family and Medical Leave Insurance

20 § 571. DEFINITIONS

21 As used in this subchapter:

1 (1) “Average weekly wage” means the employee’s total wages from his
2 or her two highest-earning quarters in the last four completed calendar quarters
3 divided by 26.

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

5 (3) “Employee” means an individual who receives payments with
6 respect to services performed for an employer from which the employer is
7 required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151,
8 subchapter 4.

9 (4) “Employer” means an individual, organization, governmental body,
10 partnership, association, corporation, legal representative, trustee, receiver,
11 trustee in bankruptcy, and any common carrier by rail, motor, water, air, or
12 express company doing business in or operating within this State.

13 (5) “Family member” means the employee’s:

14 (A) child, step child or ward who lives with the employee, or foster
15 child;

16 (B) spouse, domestic partner, or civil union partner;

17 (C) parent or the parent of the employee’s spouse, domestic partner,
18 or civil union partner;

19 (D) grandchild;

20 (E) grandparent; or

1 (F) a child for whom the employee stands in loco parentis or an
2 individual who stood in loco parentis for the employee when he or she was a
3 child.

4 (6) “In loco parentis” means a child for whom the employee has day-to-
5 day responsibilities to care for and financially support, or, in the case of the
6 employee, an individual who had such responsibility for the employee when he
7 or she was a child.

8 (7) “Family and medical leave” means a leave of absence from
9 employment by an employee for:

10 (A) his or her own serious illness, provided he or she is not eligible to
11 receive workers’ compensation pursuant to 21 V.S.A. chapter 9 for the serious
12 illness;

13 (B) a serious illness of the employee’s family member;

14 (8) “Parental and bonding leave” means a leave of absence from
15 employment by an employee for:

16 (A) the employee’s pregnancy;

17 (B) the birth of the employee’s child; or

18 (C) the initial placement of a child 18 years of age or younger with
19 the employee for the purpose of adoption or foster care.

20 (9) “Qualified employee” means an employee who has:

1 (A) earned wages in at least six months during the last four
2 completed calendar quarters; and

3 (B) earned wages during the last four completed calendar quarters in
4 an amount that is equal to or greater than 1,040 hours at the minimum wage
5 established pursuant to section 384 of this chapter.

6 (10) “Serious illness” means an accident, disease, or physical or mental
7 condition that:

8 (A) poses imminent danger of death;

9 (B) requires inpatient care in a hospital; or

10 (C) requires continuing in-home care under the direction of a
11 physician.

12 (11) “Vermont’s weekly livable wage” means a 40-hour workweek paid
13 at the rate of the livable wage determined by the Joint Fiscal Office pursuant to
14 2 V.S.A. § 505.

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

17 § 572. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

18 ADMINISTRATION

19 (a) The Family and Medical Leave Insurance Program is established in the
20 Department of Labor for the provision of Family and Medical Leave Insurance
21 benefits to eligible employees pursuant to this section.

1 (b)(1) The Commissioner of Labor shall endeavor to identify and contract
2 with a suitable insurance company to provide paid family and medical leave
3 insurance in accordance with this subchapter.

4 (2) On or before September 30, 2019, the Commissioner of Labor, in
5 consultation with the Commissioners of Financial Regulation, of Human
6 Resources, and of Taxes, shall develop and issue a request for proposals for an
7 insurance carrier to provide family and medical leave insurance that satisfies
8 the requirements of this subchapter. An insurance carrier shall not be selected
9 unless it can demonstrate that it would be able to provide the required family
10 and medical leave insurance benefits and comply with the provisions of this
11 subchapter at a lower administrative cost than if the Family and Medical Leave
12 Insurance Program were administered by the State.

13 (3) The Commissioner of Labor, in consultation with the
14 Commissioners of Financial Regulation, of Human Resources, and of Taxes,
15 shall evaluate the proposals received in response to the request for proposals
16 and shall select a proposal that:

17 (A) satisfies the requirements of this subchapter; and

18 (B) will provide the required family and medical leave insurance
19 benefits and comply with the provisions of this subchapter at a lower
20 administrative cost than if the Family and Medical Leave Insurance Program
21 were administered by the State.

1 (4) An agreement with an insurance carrier to provide family and
2 medical leave insurance pursuant to this subsection shall include a clause that
3 permits the Commissioner of Labor to terminate the agreement for
4 noncompliance with this chapter.

5 (5)(A) An agreement with an insurance carrier pursuant to this
6 subsection shall be for a period of not more than four years.

7 (B) Not later than six months prior to the expiration on the agreement
8 pursuant to this subsection, the Commissioner of Labor shall determine
9 whether to renew the agreement for an additional period of not more than four
10 years or to issue a new request for proposals for an insurance carrier to provide
11 family and medical leave insurance that satisfies the requirements of this
12 subchapter.

13 (c) In the event that the Commissioner of Labor is unable to secure a
14 suitable insurance carrier pursuant to subsection (b) of this section, the Paid
15 Family and Medical Leave Insurance Program shall be administered by the
16 Department of Labor pursuant to the provisions of this subchapter.

17 § 573. CONTRIBUTIONS

18 (a) An employer that does not elect to meet its obligations under this
19 subchapter as provided pursuant to section 576 shall remit the contributions
20 required by subsection (b) of this section to the Commissioner of Taxes on a

1 quarterly basis beginning with the calendar quarter that starts on January 1,
2 2020.

3 (b)(1) Contributions shall be equal to 0.50 percent of each employee’s
4 covered wages.

5 (2) An employer shall have the option of paying some or all of the
6 contributions due for an employee’s covered wages or may deduct and
7 withhold the full amount of the contribution due from the employee’s covered
8 wages.

9 (c) As used in this section, the term “covered wages” shall include all
10 wages paid to an employee up to the amount of the maximum Social Security
11 Taxable Wage.

12 (d)(1) The General Assembly shall annually review and, if necessary,
13 adjust the rate of contribution established pursuant to subsection (b) of this
14 section for the next fiscal year. The rate shall equal the amount necessary to
15 provide Family and Medical Leave Insurance benefits pursuant to this
16 subchapter, to administer the Family and Medical Leave Insurance Program
17 during the next fiscal year, and, if necessary, to maintain an adequate reserve.

18 (2) On or before February 1 of each year, the Commissioner of Labor, in
19 consultation with the insurance carrier that the State has contracted with, if
20 any, and the Commissioners of Financial Regulation and of Taxes, shall report
21 to the General Assembly the rate of contribution necessary to provide Family

1 and Medical Leave Insurance benefits pursuant to this subchapter, to
2 administer the Program during the next fiscal year, and, if necessary, to
3 maintain an adequate reserve.

4 § 574. COLLECTION OF CONTRIBUTIONS; REMITTANCE

5 (a)(1) The Commissioner of Taxes shall collect all contributions required
6 pursuant to section 573 of this subchapter and shall remit them to the private
7 insurance carrier contracted with by the Commissioner of Labor pursuant to
8 section 572 of this subchapter.

9 (2) In the event that the Commissioner of Labor does not contract with a
10 private insurance carrier to provide family and medical leave insurance that
11 satisfies the requirements of this subchapter, the Commissioner of Taxes shall
12 remit the collected contributions to the Commissioner of Labor.

13 (b) The Commissioner of Taxes shall require the withholding of the
14 contributions required pursuant to section 573 of this subchapter from wages
15 paid by any employer, as if the contributions were an additional Vermont
16 income tax subject to the withholding requirements of 32 V.S.A. § 5841(a).
17 The administrative and enforcement provisions of 32 V.S.A. chapter 151,
18 subchapter 4 shall apply to the withholding requirement under this section as if
19 the contributions withheld were a Vermont income tax.

20 (c) The Commissioner of Taxes may enter into a memorandum of
21 understanding with the private insurance carrier contracted with by the

1 Commissioner of Labor pursuant to section 572 of this subchapter, the
2 Commissioner of Labor, or both, as the Commissioner of Taxes determines is
3 necessary to carry out the provisions of this section.

4 § 575. BENEFITS

5 (a)(1) A qualified employee shall be permitted to receive a total of not
6 more than 12 weeks of Family and Medical Leave Insurance benefits in a
7 calendar year for parental and bonding leave taken by the employee.

8 (2) A qualified employee shall be permitted to receive a total of not
9 more than eight weeks of Family and Medical Leave Insurance benefits in a
10 calendar year for family and medical leave taken by the employee.

11 (3) Subject to the provisions of subdivisions (1) and (2) of this
12 subsection, a qualified employee shall be limited to a maximum of 12 weeks of
13 Parental and Family Leave Insurance benefits in a calendar year.

14 (b)(1) A qualified employee awarded Family and Medical Leave Insurance
15 benefits under this section shall receive a weekly benefit amount equal to:

16 (A) if he or she earns an average weekly wage that is not more than
17 Vermont's weekly livable wage, 90 percent of his or her average weekly wage;

18 (B) if he or she earns an average weekly wage that is greater than
19 Vermont's weekly livable wage, 90 percent of Vermont's weekly livable wage
20 plus 50 percent of the amount by which his or her average weekly wage
21 exceeds Vermont's weekly livable wage.

1 (2) Notwithstanding subdivision (1) of this subsection, no qualified
2 employee may receive Parental and Family Leave Insurance benefits that
3 exceed two-and-one-half times Vermont’s weekly livable wage for any single
4 week.

5 (c)(1) A qualified employee who receives Family and Medical Leave
6 Insurance benefits for an intermittent leave or for a portion of a week, shall
7 receive a prorated benefit amount.

8 (2) The minimum duration of a leave for which a qualified employee
9 may receive benefits shall be eight continuous hours. A leave for less than
10 eight hours shall be treated as an eight-hour leave for purposes of calculating
11 the amount of benefits that a qualified employee is entitled to receive.

12 (d) A parental and bonding leave or family and medical leave for which
13 benefits are paid pursuant to this subchapter shall run concurrently with a leave
14 taken pursuant to section 472 of this title or the federal Family and Medical
15 Leave Act, 29 U.S.C. §§ 2611–2654.

16 § 576. APPLICATION FOR BENEFITS; PAYMENT; TAX

17 WITHHOLDING

18 (a) A qualified employee, or his or her agent, shall file an application for
19 Family and Medical Leave Insurance benefits under this subchapter on a form
20 approved by the Commissioner of Labor. The determination of whether the

1 qualified employee is eligible to receive Family and Medical Leave Insurance
2 benefits shall be based on the following criteria:

3 (1) The claim is for a parental and bonding leave or a family and
4 medical leave and the need for the leave is adequately documented.

5 (2) The claimant satisfies the requirements to be a qualified employee as
6 defined pursuant to subsection 571(8) of this subchapter.

7 (3) The claimant has specified the anticipated start date and duration of
8 the leave.

9 (b)(1) A determination shall be made in relation to each claim within not
10 more than five business days after the date the claim is filed. The time to make
11 a determination on a claim may be extended by not more than 15 business days
12 if necessary to obtain documents or information that are needed to make the
13 determination.

14 (2) An application for Family and Medical Leave Insurance benefits
15 may be filed:

16 (A) up to 60 days before an anticipated leave; or

17 (B) in the event of a premature birth or an unanticipated serious
18 illness, within 60 days after the leave begins.

19 (3)(A) Benefits shall be paid to a qualified employee for the time period
20 beginning on the day his or her leave began.

1 (B) The first benefit payment shall be sent to the qualified employee
2 within 14 days after his or her claim is approved, and subsequent payments
3 shall be sent biweekly.

4 (4) The provisions of sections 1367 and 1367a of this title shall apply to
5 Family and Medical Leave Insurance benefits.

6 (c)(1) An individual filing a claim for Family and Medical Leave Insurance
7 benefits shall, at the time of filing, be advised that Family and Medical Leave
8 Insurance benefits may be subject to income tax and that the individual's
9 benefits may be subject to withholding.

10 (2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A.
11 chapter 151, subchapter 4 pertaining to the withholding of income tax shall be
12 followed in relation to the payment of Family and Medical Leave Insurance
13 benefits.

14 (d) As used in this section, "agent" means an individual who holds a valid
15 power of attorney for the employee or other legal authorization to act on the
16 employee's behalf that is acceptable to the Commissioner of Labor.

17 § 577. EMPLOYER OPTION; ALTERNATIVE INSURANCE OR
18 BENEFITS

19 (a) As an alternative to and in lieu of participating in the Family and
20 Medical Leave Insurance Program, an employer may, upon approval by the
21 Commissioner of Labor, comply with the requirements of this subchapter by:

1 (1) establishing and maintaining to the satisfaction of the Commissioner
2 of Financial Regulation self-insurance necessary to secure payment of the
3 benefits required pursuant to this subchapter;

4 (2) purchasing insurance coverage for the payment of the benefits
5 required pursuant to this subchapter from any insurance carrier authorized to
6 provide family and medical leave insurance in this State;

7 (3) establishing an employee benefits plan that provides the benefits
8 required pursuant to this subchapter; or

9 (4) any combination of subdivisions (1) through (3) of this subsection.

10 (b) Any plan approved by the Commissioner of Labor pursuant to
11 subsection (a) of this section shall provide benefits that are equal to or more
12 generous than the benefits provided pursuant to section 574 of this subchapter.

13 (c)(1) Nothing in this subchapter shall be construed to diminish an
14 employer's obligation to comply with any collective bargaining agreement or
15 paid time off policy that provides more generous benefits than the benefits
16 provided pursuant to section 574 of this subchapter.

17 (2) Nothing in this subchapter shall be construed to preempt or override
18 the terms of a collective bargaining agreement that takes effect before January
19 1, 2020.

1 § 578. DISQUALIFICATIONS

2 A qualified employee shall be disqualified for benefits for any week in
3 which he or she has received:

4 (1) compensation for temporary partial disability or temporary total
5 disability under the workers' compensation law of any state or under a similar
6 law of the United States; or

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

8 § 579. APPEALS

9 An employer or employee aggrieved by a decision under section 575 or 578
10 of this subchapter may appeal the decision to an appeals referee employed by
11 the Commissioner of Labor, the Employment Security Board, and the Supreme
12 Court as provided pursuant to sections 1348, 1349, and 1351–1357 of this title.

13 § 580. FALSE STATEMENT OR REPRESENTATION; PENALTY

14 A person who willfully makes a false statement or representation for the
15 purpose of obtaining any benefit or payment or to avoid payment of any
16 required contributions under the provisions of this subchapter, either for
17 himself or herself or for any other person, after notice and opportunity for
18 hearing, may be assessed an administrative penalty of not more than
19 \$20,000.00 and shall forfeit all or a portion of any right to benefits under the
20 provisions of this subchapter, as determined to be appropriate by the
21 Commissioner of Labor.

1 § 581. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

2 (a) The employer of an employee who receives Family and Medical Leave
3 Insurance benefits under this subchapter shall reinstate the employee at the
4 conclusion of his or her parental and bonding leave or family and medical
5 leave, provided the employee does not take parental and bonding leave or
6 family and medical leave for a combined total of more than 12 weeks in a
7 calendar year. The employee shall be reinstated in the first available suitable
8 position given the position he or she held at the time his or her leave began.

9 (b) Upon reinstatement, the employee shall regain seniority and any unused
10 accrued paid leave he or she was entitled to prior to the leave, less any accrued
11 paid leave used during the leave.

12 (c)(1) Nothing in this section shall be construed to diminish an employee's
13 rights pursuant to subsection 472(f) of this chapter.

14 (2) The provisions of this section shall not apply if:

15 (A) the employee had been given notice, or had given notice, prior to
16 the employee providing his or her employer with notice of the leave;

17 (B) the employer can demonstrate by clear and convincing evidence
18 that during the leave, or prior to the employee's reinstatement, the employee's
19 position would have been terminated or the employee laid off for reasons
20 unrelated to the leave or the reason for which the employee took the leave;

21 (C) the employee fails to inform the employer of:

1 (i) his or her interest in being reinstated at the conclusion of the
2 leave; and

3 (ii) the date on which his or her leave is anticipated to conclude; or

4 (D) more than two years have elapsed since the conclusion of the
5 employee's leave.

6 (d)(1) An employee aggrieved by an employer's failure to comply with the
7 provisions of this section may bring an action in the Civil Division of the
8 Superior Court in the county where the employment is located for
9 compensatory and punitive damages or equitable relief, including restraint of
10 prohibited acts, restitution of wages or other benefits, reinstatement, costs, and
11 other appropriate relief.

12 (2) A copy of the complaint shall be filed with the Commissioner of
13 Labor.

14 (3) The court shall award reasonable attorney's fees to the employee if
15 he or she prevails.

16 § 582. PROTECTION FROM RETALIATION OR INTERFERENCE

17 (a) An employer shall not discharge or in any other manner retaliate against
18 an employee who exercises or attempts to exercise his or her rights under this
19 subchapter. The provisions against retaliation in subdivision 495(a)(8) of this
20 title shall apply to this subchapter.

1 (b) An employer shall not interfere with, restrain, or otherwise prevent an
2 employee from exercising or attempting to exercise his or her rights pursuant
3 to this subchapter.

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

9 § 583. CONFIDENTIALITY OF INFORMATION

10 (a) Information obtained from an employer or individual in the
11 administration of this subchapter and determinations of an individual’s right to
12 receive benefits that reveal an employer’s or individual’s identity in any
13 manner shall be kept confidential and, to the extent that such information is
14 obtained by the State, shall be exempt from public inspection and copying
15 under the Public Records Act. Such information shall not be admissible as
16 evidence in any action or proceeding other than one brought pursuant to the
17 provisions of this subchapter.

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

19 (1) an individual or his or her duly authorized agent may be provided
20 with information to the extent necessary for the proper presentation of his or

1 her claim for benefits or to inform him or her of his or her existing or
2 prospective rights to benefits; and

3 (2) an employer may be provided with information that the
4 Commissioner of Labor or of Taxes determines is necessary to enable the
5 employer to discharge fully its obligations and protect its rights under this
6 subchapter.

7 § 584. RULEMAKING

8 (a) The Commissioner of Taxes shall adopt rules as necessary to implement
9 the provisions of section 574 of this subchapter.

10 (b) The Commissioner of Labor shall adopt rules as necessary to
11 implement all other provisions of this subchapter.

12 Sec. 3. 21 V.S.A. § 585 is added to read:

13 § 585. PARENTAL AND FAMILY LEAVE INSURANCE SPECIAL FUND

14 The Parental and Family Leave Insurance Special Fund is created pursuant
15 to 32 V.S.A. chapter 7, subchapter 5. The Fund shall consist of contributions
16 remitted by employers pursuant to section 573 of this subchapter. The Fund
17 may be expended by the Commissioner of Labor for the administration of the
18 Parental and Family Leave Insurance Program and payment of Parental and
19 Family Leave Insurance benefits pursuant to this subchapter. All interest
20 earned on Fund balances shall be credited to the Fund.

1 Sec. 4. 21 V.S.A. § 586 is added to read:

2 § 586. OVERPAYMENT OF BENEFITS; COLLECTION

3 (a)(1) Any individual who by nondisclosure or misrepresentation of a
4 material fact, by him or her, or by another person, has received Family and
5 Medical Leave Insurance benefits when he or she failed to fulfill a requirement
6 for the receipt of benefits pursuant to this chapter or while he or she was
7 disqualified from receiving benefits pursuant to section 580 of this chapter
8 shall be liable to repay to the Commissioner of Labor the amount received.

9 (2) Upon determining that an individual has received benefits under this
10 chapter that he or she was not entitled to, the Commissioner of Labor shall
11 provide the individual with notice of the determination. The notice shall
12 include a statement that the individual is liable to repay to the Commissioner
13 the amount of overpaid benefits and shall identify the basis of the overpayment
14 and the time period in which the benefits were paid.

15 (3) The determination shall be made within not more than three years
16 after the date of the overpayment.

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

19 (2) If the Commissioner finds that the individual intentionally
20 misrepresented or failed to disclose a material fact with respect to his or her
21 claim for benefits, in addition to the repayment under subdivision (1) of this

1 subsection, the person shall pay an additional penalty of 15 percent of the
2 amount of the overpaid benefits, which shall also be deposited into the Fund.

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

5 (c) If an individual is liable to repay any amount pursuant to this section,
6 the Commissioner may withhold, in whole or in part, any future benefits
7 payable to the individual pursuant to this chapter and credit the withheld
8 benefits against the amount due from the individual until it is repaid in full,
9 less any penalties assessed under subdivision (b)(2) of this section.

10 (d) In addition to the remedy provided pursuant to this section, an
11 individual who intentionally misrepresented or failed to disclose a material fact
12 with respect to his or her claim for benefits may be subject to the penalties
13 provided pursuant to section 577 of this title.

14 Sec. 5. ADOPTION OF RULES

15 (a) On or before January 1, 2020, the Commissioner of Taxes shall
16 adopt rules necessary to implement the provisions of 21 V.S.A. § 574, which
17 shall include:

18 (1) procedures for the collection of contributions; and

19 (2) reporting and record-keeping requirements for employers.

1 (b)(1) On or before January 1, 2020, the Commissioner of Labor shall
2 adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5,
3 subchapter 13, which shall include:

4 (A) acceptable documentation for demonstrating eligibility for
5 benefits;

6 (B) forms and requirements for providing certification from a health
7 care provider of the need for family leave that are modeled on the federal rules
8 governing certification of a serious health condition under the Family and
9 Medical Leave Act;

10 (C) forms and procedures for obtaining authorization for an
11 individual's health care provider to disclose information necessary to make a
12 determination of the individual's eligibility for benefits; and

13 (D) procedures for appealing a decision pursuant to 21 V.S.A. § 574.

14 (2) On or before January 1, 2021, the Commissioner of Labor shall
15 adopt any necessary rules related to establishing that an in loco parentis
16 relationship exists between an employee and another individual.

17 Sec. 6. EDUCATION AND OUTREACH

18 On or before January 1, 2020, the Commissioner of Labor shall develop and
19 make available on the Department of Labor's website information and
20 materials to educate and inform employers and employees about the Family

1 and Medical Leave Insurance Program established pursuant to 21 V.S.A.
2 chapter 5, subchapter 13.

3 Sec. 7. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE

4 INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL
5 FUND

6 Beginning on November 1, 2019, the Commissioner of Finance and
7 Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for
8 expenditures from the Family and Medical Leave Insurance Special Fund
9 necessary to establish the Family and Medical Leave Insurance Program in
10 anticipation of the receipt on or after January 1, 2020 of contributions
11 submitted pursuant to 21 V.S.A. § 572.

12 Sec. 8. ADEQUACY OF RESERVES; REPORT

13 Annually, on or before January 15, 2021, 2022, and 2023, the
14 Commissioner of Labor, in consultation with the Commissioners of Finance
15 and Management, of Financial Regulation, and of Taxes, shall submit a written
16 report to the House Committees on Appropriations, on General, Housing, and
17 Military Affairs, and on Ways and Means and the Senate Committees on
18 Appropriations, on Economic Development, Housing and General Affairs, and
19 on Finance regarding the amount and adequacy of the reserves in the Family
20 and Medical Leave Insurance Special Fund and any recommendations for

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

3 Sec. 9. 21 V.S.A. § 471 is amended to read:

4 § 471. DEFINITIONS

5 As used in this subchapter:

6 (1) “Employer” means an individual, organization ~~or~~ governmental
7 body, partnership, association, corporation, legal representative, trustee,
8 receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,
9 air or express company doing business in or operating within this State ~~which~~
10 ~~for the purposes of parental leave~~ that employs 10 or more individuals who are
11 employed for an average of at least 30 hours per week during a year ~~and for the~~
12 ~~purposes of family leave employs 15 or more individuals for an average of at~~
13 ~~least 30 hours per week during a year.~~

14 * * *

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

19 (A) the serious illness of the employee; ~~or~~

1 (B) the serious illness of the employee’s ~~child, stepchild or ward who~~
2 ~~lives with the employee, foster child, parent, spouse or parent of the~~
3 ~~employee’s spouse~~ family member;

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

8 (C) the employee’s pregnancy;

9 ~~(A)(D)~~ the birth of the employee’s child; or

10 ~~(B)(E)~~ the initial placement of a child ~~16~~ 18 years of age or younger
11 with the employee for the purpose of adoption or foster care.

12 (4) “Family member” means the employee’s:

13 (A) child, step child or ward who lives with the employee, or foster
14 child;

15 (B) spouse, domestic partner, or civil union partner;

16 (C) parent or the parent of the employee’s spouse, domestic partner,
17 or civil union partner;

18 (D) grandchild;

19 (E) grandparent; or

1 necessary to permit self-employed individuals to elect to obtain coverage
2 through the Family and Medical Leave Insurance Program.

3 Sec. 13. EFFECTIVE DATES

4 (a) This section and Secs. 1, 2, 5, 6, and 12 shall take effect on July 1,
5 2019.

6 (b) Secs. 3, 4, 7, and 8 shall not take effect until November 1, 2019, and
7 shall not take effect at all if the Commissioner of Labor secures a suitable
8 insurance company to provide paid family and medical leave insurance
9 pursuant to the provisions of 21 V.S.A. § 572(b).

10 (c) Secs. 9, 10, and 11 shall take effect on January 1, 2020.

11 (d) If the Commissioner of Labor fails to secure a suitable insurance
12 company to provide paid family and medical leave insurance pursuant to the
13 provisions of 21 V.S.A. § 572, contributions shall begin being paid pursuant to
14 21 V.S.A. § 573 on January 1, 2020, and, beginning on January 1, 2021,
15 employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5,
16 subchapter 13.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE

