

House Calendar

Wednesday, March 15, 2023

71st DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 461

An act relating to making miscellaneous changes in education laws

Favorable with Amendment

H. 175

An act relating to modernizing the Children and Family Council for Prevention Programs

Rep. Christie of Hartford, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 33 is amended to read:

§ 3301. DEFINITIONS

As used in this chapter:

(1) “Council” means the ~~Children and Family Council for Prevention Programs~~ Council for Equitable Youth Justice.

(2) “Primary prevention” means ~~efforts to reduce the likelihood of juvenile delinquency, truancy, substance abuse, child abuse, and other socially destructive behaviors before intervention by authorities~~ “DCF” means the Vermont Department for Children and Families.

(3) “JJRA” means the federal Juvenile Justice and Delinquency Prevention Act of 1973 as reauthorized and as amended by the Juvenile Justice Reform Act of 2018, 34 U.S.C. § 11133.

(4) “OJJDP” means the Office of Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice.

§ 3302. ~~CHILDREN AND FAMILY COUNCIL FOR PREVENTION~~

~~PROGRAMS COUNCIL FOR EQUITABLE YOUTH JUSTICE~~

(a) ~~A Children and Family Council for Prevention Programs is established. The Council shall consist of 21 members who shall be appointed by the Governor with the advice and consent of the Senate for three-year terms. In the appointment of the members, consideration shall be given to the selection of persons who will adequately represent the interests of the beneficiaries of~~

~~the primary prevention programs Creation.~~ There is created the Council for Equitable Youth Justice to serve as the State advisory group for Vermont pursuant to 34 U.S.C. § 11133. The Council supports compliance with the core requirements of the JJRA and promotes an effective Vermont juvenile justice system consistent with the legislative findings under 33 V.S.A. § 5101a.

~~(b) The Council shall elect a chairperson, vice chairperson, and clerk from its members who shall serve for one year or until their successors are elected Membership.~~

(1) The Council shall consist of up to 25 members who shall be appointed by the Governor with the advice and consent of the Senate for three-year terms.

(2) In appointing members, consideration shall be given to the selection of persons who adequately represent the interests of youth who are in the juvenile justice system and their families.

(3) Membership shall be consistent with the federal requirements for State advisory groups pursuant to 34 U.S.C. § 11133(a)(3).

(4) A majority of the members, including the Chair, shall not be full-time employees of federal, State, or local government.

~~(c) A majority of the members of the Council shall constitute a quorum. The Council shall act only by vote of a majority of its members present and voting at a meeting at which a quorum is in attendance Officers. The Council shall elect a chair, vice chair, and secretary or treasurer, or both, from its members who shall serve for one year or until their successors are elected.~~

(d) Vacancy. In the event a vacancy occurs on the Council, the vacancy shall be filled in the same manner as provided in ~~subsection (a) subdivision (b)(1)~~ of this section. The term of a person appointed to fill a vacancy shall terminate on the date on which the original appointment would have terminated if the vacancy had not occurred.

(e) Compensation. Council members are authorized to receive per diem compensation from federal funds as specified in 32 V.S.A. § 1010(b).

(f) Quorum. A majority of the members of the Council shall constitute a quorum. The Council shall act only by vote of a majority of its members and voting at a meeting at which a quorum is in attendance.

§ 3303. COUNCIL; DUTIES COUNCIL DUTIES AND RESPONSIBILITIES

~~(a) The Council shall assist State agencies and the departments in the development, improvement, and coordination of primary prevention programs and activities at the State and local levels. In providing this service, the Council shall Subject to the provisions of 32 V.S.A. § 3309, the Council shall support monitoring and reporting compliance with the core requirements of the JJRA, including:~~

~~(1) acquire and provide pertinent research data and technical assistance related to the development and practice of primary prevention programs the deinstitutionalization of status offenders;~~

~~(2) develop a State primary prevention plan that coordinates and consolidates the primary prevention planning efforts of the State agencies and departments specified in section 3305 of this title the separation of juveniles from incarcerated adults;~~

~~(3) evaluate and prepare recommendations on the prevention policies and programs developed and implemented under section 3305 of this title and submit the recommendations on or before January 1 to the Governor, the House Committees on Human Services and on Appropriations, and the Senate Committees on Health and Welfare and on Appropriations the removal of juveniles from adult jails and lockups; and~~

~~(4) the reduction of racial and ethnic disparities in Vermont's juvenile justice system.~~

~~(b) [Repealed.]~~

~~(c) Subject to the provisions of 32 V.S.A. § 5, the Council may apply for and receive federal or private funds, or any combination thereof in order to accomplish the purposes of this chapter. To the extent that funding under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, permits, the Council may award grants to State and local organizations for primary prevention activities in accordance with the provisions of that act Subject to the provisions of 32 V.S.A. § 5, the Council may apply for and receive federal funds for activities consistent with the legislative findings pursuant to 33 V.S.A. § 5101a and the requirements of the JJRA. The Council may obtain grants for activities pursuant to 34 U.S.C. § 11133(a)(9).~~

~~(d) The Council shall be attached for administrative purposes to the Agency of Human Services On December 1, 2024, and every three years thereafter, the Council shall, in coordination with DCF, develop a State juvenile justice plan designed to promote an effective juvenile justice system. The plan shall be consistent with the requirements of the JJRA and the legislative findings pursuant to 33 V.S.A. § 5101a.~~

(e) On January 15, 2025, and every two years thereafter, the Council shall submit a written report to the Governor, the Joint Legislative Justice Oversight Committee, and DCF describing the efforts it has made to comply with the requirements of the JJRA, including the reduction of racial disparities and improving Vermont's juvenile justice system. The report shall include an overview of federal funds received and expended to address these purposes and recommendations to improve the juvenile justice system.

(f) In carrying out its duties and responsibilities, the Council shall rely on all available data related to the State's juvenile justice system and shall make efforts to include youth and family voices, particularly the voices of youth and members of their families who have been impacted by the system.

§ 3304. STATE PRIMARY PREVENTION PLAN

~~(a) The State Primary Prevention Plan shall provide for the use of State resources in ways that will strengthen the commitment of local communities to altering conditions that contribute to delinquency or other problem behaviors so that the burden of State-funded treatment and crisis-oriented service programs will be reduced. The Plan shall set forth specific goals, objectives, and key result areas and shall include proposals to integrate and build upon successful methods of primary prevention.~~

~~(b) By July 1 of each even-numbered year, the Council shall revise the State Primary Prevention Plan, which shall be submitted to the Governor, the House Committee on Human Services, the House Committee on Appropriations, the Senate Committee on Health and Welfare, and the Senate Committee on Appropriations. [Repealed.]~~

§ 3305. IMPLEMENTATION AND EVALUATION OF PRIMARY PREVENTION PLAN

~~Primary prevention policies and implementation practices shall be targeted to specific goals, objectives, and key result areas and shall be consistent with the State Primary Prevention Plan. The following departments and agencies shall formulate the policies and practices:~~

- ~~(1) the Agency of Education;~~
- ~~(2) the Agency of Human Services, including all departments;~~
- ~~(3) the Department of Motor Vehicles;~~
- ~~(4) the Office of the Attorney General;~~
- ~~(5) the Agency of Commerce and Community Development;~~
- ~~(6) the Department of Labor;~~

~~(7) the Department of Public Safety; and~~

~~(8) the Department of Forests, Parks and Recreation. [Repealed.]~~

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-0)

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 12-0-0)

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary.

(Committee Vote: 10-0-2)

Action Under Rule 52

J.R.H. 3

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House facilities on June 29, 2023

(For text see House Journal March 14, 2023)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 465

An act relating to regional emergency management committees' meeting quorum requirement

(Rep. Morgan of Milton will speak for the Committee on Government Operations and Military Affairs.)

H. 466

An act relating to technical corrections for the 2023 legislative session

(Rep. Higley of Lowell will speak for the Committee on Government Operations and Military Affairs.)

Favorable with Amendment

H. 62

An act relating to the interstate Counseling Compact

Rep. Berbeco of Winooski, for the Committee on Health Care, recommends the bill be amended as follows:

First: By inserting after Sec. 1, 26 V.S.A. chapter 65, a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; ~~and~~

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33;

(E) licensed clinical mental health counselors licensed under 26 V.S.A. chapter 65;

(F) licensed marriage and family therapists licensed under 26 V.S.A. chapter 76; and

(G) individuals registered on the roster of psychotherapists who are nonlicensed and noncertified.

and by renumbering the remaining section to be numerically correct.

Second: By striking out the newly renumbered Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) shall take effect on July 1, 2024.

(Committee Vote: 10-0-0)

Rep. Andrews of Westford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

First: By inserting a new Sec. 3 after Sec. 2, 3 V.S.A. § 123(j)(1), to read as follows:

Sec. 3. 26 V.S.A. § 3270a is amended to read:

§ 3270a. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for licensure \$150.00

(2) Biennial renewal \$200.00

(b) A licensee of a remote state under the Counseling Compact established in subchapter 2 of this chapter shall pay a biennial \$50.00 privilege to practice fee.

and by renumbering the remaining section to be numerically correct.

Second: By deleting the newly renumbered Sec. 4, effective dates, and inserting a new Sec. 4 to read as follows:

Sec. 4. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (clinical mental health counselors) and Sec. 3 (fees) shall take effect on July 1, 2024.

(Committee Vote: 11-0-1)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Health Care, and when further amended as recommended by the Committee on Ways and Means.

(Committee Vote: 12-0-0)

H. 66

An act relating to paid family and medical leave insurance

Rep. Chesnut-Tangerman of Middletown Springs, for the Committee on General and Housing, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

§ 471. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

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

(A) the employee’s pregnancy;

(B) recovery from childbirth or miscarriage;

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

~~(B)~~(D) the initial placement of a child ~~16~~ 18 years of age or younger with the employee for the purpose of adoption or foster care and to care for or bond with the child within one year after the placement for adoption or foster care.

(8) "Family member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) to recover from injuries;

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 472. LEAVE

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

~~(1)(A) for parental leave, during the employee's pregnancy and following the birth of an employee's child or within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption; or~~

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) consented to by the employee in writing;

(ii) required pursuant to a court order; or

(iii) required pursuant to State or federal law.

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

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

(f) Upon return from leave taken under this subchapter, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day leave began. This ~~subchapter~~ subsection shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that:

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

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

(g) An employer may adopt a leave policy more generous than the leave policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan ~~which that~~ that provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. ~~Notwithstanding the provisions of this subchapter, an employee may, at the time a need for parental or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.~~

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

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

§ 471. DEFINITIONS

As used in this subchapter:

* * *

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

(5) “Employee” means a person who;

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

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

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

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

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

(A) the serious health condition of the employee;

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

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

~~(A)~~(C) the employee’s pregnancy;

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

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

~~(D)~~(F) the initial placement of a child 18 years of age or younger with the employee for the purpose of adoption or foster care and to care for or

bond with the child within one year after the placement for adoption or foster care.

~~(8)~~(7) “Family member” means:

* * *

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

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

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

* * *

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

* * *

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

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

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

§ 472. LEAVE

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

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

~~(B) for family leave.~~

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

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

* * *

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

CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

§ 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

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

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

(2) The Director shall be responsible for:

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

(B) the implementation of this chapter and any rules adopted pursuant to section 2063 of this chapter; and

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

§ 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

SPECIAL FUND

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

(b) The Family and Medical Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Director and the Commissioner of Taxes for the administration of the Family and Medical Leave Insurance Program, for the payment of benefits provided pursuant to the provisions of this chapter, and for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(c) The Fund shall consist of:

(1) contributions collected pursuant to section 2053 of this chapter;

(2) amounts recovered or collected pursuant to sections 2061 and 2062 of this chapter; and

(3) any amounts appropriated to the Fund.

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

§ 2053. CONTRIBUTIONS; RATE; COLLECTION

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

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

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

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

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

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

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

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

(3) In the event that the Director determines that the rate of contribution for any calendar year shall be one percent, the Director shall, not more than 14 days after making the determination, submit a written report to the Joint Fiscal Committee, the House Committees on Appropriations, on General and

Housing, and on Ways and Means, and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance that provides a detailed explanation of the reason for the increase, whether the rate is sufficient to pay the projected benefits and administrative costs during the next calendar year while maintaining the required reserve, the solvency of the Fund, and recommended legislative action to reduce the rate of contribution in the following calendar year.

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

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

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

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

(d) An employer with an approved private plan pursuant to section 2059 of this chapter shall not be required to withhold and pay contributions pursuant to this section.

§ 2054. BENEFITS

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

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

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

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

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

§ 2055. ELIGIBILITY

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

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

(A) earned wages from which contributions were withheld pursuant to section 2053 of this chapter in two of the last four calendar quarters;

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

(C) both;

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

(A) has a serious health condition;

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

(C) is pregnant;

(D) is recovering from childbirth or miscarriage;

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

(F) is taking safe leave; or

(G) is taking a bereavement leave; and

(3) the Director determines that the individual is not disqualified pursuant to section 2065 of this chapter.

§ 2056. APPLICATION FOR BENEFITS

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

(2) An employee or enrolled self-employed individual, or the employee's or enrolled self-employed individual's agent, shall, to the extent possible, submit documentation of the need for the leave together with the application filed pursuant to subdivision (1) or this subsection. The Director shall specify acceptable forms of documentation on the application form.

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

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

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

§ 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

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

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

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

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

(B) If, during the review of the individual's application, the Director determines that the individual has outstanding, unpaid child support obligations, the Director shall deduct and withhold an amount necessary to pay the outstanding, unpaid child support obligations from any benefits payable to the individual pursuant to this chapter and remit that amount to the appropriate child support enforcement agency. The amount deducted and withheld from an individual's benefits pursuant to this subdivision (B) shall not exceed 30 percent of the benefit payment to the individual.

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

(3) If an individual has outstanding Vermont State tax liability, the Director shall deduct and withhold the outstanding amount from the benefits payable to the individual pursuant to this chapter and remit it to the Commissioner of Taxes. The amount deducted and withheld from an individual's benefits pursuant to this subdivision shall not exceed 30 percent of the benefit payment to the individual.

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

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

§ 2058. ELECTIVE COVERAGE

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

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

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

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

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

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

§ 2059. EMPLOYER OPTION; PRIVATE PLAN

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

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

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

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

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

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

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

(C) costs employees the same or less than the employees' portion of the contribution would be pursuant to subsection 2053(a) of this chapter;

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

(E) provides wage replacement in an amount that is equal to or greater than the rate of wage replacement provided pursuant to section 2054 of this chapter;

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

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

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

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

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

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

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

prior year.

(d) A contested determination or a denial of benefits under a private plan approved pursuant to this section shall be subject to appeal pursuant to section 2060 of this chapter.

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

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

(B) misuses private plan funds;

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

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

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

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

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

§ 2060. APPEALS

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

(2) If an employer petitions the Director to reconsider a decision relating to an application for benefits or the amount of benefits that a qualified individual is entitled to receive, the Director shall promptly notify the individual who applied for the benefits of the petition by ordinary, certified, or

electronic mail and provide the individual with an opportunity to file an answer to the employer's petition.

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

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

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

§ 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

(a)(1) An individual who intentionally makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this chapter, whether for themselves or for any other person, after notice and opportunity for hearing, shall be prohibited from receiving benefits pursuant to this chapter for a period of not less than one year and not more than three years as determined to be appropriate by the Director.

(2) The penalty imposed pursuant to this section shall be in addition to any liability incurred by the individual pursuant to section 2062 of this chapter.

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

(1) the full amount of unpaid contributions; and

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

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

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

§ 2062. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by either the individual or another person, receives benefits that the individual is not eligible to receive shall be liable to repay to the Division the amount received in excess of the amount, if any, that the individual is eligible to receive.

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

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

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

(3) Upon determining that an individual is liable for an overpayment of benefits pursuant to subdivision (1) of this subsection, the Director shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Division the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid. The notice shall also provide information regarding the individual's right to appeal the determination pursuant to the provisions of section 2060 of this chapter.

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

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

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

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

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

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact

with respect to the individual's claim for benefits may be subject to the penalties provided pursuant to section 2061 of this chapter.

§ 2063. RULEMAKING

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

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

§ 2064. CONFIDENTIALITY OF INFORMATION

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

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

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

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

§ 2065. DISQUALIFICATIONS

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

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

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

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

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

(1) wages; or

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

§ 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

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

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

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

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

§ 2067. NOTICE

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

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

§ 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

§ 2069. DEFINITIONS

As used in this chapter:

(1) “Agent” means an individual who holds a valid power of attorney for an employee or self-employed individual or another legal authorization to

act on the employee or self-employed individual's behalf that is acceptable to the Director.

(2) "Average weekly earnings" means the sum of a qualified individual's wages, if any, upon which contributions have been paid pursuant to section 2053 of this chapter during the individual's two highest-earning quarters plus the qualified individual's self-employment income, if any, upon which contributions have been paid pursuant to section 2053 of this chapter during the individual's two highest-earning quarters divided by 26.

(3) "Benefits" means Family and Medical Leave Insurance benefits provided pursuant to this chapter.

(4) "Bereavement leave" means a leave of absence from employment or self-employment by an individual due to the death of the individual's family member that occurs not more than one year after the family member's death. Bereavement leave includes leave taken in relation to the administration or settlement of the deceased family member's estate. Leave taken in relation to the administration or settlement of the deceased family member's estate may occur more than one year after the family member's death.

(5) "Director" means the Director of the Division of Family and Medical Leave.

(6) "Division" means the Division of Family and Medical Leave in the Office of the Treasurer.

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

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

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

(10) "Employer" means a person who employs one or more employees.

(11) "Enrolled self-employed individual" means a self-employed individual who has obtained coverage under the Program pursuant to section 2058 of this chapter.

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

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

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

(C) the qualified individual's pregnancy;

(D) recovery from childbirth or miscarriage;

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

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

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

(13) "Family member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Highest earning quarters" means the two calendar quarters of the last four completed calendar quarters when an individual earned the highest combined total of wages upon which contributions were paid pursuant to section 2053 of this chapter and self-employment income upon which contributions were paid pursuant to section 2053 of this chapter.

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

(17) "Program" means the Family and Medical Leave Insurance Program created pursuant to this chapter.

(18) "Qualified individual" means an employee or enrolled self-employed individual who:

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

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

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

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

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

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

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

(ii) to recover from injuries;

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

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

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

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

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

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

(23) “Serious health condition” means:

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

(i) poses imminent danger of death;

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

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

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

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

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

(26) “U.S. Armed Forces” means:

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

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

(C) the National Guard of any state.

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

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

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

* * *

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

Sec. 7. ADOPTION OF RULES

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

(b) On or before April 1, 2025, the Commissioner of Taxes, in consultation with the Director of the Division of Family and Medical Leave, shall adopt rules as necessary to carry out the provisions of 21 V.S.A. § 2053.

Sec. 8. EDUCATION AND OUTREACH

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

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

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

Sec. 9. APPROPRIATION; ADVANCE PAYMENT OF STATE

CONTRIBUTIONS

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

(b) The amount appropriated pursuant to subsection (a) of this section shall be considered an advance payment of the State's portion of the contributions due for State employees pursuant to 21 V.S.A. § 2053(a). The State shall receive a credit against the contributions due from the State pursuant to 21 V.S.A. § 2053 equal to 100 percent of the State's portion of the contributions due until the cumulative amount of the credit equals the amount appropriated pursuant to subsection (a) of this section.

Sec. 10. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2026, 2027, 2028, and 2029, the Director of the Division of Family and Medical Leave, in consultation with the Commissioners of Finance and Management, of Financial Regulation, and of Taxes, shall submit a written report to the House Committees on Appropriations; on General and Housing; and on Ways and Means and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Finance regarding the amount and adequacy of the reserves in the Family and Medical Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund.

Sec. 11. PRIVATE PLANS; INITIAL APPROVAL

(a) An employer wishing to utilize a private plan to meet the employer's obligations pursuant to 21 V.S.A. chapter 26 beginning on October 1, 2026 shall submit an application for approval of a private plan on or before October 15, 2025.

(b) The Director of the Division of Family and Medical Leave shall review the proposed plan as provided pursuant to the provisions of 21 V.S.A. § 2059.

(c) An employer that receives approval for a private plan pursuant to this section shall:

(1) beginning on January 1, 2026, be exempt from withholding and paying contributions as provided pursuant to 21 V.S.A. 2053(d);

(2) notwithstanding any provision of 21 V.S.A. § 2059 to the contrary,

begin providing benefits pursuant to the private plan on or before October 1, 2026; and

(3) on or before January 15, 2026, be reimbursed by the Director for any contributions that the employer paid for the calendar quarters ending September 30, 2025 and December 31, 2025.

Sec. 12. EFFECTIVE DATES

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

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

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

(Committee Vote: 9-3-0)

Rep. Demrow of Corinth, for the Committee on Ways and Means, recommends that the report of the Committee on General and Housing be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Leave from Employment * * *

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

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Bereavement leave” means a leave of absence from employment or self-employment by an individual due to the death of the individual’s family member that occurs not more than one year after the family member’s death. Bereavement leave includes leave taken in relation to the administration or settlement of the deceased family member’s estate. Leave taken in relation to the administration or settlement of the deceased family member’s estate may occur more than one year after the family member’s death.

(2) “Commissioner” means the Commissioner of Labor.

(3) “Domestic partner” means an individual with whom the employee has an enduring domestic relationship of a spousal nature, provided the employee and the domestic partner:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other's welfare.

(4) "Domestic violence" has the same meaning as in 15 V.S.A. § 1151.

~~(5) "Employer" means an individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State which~~ a person who for the purposes of parental leave, bereavement leave, safe leave, and leave for a qualifying exigency employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave employs 15 or more individuals for an average of at least 30 hours per week during a year.

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

~~(3)(7) "Family leave" means a leave of absence from employment by an employee who works for an employer which employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

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

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

~~(4)(8) "Parental leave" means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

~~(A) the employee's pregnancy;~~

~~(B) recovery from childbirth or miscarriage;~~

(C) the birth of the employee's child and to care for or bond with the child within one year after the child's birth; or

(B)(D) the initial placement of a child 16 18 years of age or younger with the employee for the purpose of adoption or foster care and to care for or bond with the child within one year after the placement for adoption or foster care.

(9) "Family member" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) “Qualifying exigency” means a qualifying exigency identified pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a family member in the U.S. Armed Forces.

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

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

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

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

(ii) to recover from injuries;

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

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

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

(vi) to attend a hearing concerning an order against stalking or sexual assault pursuant to 12 V.S.A. § 5133, when the employee seeks the order as plaintiff; and

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

(5)(14) “Serious illness health condition” means:

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

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

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

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

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

(15) "Sexual assault" has the same meaning as in 15 V.S.A. § 1151.

(16) "Stalking" has the same meaning as in 15 V.S.A. § 1151.

(17) "U.S. Armed Forces" means:

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

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

(C) the National Guard of any state.

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

§ 472. LEAVE

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

~~(1)(A) for parental leave, during the employee's pregnancy and following the birth of an employee's child or within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption;~~

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

(C) for a qualifying exigency.

(2) During any 12-month period, an employee may use up to two out of the 12 weeks of leave available pursuant to subdivision (1) of this subsection for bereavement leave.

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

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

* * *

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

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

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

(3) In the case of an unanticipated serious health condition, a miscarriage, an unanticipated need for safe leave, a premature birth, the death of a family member; or a short-notice qualifying exigency, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

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

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

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

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

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

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

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

(II) a nonprofit organization that provides support services to victims of domestic violence, sexual violence, or stalking.

(C) An employer may require an employee to provide documentation of the need for bereavement leave. An employee may provide any of the following forms of documentation:

(i) a death certificate;

(ii) a published obituary; or

(iii) a written notice or verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious organization, or governmental agency.

(D) An employer may require an employee to provide documentation of the need for leave for a qualifying exigency as set forth in 29 C.F.R. § 825.309.

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

(i) consented to by the employee in writing;

(ii) required pursuant to a court order; or

(iii) required pursuant to State or federal law.

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

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

(f) Upon return from leave taken under this subchapter, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day leave began. This ~~subchapter~~ subsection shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This subsection shall

not apply if the employer can demonstrate by clear and convincing evidence that:

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

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

(g) An employer may adopt a leave policy more generous than the leave policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan ~~which that~~ provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. ~~Notwithstanding the provisions of this subchapter, an employee may, at the time a need for parental or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.~~

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

Sec. 3. 21 V.S.A. § 472c is amended to read:

§ 472c. LEAVE; ALLEGED CRIME VICTIMS; RELIEF FROM
STALKING OR ABUSE

* * *

(b) In addition to the leave provided in section 472 of this title, an employee shall be entitled to take unpaid leave from employment for the purpose of attending a deposition or court proceeding related to:

* * *

(2) a relief from abuse hearing pursuant to 15 V.S.A. § 1103, when the employee seeks the order as plaintiff; or

~~(3) a hearing concerning an order against stalking or sexual assault pursuant to 12 V.S.A. § 5133, when the employee seeks the order as plaintiff; or~~

(4) a relief from abuse, neglect, or exploitation hearing pursuant to 33 V.S.A. chapter 69, when the employee is the plaintiff.

* * *

Sec. 4. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

* * *

~~(5) “Employer” means a person who for the purposes of parental leave, bereavement leave, safe leave, and leave for a qualifying exigency employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave employs 15 or more individuals for an average of at least 30 hours per week during a year employs one or more individuals in Vermont.~~

(6) “Employee” means a person who;

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

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

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

~~(B) is employed by an employer and:~~

~~(i) during at least two of the last four completed calendar quarters, has received payments with respect to services performed for any employer from which that employer was required to withhold Family and Medical Leave Insurance Program contributions pursuant to 21 V.S.A. § 2553; or~~

~~(ii) has worked for the employer during at least two of the last four calendar quarters and the employer is required to provide the employee with coverage under a private plan approved pursuant to 21 V.S.A. § 2559.~~

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

(A) the serious health condition of the employee;

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

~~(8) “Parental leave” means a leave of absence from employment by an employee for one of the following reasons:~~

~~(A)~~(C) the employee’s pregnancy;

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

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

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

~~(9)~~(8) “Family member” means:

* * *

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

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

~~(12)~~(11) “Qualifying exigency” means a qualifying exigency identified pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a family member in the U.S. Armed Forces.

~~(13)~~(12) “Safe leave” means a leave of absence from employment by an employee because:

* * *

~~(14)~~(13) “Serious health condition” means:

* * *

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

~~(16)~~(15) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

~~(17)~~(16) “U.S. Armed Forces” means:

* * *

Sec. 5. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

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

- (A) ~~for parental leave; or~~
- (~~B~~) for family leave.; or
- (~~C~~)(B) for a qualifying exigency.

(2) During any 12-month period, an employee may use up to two out of the 12 weeks of leave available pursuant to subdivision (1) of this subsection for bereavement leave.

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

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

* * *

* * * Paid Family and Medical Leave Insurance Program * * *

Sec. 6. 21 V.S.A. chapter 26 is added to read:

CHAPTER 26. FAMILY AND MEDICAL LEAVE INSURANCE

§ 2051. DIVISION OF FAMILY AND MEDICAL LEAVE; DIRECTOR

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

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

(2) The Director shall be responsible for:

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

(B) the implementation of this chapter and any rules adopted pursuant to section 2063 of this chapter; and

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

§ 2052. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM;

SPECIAL FUND

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

(b) The Family and Medical Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be administered by the Division of Family and Medical Leave and the Department of Taxes. Monies in the Fund may be expended for the administration of the Family and Medical Leave Insurance Program, for the payment of benefits provided pursuant to the provisions of this chapter, and for necessary costs incurred in administering the Fund. All interest earned on Fund balances shall be credited to the Fund.

(c) The Fund shall consist of:

(1) contributions collected pursuant to section 2053 of this chapter;

(2) amounts recovered or collected pursuant to sections 2061 and 2062 of this chapter;

(3) any amounts transferred or appropriated to the Fund by the General Assembly; and

(4) any interest earned by the Fund.

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

§ 2053. CONTRIBUTIONS; RATE; COLLECTION

(a)(1) An employer shall be responsible for the full amount of the contributions required on covered wages paid to the employers' employees pursuant to subsection (c) of this section and shall remit those amounts to the Department of Taxes pursuant to the provisions of subsection (d) of this section. For purposes of paying the required contributions, an employer may deduct and withhold from an employee's covered wages an amount equal to not more than one-half of the contribution required pursuant to subsection (c) of this section.

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

(b)(1) An enrolled self-employed individual shall be responsible for the full amount of the contributions required on the enrolled self-employed individual’s covered work income pursuant to subsection (c) of this section and shall remit those amounts to the Department of Taxes.

(2) As used in this subsection, the term “covered work income” means an enrolled self-employed individual’s net earnings from self-employment in Vermont up to an amount equal to two times the Social Security Contribution and Benefit Base.

(c)(1) For the period from July 1, 2025 through December 31, 2025, the contribution rate on covered wages paid to employees and on enrolled self-employed individuals’ covered work income shall be 0.55 percent.

(2) Beginning with calendar year 2026 and annually thereafter the Director shall establish the rate of contribution for each calendar year on or before the preceding October 1. The Director shall set the rate so that it generates contributions in an amount equal to the sum of the projected amount necessary to provide benefits pursuant to this chapter during the next calendar year plus the projected cost to administer the Program during the next calendar year plus a reserve equal to six months of the projected benefit payments and administrative costs for the next calendar year minus any balance projected to be remaining in the Fund from the prior calendar year.

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

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

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

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

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

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

(e) An employer with an approved private plan pursuant to section 2059 of this chapter shall not be required to withhold and pay contributions pursuant to this section.

§ 2054. BENEFITS

(a)(1) Benefits provided pursuant to this chapter shall only be available for leaves beginning on or after July 1, 2026.

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

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

(b) A qualified individual awarded benefits under this section shall receive 90 percent of the individual's average weekly earnings or an amount equal to the State average weekly wage determined pursuant to section 1338 of this title, whichever is less.

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

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

§ 2055. ELIGIBILITY

An individual shall be eligible to receive benefits pursuant to the provisions of this chapter for a leave beginning on or after July 1, 2026 if:

(1) the individual is currently an employee or an enrolled self-employed individual, or both;

(2) except as otherwise provided pursuant to subsection 2059(f) of this chapter:

(A) the individual has:

(i) earned wages from which contributions were withheld during at least two calendar quarters in the preceding calendar year;

(ii) made contributions to the Fund on covered work income that was earned during at least two calendar quarters in the preceding calendar year; or

(iii) both; or

(B) if the individual does not meet the requirements of subdivision (A) of this subdivision (2), the individual has:

(i) earned wages from which contributions were withheld pursuant to section 2053 of this chapter in two of the last four calendar quarters and provided documentation of those wages that is acceptable to the Director;

(ii) made contributions to the Fund on covered work income that was earned during two of the last four calendar quarters and provided documentation of that covered work income that is acceptable to the Director; or

(iii) both;

(3) the individual is unable to work because the individual:

(A) has a serious health condition;

- (B) is caring for a family member with a serious health condition;
- (C) is pregnant;
- (D) is recovering from childbirth or miscarriage;
- (E) is caring for a new child during the first year following the birth, adoption, or placement for foster care of that child;
- (F) is taking safe leave;
- (G) is taking a bereavement leave; or
- (H) is taking leave related to a qualifying exigency of a family member who is on active duty in the U.S. Armed Forces or who has been called to active duty in the U.S. Armed Forces; and

(4) the Director determines that the individual is not disqualified pursuant to section 2065 of this chapter.

§ 2056. APPLICATION FOR BENEFITS

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

(2) An employee or enrolled self-employed individual, or the employee's or enrolled self-employed individual's agent, shall, to the extent possible, submit documentation of the need for the leave together with the application filed pursuant to subdivision (1) or this subsection. The Director shall specify acceptable forms of documentation on the application form.

(b)(1) The Division shall review each application and any accompanying documentation and determine if the employee or enrolled self-employed individual is eligible to receive benefits pursuant to section 2055 of this chapter not later than 10 business days after the date the application is filed with the Division.

(2) Notwithstanding subdivision (1) of this subsection, the Director may extend the time in which to make a determination by not more than 30 business days if necessary to obtain documents or information that are needed to make the determination.

(c) An employee or enrolled self-employed individual may file an application for benefits up to 60 calendar days before an anticipated family and medical leave, safe leave, or bereavement leave or, in the event of a premature birth, an unanticipated serious health condition, safe leave or, the

death of a family member within 60 calendar days after commencing a family and medical leave, safe leave, or bereavement leave.

(d)(1) In the event that an application is not approved within the time period provided pursuant to subsection (b) of this section because there was insufficient information or documentation for the Division to approve the application, the employee or enrolled self-employed individual, or the employee's or enrolled self-employed individual's agent, may submit a new application with additional information or documentation, provided that the second application is submitted within the time period required pursuant to subsection (c) of this section.

(2) An employee or enrolled self-employed individual who submits a second application pursuant to this subsection shall only be permitted to file an appeal pursuant to section 2060 of this chapter in relation to the determination made on the second application.

§ 2057. PAYMENT OF BENEFITS; TAX WITHHOLDING

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

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

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

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

(B) If, during the review of the individual's application, the Director determines that the individual has outstanding, unpaid child support obligations, the Director shall deduct and withhold an amount necessary to pay the outstanding, unpaid child support obligations from any benefits payable to the individual pursuant to this chapter and remit that amount to the appropriate child support enforcement agency. The amount deducted and withheld from an individual's benefits pursuant to this subdivision (B) shall not exceed 30 percent of the benefit payment to the individual.

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

(3) If an individual has outstanding Vermont State tax liability, the Director shall deduct and withhold the outstanding amount from the benefits payable to the individual pursuant to this chapter and remit it to the Commissioner of Taxes. The amount deducted and withheld from an individual's benefits pursuant to this subdivision shall not exceed 30 percent of the benefit payment to the individual.

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

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

§ 2058. ELECTIVE COVERAGE

(a)(1) A self-employed individual may elect to obtain coverage through the Program for an initial period of three years by filing a notice of the election with the Division on a form provided by the Director.

(2) After electing to obtain coverage pursuant to this section, an enrolled self-employed individual shall, if otherwise eligible pursuant to section 2055 of this chapter, be able to receive benefits through the Program after paying contributions pursuant to section 2053 of this chapter in two calendar quarters within a four-calendar quarter period.

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

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

(2) An enrolled self-employed individual who does not terminate coverage at the end of the initial three-year period may terminate the coverage at the end of any succeeding annual period by providing the Director with

written notice of the termination at least 30 calendar days before the end of the period.

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

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

§ 2059. EMPLOYER OPTION; PRIVATE PLAN

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

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

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

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

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

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

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

(C) costs employees the same or less than the employees' portion of the contribution would be pursuant to subsection 2053(a) of this chapter;

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

(E) provides wage replacement in an amount that is equal to or greater than the rate of wage replacement provided pursuant to section 2054 of this chapter;

(F) imposes no additional restrictions or conditions on the use of paid

leave benefits beyond the restrictions and conditions that are established pursuant to this chapter and the rules adopted by the Director; and

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

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

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

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

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

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

(d) A contested determination or a denial of benefits under a private plan approved pursuant to this section shall be subject to appeal pursuant to section 2060 of this chapter.

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

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

(B) misuses private plan funds;

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

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

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

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

(f)(1) An employee who ceases to be covered by an approved private plan shall, for purposes of determining eligibility for benefits pursuant to the provisions of section 2055 of this chapter, be treated as if the employee had earned wages from which contributions were withheld during the period of the employee's employment with the employer.

(2) For purposes of this subsection (f), an employee ceases to be covered by a private plan if:

(A) the employee separates from employment with the employer due to a layoff or the end of seasonal employment with the employer;

(B) the employer terminates the employer's private plan pursuant to subdivision (c)(3) of this section;

(C) the approval of the employer's private plan is terminated by the Director pursuant to subsection (e) of this section; or

(D) the employer becomes insolvent or ceases to do business in Vermont.

§ 2060. APPEALS

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

(2) If an employer petitions the Director to reconsider a decision relating to an application for benefits or the amount of benefits that a qualified individual is entitled to receive, the Director shall promptly notify the individual who applied for the benefits of the petition by ordinary, certified, or electronic mail and provide the individual with an opportunity to file an answer to the employer's petition.

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

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

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

§ 2061. FALSE STATEMENT OR REPRESENTATION; PENALTY

(a)(1) An individual who intentionally makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this chapter, whether for themselves or for any other person, after notice and opportunity for hearing, shall be prohibited from receiving benefits pursuant to this chapter for a period of not less than one year and not more than three years as determined to be appropriate by the Director.

(2) The penalty imposed pursuant to this section shall be in addition to any liability incurred by the individual pursuant to section 2062 of this chapter.

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

- (1) the full amount of unpaid contributions; and
- (2) an administrative penalty of not more than \$5,000.00.

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

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

§ 2062. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by either the individual or another person, receives benefits that the individual is not eligible to receive shall be liable to repay to the Division

the amount received in excess of the amount, if any, that the individual is eligible to receive.

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

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

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

(3) Upon determining that an individual is liable for an overpayment of benefits pursuant to subdivision (1) of this subsection, the Director shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Division the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid. The notice shall also provide information regarding the individual's right to appeal the determination pursuant to the provisions of section 2060 of this chapter.

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

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

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

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

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

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact with respect to the individual's claim for benefits may be subject to the penalties provided pursuant to section 2061 of this chapter.

§ 2063. RULEMAKING

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

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

§ 2064. CONFIDENTIALITY OF INFORMATION

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

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

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

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

§ 2065. DISQUALIFICATIONS; LIMITATIONS

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

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

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

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

(b) An individual shall not receive benefits provided pursuant to this chapter and remuneration from the individual's employer that would result in the individual earning more than:

(1) the individual's average daily wage on any single day; or

(2) the individual's average weekly wage in any calendar week.

(c) Subject to the limitation set forth in subsection (b) of this section, an employer may provide an employee with remuneration to supplement the amount of the benefits provided to the employee pursuant to this chapter.

(d) As used in this section:

(1) "Average daily wage" means one-fifth of an individual's average weekly wage.

(2) "Average weekly wage" means either:

(A) the sum of a qualified individual's wages, if any, upon which contributions were paid pursuant to section 2053 of this chapter during the preceding calendar year divided by 52, provided those wages are used for purposes of determining the amount of the individual's benefits pursuant to this chapter; or

(B) the sum of a qualified individual's documented wages during the individual's two highest earning calendar quarters out of the last four completed calendar quarters divided by 26, provided those wages are used for purposes of determining the amount of the individual's benefits pursuant to this chapter.

(3) "Remuneration" means wages and payments for vacation leave, sick leave, or any other accrued paid leave.

§ 2066. PROTECTION FROM RETALIATION OR INTERFERENCE

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

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

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

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

§ 2067. NOTICE

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

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

§ 2068. EMPLOYER OBLIGATIONS; EMPLOYEE RIGHTS

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

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

(c) An employee receiving benefits for family and medical leave, safe leave, leave for a qualifying exigency, or bereavement leave shall be entitled to all rights and protections provided pursuant to section 472 of this title and the federal Family and Medical Leave Act, 29 U.S.C. §§ 2611–2654, to which the employee would otherwise be entitled.

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

§ 2069. ANNUAL REPORT

(a) Beginning in 2027, the Director, on or before February 15 of each year, shall publish a report regarding the usage of the Program during the preceding calendar year.

(b) The report shall include the following information:

(1) the total number of claims filed;

(2) the total number and percentage of claims approved;

(3) the total number and percentage of claims denied, broken down by the reason for denial;

(4) the percentage of claims, both total and approved claims, attributable to each eligible reason for leave;

(5) average weekly benefit and average length of leave, broken down by eligible reason for leave;

(6) the total number and percentage of claim denials that are reversed on appeal;

(7) the total number of claims that are approved following a second application submitted pursuant to subsection 2056(d) of this chapter;

(8) the total number of enrolled self-employed individuals;

(9) the total number of covered employees and enrolled self-employed individuals and the percentage of working Vermonters who are covered by the Program;

(10) the gross benefits paid by the Program and any changes in the amount of gross benefits paid in comparison to prior years; and

(11) the average time required to process an initial claim and an appeal, as well as the average time from submission of a benefits application to final determination.

(c) All information provided pursuant to subdivisions (b)(1)–(8) of this section shall be further broken down by claimant demographics, including age, gender, race, ethnicity, income, geographic distribution by county, and occupation.

§ 2070. DEFINITIONS

As used in this chapter:

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

(2) “Average weekly earnings” means either:

(A) the sum of a qualified individual’s wages, if any, upon which contributions were paid pursuant to section 2053 of this chapter during the preceding calendar year plus the qualified individual’s net earnings from self-employment, if any, upon which contributions were paid pursuant to section 2053 of this chapter during the preceding calendar year divided by 52; or

(B) if the individual did not have wages or net earnings from self-employment, or both, upon which contributions were paid during at least two calendar quarters in the preceding calendar year, the sum of a qualified individual’s documented wages, if any, upon which contributions were paid pursuant to section 2053 of this chapter during the individual’s two highest earning calendar quarters out of the last four completed calendar quarters, plus the qualified individual’s net earnings from self-employment, if any, upon

which contributions were paid pursuant to section 2053 of this chapter during those two calendar quarters divided by 26.

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

(4) “Bereavement leave” means a leave of absence from employment or self-employment by an individual due to the death of the individual’s family member that occurs not more than one year after the family member’s death. Bereavement leave includes leave taken in relation to the administration or settlement of the deceased family member’s estate. Leave taken in relation to the administration or settlement of the deceased family member’s estate may occur more than one year after the family member’s death.

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

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

(7) “Domestic partner” means an individual with whom the qualified individual has an enduring domestic relationship of a spousal nature, provided the qualified individual and the domestic partner:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other’s welfare.

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

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

(10) “Employer” means a person who employs one or more employees. “Employer” does not include the U.S. Government or any instrumentality of the United States.

(11) “Enrolled self-employed individual” means a self-employed individual who has obtained coverage under the Program pursuant to section 2058 of this chapter.

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

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

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

(C) the qualified individual’s pregnancy;

(D) recovery from childbirth or miscarriage;

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

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

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

(13) “Family member” means:

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

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

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

(iii) a person who stands in loco parentis for the qualified individual or who stood in loco parentis when the qualified individual or

qualified individual's spouse or civil union or domestic partner was under 18 years of age;

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

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

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

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

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

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

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

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

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

(15) "Highest earning quarters" means the two calendar quarters of the last four completed calendar quarters when an individual earned the highest combined total of wages upon which contributions were paid pursuant to section 2053 of this chapter and net earnings from self-employment upon which contributions were paid pursuant to section 2053 of this chapter.

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

(17) “Net earnings from self-employment” has the same meaning as in 26 U.S.C. § 1402.

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

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

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

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

(20) “Qualifying exigency” means a qualifying exigency identified pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a family member in the U.S. Armed Forces.

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

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

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

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

(ii) to recover from injuries;

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

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

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

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

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

(23) “Serious health condition” means:

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

(i) poses imminent danger of death;

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

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

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

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

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

(26) "U.S. Armed Forces" means:

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

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

(C) the National Guard of any state.

(27) "Wages" means all remuneration paid by an employer to an employee for services or work performed by the employee. Wages include salaries, tips, commissions, bonuses, and the cash value of any remuneration paid in a medium other than cash. The reasonable cash value of remuneration paid in a medium other than cash shall be estimated and determined in accordance with rules adopted pursuant to 21 V.S.A. chapter 17. Wages shall not include the amount of any payment that is:

(A) made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that:

(i) provides:

(I) insurance;

(II) annuities; or

(III) a fund or plan that provides for the employees or their dependents, or both, or any class or classes of the employees or their dependents, or both;

(ii) on account of:

(I) sickness, accident, or disability;

(II) medical or hospitalization expenses in connection with sickness, accident, or disability; or

(III) death;

(B) made by an employer to, or on behalf of, an employee more than six calendar months after the last calendar month in which the employee worked for the employer and is on account of:

(i) sickness, accident, or disability; or

(ii) any medical or hospitalization expenses in connection with sickness, accident, or disability; or

(C) made to, or on behalf of, an employee or the employee's beneficiary:

(i) from or to a trust described in 26 U.S.C. § 401(a) that is exempt from tax under 26 U.S.C. § 501(a) at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as the employee and not as a beneficiary of the trust; or

(ii) under or to an annuity plan that, at the time of such payment, is a plan described in 26 U.S.C. § 403(a).

Sec. 7. 32 V.S.A. § 3102(e) is amended to read:

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

* * *

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

Sec. 8. ADOPTION OF RULES

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

(b) On or before April 1, 2025, the Commissioner of Taxes, in consultation with the Director of the Division of Family and Medical Leave, shall adopt rules as necessary to carry out the provisions of 21 V.S.A. § 2053.

Sec. 9. EDUCATION AND OUTREACH

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

(2)(A) During the period from June 1, 2025 through May 31, 2026, the Division shall offer monthly informational sessions for employers, employees, and self-employed individuals. The Director shall ensure that sessions are available to both individuals attending in person and to individuals who are not physically present by:

(i) using technology that permits the attendance of individuals through electronic or other means;

(ii) allowing individuals to access the session by telephone; and

(iii) posting information that allows individuals to directly access and participate in each session electronically and providing that information on the Division's website and in any public notice for a session.

(B) Sessions for employers shall be developed in consultation with the Department of Taxes and shall be designed to educate employers regarding employers' rights and obligations under 21 V.S.A. chapter 25 and shall include information regarding resources available to employers through the Division and the Department of Taxes.

(C) Sessions for employees shall be developed in consultation with the Department of Taxes and shall be designed to educate employees regarding employees' rights and obligations under 21 V.S.A. chapter 25, the tax credit available to certain individuals pursuant to 32 V.S.A. § 5830g, and resources available to employees through the Division and the Department of Taxes.

(D) Sessions for self-employed individuals shall be developed in consultation with the Department of Taxes and shall be designed to educate self-employed individuals regarding self-employed individuals' rights and obligations under 21 V.S.A. chapter 25, the tax credit available to certain individuals pursuant to 32 V.S.A. § 5830g, and resources available to self-employed individuals through the Division and the Department of Taxes.

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

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

Sec. 10. ESTABLISHMENT OF PROGRAM; REPORT

Annually, on or before December 15, 2023, 2024, and 2025, the Director of the Division of Family and Medical Leave and the Commissioner of Taxes shall submit a written report to the House Committees on Appropriations; on General and Housing; and on Ways and Means and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Finance regarding the implementation of the Family and Medical Leave Insurance Program established pursuant to 21 V.S.A. chapter 26. The report shall provide detailed information regarding any progress made in implementing the provisions of 21 V.S.A. chapter 26, including the development of information technology needed to implement the Program, the adoption of rules, the creation of forms, the hiring and training of staff, and the development of informational materials and outreach programs. The report shall also provide a projected timeline for the implementation of the Program and include any recommendations for legislative action necessary to ensure that the Program can be implemented as required pursuant to this act.

Sec. 11. ADEQUACY OF RESERVES; REPORT

Annually, on or before December 15, 2025, 2026, 2027, and 2028, the Director of the Division of Family and Medical Leave, in consultation with the Commissioners of Finance and Management, of Financial Regulation, and of Taxes, shall submit a written report to the House Committees on Appropriations; on General and Housing; and on Ways and Means and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Finance regarding the amount and adequacy of the reserves in the Family and Medical Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund. The report shall also include an analysis of informational resources, legislation, or other measures that could potentially improve the long-term solvency of the Fund and the Division's ability to accurately determine an appropriate reserve, including the potential for use of actuarial analysis or the implementation of a countercyclical funding mechanism.

Sec. 12. PRIVATE PLANS; INITIAL APPROVAL

(a) An employer wishing to utilize a private plan to meet the employer's obligations pursuant to 21 V.S.A. chapter 26 beginning on January 1, 2026 shall submit an application for approval of a private plan on or before October 15, 2025.

(b) The Director of the Division of Family and Medical Leave shall review the proposed plan as provided pursuant to the provisions of 21 V.S.A. § 2059.

(c) An employer that receives approval for a private plan pursuant to this section shall:

(1) beginning on January 1, 2026, be exempt from withholding and paying contributions as provided pursuant to 21 V.S.A. 2053(d);

(2) begin providing benefits pursuant to the private plan on or before January 1, 2026; and

(3) on or before January 15, 2026, be reimbursed by the Director for any contributions that the employer paid for the calendar quarters ending September 30, 2025 and December 31, 2025.

Sec. 13. APPROPRIATIONS

(a) The amount of \$46,159,585.00 is appropriated to the Division of Family and Medical Leave for fiscal years 2024, 2025, and 2026 to be deposited in the Family and Medical Leave Insurance Special Fund and used for the establishment of the Family and Medical Leave Insurance Program.

(b) The amount of \$6,504,916.00 is appropriated to the Department of Taxes for fiscal years 2024, 2025, and 2026 to be deposited in the Family and Medical Leave Insurance Special Fund and used for the establishment of the Family and Medical Leave Insurance Program.

(c) The amount of \$58,810,448.00 is transferred from the General Fund to the Family and Medical Leave Insurance Special Fund for the costs of operating the Family and Medical Leave Insurance Program during calendar year 2026 and the maintenance of the reserve required pursuant to 21 V.S.A. § 2053(b).

Sec. 14. DEPARTMENT OF TAXES; POSITIONS

The establishment of the following 15 new permanent classified positions is authorized in the Department of Taxes in fiscal year 2025:

(1) eight full-time, classified tax examiners within the Taxpayer Services Division;

(2) two full-time, classified tax examiners within the Compliance Division;

(3) three full-time, classified tax compliance officers within the Compliance Division;

(4) one full-time, classified financial specialist III within the Revenue Accounting and Returns Processing Division; and

(5) one business analyst–tax within the VTax Division.

Sec. 15. DIVISION OF FAMILY AND MEDICAL LEAVE; POSITIONS

(a) The establishment of the following six new permanent classified positions is authorized in the Division of Family and Medical Leave in fiscal year 2024:

(1) one full-time, classified administrative assistant;

(2) one full-time, classified private insurance regulation supervisor;

(3) one full-time, classified financial and accounting supervisor;

(4) one full-time, classified information technology director;

(5) one full-time, classified applications developer; and

(6) one full-time, classified information technology service desk specialist.

(b) The establishment of the following three new permanent exempt positions is authorized in the Division of Family and Medical Leave in fiscal year 2024:

(1) one full-time, exempt Director;

(2) one full-time, exempt Deputy Director; and

(3) one full-time, exempt general counsel.

(c) The establishment of the following eight new permanent classified positions is authorized in the Division of Family and Medical Leave in fiscal year 2025:

(1) two full-time, classified communications and outreach specialists;

(2) one full-time, classified administrative support specialist;

(3) three full-time, classified accounting support specialists;

(4) one full-time, classified claims supervisor; and

(5) one full-time, classified assistant claims supervisor.

(d) The establishment of the following 24 new permanent classified positions is authorized in the Division of Family and Medical Leave in fiscal year 2026:

(1) one full-time, classified regulatory specialist;

- (2) fifteen full-time, classified claims processors;
- (3) five full-time, classified claims adjudicators; and
- (4) three full-time, classified compliance officers.

Sec. 16. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Division of Family and Medical Leave established pursuant to section 6 of this act. The space shall be allocated on or before September 30, 2023.

* * * Income Tax Credit; Family and Medical Leave Contributions * * *

Sec. 17. 32 V.S.A. § 5830g is added to read:

§ 5830g. FAMILY AND MEDICAL LEAVE CONTRIBUTION CREDIT

(a) A qualified individual shall be entitled to a credit against the tax imposed under section 5822 of this title for the taxable year in which the individual made family and medical leave contributions pursuant to 21 V.S.A. chapter 26, provided the qualified individual's combined annual total of covered wages and covered work income does not exceed \$25,000.00 in the taxable year. The credit under this section shall be in the amount of:

(1) \$40.00 for a qualified individual whose combined annual total of covered wages and covered work income does not exceed \$15,000.00; or

(2) \$70.00 for a qualified individual whose combined annual total of covered wages and covered work income exceeds \$15,000.00 but is less than or equal to \$25,000.00.

(b) The Commissioner of Taxes shall annually adjust for inflation the dollar amounts of the maximum combined annual totals of covered wages and covered work income and the dollar amounts of the credit in subsection (a) of this section by using the adjustment percentage of the national average wage index computed and published for the taxable year by the Commissioner of the Social Security Administration.

(c) The Commissioner of Taxes shall transfer the amount of family and medical leave contribution credits paid to qualified individuals for the taxable year pursuant to this section from the Family and Medical Leave Insurance Program Special Fund created under 21 V.S.A. § 2052 to the General Fund created under section 435 of this title.

(d) As used in this section:

(1) "Covered wages" has the same meaning as in 21 V.S.A. § 2053(a)(1)(B).

(2) “Covered work income” has the same meaning as in 21 V.S.A. § 2053(a)(2)(B).

(3) “National average wage index” has the same meaning as in 42 U.S.C. § 409(k)(1).

(4) “Qualified individual” has the same meaning as in 21 V.S.A. § 2070(18).

Sec. 18. 32 V.S.A. § 5813(aa) is added to read:

(aa) The statutory purpose of the family and medical leave contribution credit in section 5830g of this title is to lower the cost of contributing to the family and medical leave insurance program for qualifying individuals with low income.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 shall take effect on July 1, 2023.

(b) Secs. 4 and 5 shall take effect on July 1, 2026.

(c) Secs. 17 and 18 (family and medical leave contribution credit) shall take effect on January 1, 2025 and shall apply to taxable years beginning on and after January 1, 2025.

(d) Contributions shall begin to be paid pursuant to 21 V.S.A. § 2053 on July 1, 2025, and, beginning on July 1, 2026, employees may begin to apply for and receive benefits pursuant to 21 V.S.A. chapter 26.

(Committee Vote: 8-4-0)

H. 77

An act relating to Vermont’s adoption of the Physical Therapy Licensure Compact

Rep. Peterson of Clarendon, for the Committee on Health Care, recommends the bill be amended as follows:

First: In Sec. 1, 26 V.S.A. chapter 38, subchapter 5, in section 2133, in subdivision (1), following “10 U.S.C.”, by striking out “§” and inserting in lieu thereof “chapters”.

Second: In Sec. 1, 26 V.S.A. chapter 38, subchapter 5, following section 2143 (construction and severability), by adding a new section 2144 to read as follows:

§ 2144. STATE ADMINISTRATION OF THE COMPACT

(a) The Office of Professional Regulation shall have the power to oversee the administration and enforcement of the Compact within the State of Vermont subject to the provisions and rules of the Compact.

(b) The Director of the Office of Professional Regulation shall designate the one delegate of the Compact for the State of Vermont pursuant to subsection 2138(b) of this subchapter.

Third: After Sec. 1, 26 V.S.A. chapter 38, subchapter 5, by adding a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; ~~and~~

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33; and

(E) physical therapists licensed under 26 V.S.A. chapter 38.

and by renumbering the remaining section to be numerically correct.

Fourth: By striking out the newly renumbered Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

This section and Sec. 2 (3 V.S.A. § 123(j)(1)) shall take effect on July 1, 2023. Sec. 1 (physical therapists) shall take effect on July 1, 2024.

(Committee Vote: 10-0-0)

Rep. Andrews of Westford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

By striking out Sec. 3, effective dates, its entirety and inserting in lieu thereof new a Sec. 3 and Sec. 4 to read as follows:

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

* * *

(4) Biennial renewal, \$240.00, except biennial renewal for:

* * *

(C) Physical therapists and assistants, \$150.00, except that a licensee of a remote state under the Physical Therapy Licensure Compact established in 26 V.S.A. chapter 38, subchapter 5 shall pay a biennial \$50.00 privilege to practice fee.

* * *

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 1 (physical therapist licensure compact) and Sec. 3 (fees) shall take effect on July 1, 2024.

(Committee Vote: 11-0-1)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Health Care, and when further amended as recommended by the Committee on Ways and Means.

(Committee Vote: 12-0-0)

H. 86

An act relating to Vermont's adoption of the Audiology and Speech-Language Pathology Interstate Compact

Rep. Farlice-Rubio of Barnet, for the Committee on Health Care, recommends the bill be amended as follows:

First: After Sec. 3, 26 V.S.A. chapter 67, subchapter 5, by adding a new Sec. 4 to read as follows:

Sec. 4. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued credential, including a license, certification, registration, or specialty designation for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33;

(E) audiologists licensed under 26 V.S.A. chapter 67; and

(F) speech-language pathologists licensed under 26 V.S.A. chapter 87.

and by renumbering the remaining section to be numerically correct.

Second: After Sec. 4, 3 V.S.A. § 123(j)(1), by adding a new Sec. 5 to read as follows:

Sec. 5. 26 V.S.A. § 3290 is amended as follows:

§ 3290. ELIGIBILITY FOR AUDIOLOGIST LICENSE

To be eligible for licensure as an audiologist, an applicant shall have:

(1) Either:

(A) A a master's degree or equivalent in audiology or speech-language pathology from an educational institution approved by the Director, with course work completed in areas specified by rule; or

(B) a doctoral degree in audiology, or an equivalent doctoral degree regardless of name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization.

* * *

and by renumbering the remaining section to be numerically correct.

Third: By striking out the newly renumbered Sec. 6, effective date, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATES

This section, Sec. 4 (3 V.S.A. § 123(j)(1)), and Sec. 5 (26 V.S.A. § 3290) shall take effect on July 1, 2023. Secs. 1–3 (audiologists and speech-language pathologists compact) shall take effect on July 1, 2024.

(Committee Vote: 10-0-0)

Rep. Andrews of Westford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as follows:

By striking out Sec. 6, effective dates, in its entirety and inserting in lieu thereof a new Sec. 6 and a Sec. 7 to read as follows:

Sec. 6. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

* * *

(4) Biennial renewal, \$240.00, except biennial renewal for:

* * *

(T) A licensee of a remote state under the Audiology and Speech-Language Pathology Interstate Compact established in 26 V.S.A. chapter 87, subchapter 2 shall pay a biennial \$50.00 privilege to practice fee.

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 1–3 (audiologists and speech-language pathologists interstate compact) and Sec. 6 (fees) shall take effect on July 1, 2024.

(Committee Vote: 11-0-1)

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Health Care, and when further amended as recommended by the Committee on Ways and Means.

(Committee Vote: 12-0-0)

H. 205

An act relating to establishing the Small Farm Diversification and Transition Program

Rep. Surprenant of Barnard, for the Committee on Agriculture, Food Resiliency, and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 207, subchapter 4 is added to read:

Subchapter 4. Small Farmer Diversification and Transition Program

§ 4631. Small Farmer Diversification and Transition Program

(a) The Small Farmer Diversification and Transition Program is created at the Agency of Agriculture, Food and Markets to provide small farmers in Vermont with State financial assistance to diversify production on a farm or to transition from one form of farming to another. Assistance under the Program shall be in the form of grants. Small Farmer Diversification and Transition Program grants shall be used for costs of:

- (1) diversifying the farm products produced by the applicant;
- (2) transitioning the applicant from one form of farming to another;
- (3) processing of farm products on the farm owned or controlled by the applicant; and
- (4) development of an accessory on-farm business by the applicant.

(b) An applicant for a Small Farmer Diversification and Transition Program grant shall demonstrate to the Secretary of Agriculture, Food and Markets that:

- (1) the applicant is a small farmer;
- (2) the applicant houses not more than the number of animals specified under section 4857 of this title;
- (3) there is potential from the proposed diversification or transition to create additional income for the small farmer;
- (4) the applicant has a proposed plan for diversification or transition that includes possible markets for the proposed product and probable income; and
- (5) the applicant is not permitted as a medium farm or large farm at the time of application.

(c)(1) The Secretary of Agriculture, Food and Markets shall issue Small Farmer Diversification and Transition Program grants under this section when

funds are available for the Program. The maximum amount of a grant under this section shall be \$15,000.00 per farmer per year, and all projects funded by the grant shall be completed within 12 months of receipt of the grant by the small farmer.

(d)(1) The Secretary shall provide public notice of available grants and shall provide applicants with technical assistance in complying with application requirements. The Secretary shall publicize the Small Farmer Diversification and Transition Program in newsletters, press releases, e-mail, and other communications from the Agency of Agriculture, Food and Markets.

(2) The Secretary shall hold the application process open beginning November 1 of each year and shall close the application period on December 31 of each year.

(3) Applications shall not be processed until the Secretary determines that the application is administratively complete and includes all required documentation required by the Secretary.

(4)(A) The Secretary shall evaluate applications based on the following criteria, which shall be weighted equally:

(i) the potential from the proposed diversification or transition to create additional income for the small farmer; and

(ii) the viability of the possible markets identified in the plan for the proposed product.

(B) The Secretary shall award grants to the applicants according to the total weighted scores beginning with the highest score until all funds are expended.

(e) As used in this subchapter:

(1) "Farm products" means:

(A) crops grown, growing, or to be grown, including:

(i) plants grown for food, feed, and fiber, but excluding trees grown for timber purposes;

(ii) Christmas trees;

(iii) maple sap;

(iv) horticultural, viticultural, or orchard crops, and

(v) pasture; and

(B) livestock, born or unborn, including goods produced in aquacultural operations; or

(C) products of crops or livestock produced by the small farmer.

(2) “Small farmer” means any person who:

(A) earns at least one-half of the person’s annual gross income from the business of farming as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1986;

(B) is engaged in “farming” as that term is defined in 10 V.S.A. § 6001(22), regardless of the size of the parcel, and whose gross income from the sale of the farm products equals at least one-half of the farmer’s annual gross income; or

(C) a small farm subject to the Required Agricultural Practices.

Sec. 2. APPROPRIATION

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2024, \$500,000.00 is appropriated from the General Fund to the Agency of Agriculture, Food and Markets for purposes of the Small Farmer Diversification and Transition Program. Funds appropriated under this section that are unexpended in fiscal year 2024 shall carry forward for use by the Agency of Agriculture, Food and Markets in fiscal year 2025 for purpose of awarding grants under 6 V.S.A. § 4631 for the Small Farmer Diversification and Transition Program.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

and that after passage the title of the bill be amended to read “An act relating to establishing the Small Farmer Diversification and Transition Program”

(Committee Vote: 10-0-1)

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they

may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills).

NOTICE OF JFO GRANTS AND POSITIONS

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3138: One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at:

<https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>

[Received February 9, 2023]

JFO #3137: One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>

[Received 1/23/2023]

JFO #3136: \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National

Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>
[Received 1/23/2023]