

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 4352

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|---|
| 03/16/2020 | 5509 | Introduction and first reading |
| | | Referred to Commerce and Consumer Protection Finance and Policy |
| 04/30/2020 | 6018 | Comm report: To pass |
| | | Joint rule 2.03, referred to Rules and Administration |

1.1 A bill for an act

1.2 relating to commerce; authorizing certain insurers to offer paid family leave

1.3 insurance benefits; proposing coding for new law as Minnesota Statutes, chapter

1.4 63A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [63A.01] PAID FAMILY LEAVE INCOME REPLACEMENT BENEFITS.

1.7 An insurance company licensed to issue disability income insurance policies in Minnesota

1.8 may also offer paid family leave insurance benefits providing wage replacement caused by

1.9 absences that are not based on an insured's status as disabled. The benefits may be offered

1.10 either through a rider to a disability income insurance policy or as a separate insurance

1.11 policy.

1.12 Sec. 2. [63A.02] DEFINITIONS.

1.13 (a) As used in this chapter, the following terms have the meanings given.

1.14 (b) "Armed forces of the United States" means members of the National Guard and

1.15 Reserves.

1.16 (c) "Child" means a person who is:

1.17 (1) under 18 years of age, or 18 years of age or older and incapable of self-care because

1.18 of a mental or physical disability; and

1.19 (2) a biological, adopted, or foster son or daughter; a stepson or stepdaughter; a legal

1.20 ward; a son or daughter of a domestic partner; or a son or daughter of a person to whom the

1.21 employee stands in loco parentis.

2.1 (d) "Family leave" means leave taken by an employee from work for a reason specified
2.2 in section 63A.03.

2.3 (e) "Family member" means a child, spouse, or parent as defined in this chapter, or any
2.4 other person defined as a family member in the insurance policy.

2.5 (f) "Health care provider" means a person licensed under the public health laws of
2.6 Minnesota.

2.7 (g) "Parent" means a biological, foster, or adoptive parent; a stepparent; a legal guardian;
2.8 or other person who stood in loco parentis to the employee when the employee was a child.

2.9 (h) "Serious health condition" means an illness, injury, impairment, or physical or mental
2.10 condition, including transplantation preparation and recovery from surgery related to organ
2.11 or tissue donation, that involves inpatient care in a hospital, hospice, or residential health
2.12 care facility, continuing treatment, or continuing supervision by a health care provider as
2.13 defined in the insurance policy. Continuing supervision by a health care provider includes
2.14 a period of incapacity that is permanent or long term due to a condition for which treatment
2.15 may not be effective and where the family member is not receiving active treatment by a
2.16 health care provider.

2.17 **Sec. 3. [63A.03] FAMILY LEAVE BENEFITS.**

2.18 Family leave benefits may be provided for leave taken by an employee from work to:

2.19 (1) participate in providing care, including physical or psychological care, for a family
2.20 member of the employee made necessary by the family member's serious health condition;

2.21 (2) bond with the employee's child during the first 12 months after the child's birth, or
2.22 the first 12 months after the placement of the child for adoption or foster care with the
2.23 employee;

2.24 (3) address a qualifying exigency as interpreted under the Family and Medical Leave
2.25 Act, United States Code, title 29, section 2612(a)(1)(e), and Code of Federal Regulations,
2.26 title 29, sections 825.126(a)(1) to (8), arising out of the fact that the spouse, child, or parent
2.27 of the employee is on active duty, or has been notified of an impending call or order to
2.28 active duty, in the armed forces of the United States;

2.29 (4) care for a family service member injured in the line of duty; or

2.30 (5) take other leave to provide care for a family member or other family leave, as specified
2.31 in the insurance policy.

3.1 Sec. 4. **[63A.04] EXPLANATION OF FAMILY LEAVE REASONS.**

3.2 The insurance policy must set forth the details and requirements regarding each reason
3.3 for covered family leave.

3.4 Sec. 5. **[63A.05] BENEFIT PERIOD.**

3.5 (a) The insurance policy must set the length of family leave benefits available for each
3.6 covered family leave reason as 52 consecutive calendar weeks. Fifty-two consecutive
3.7 calendar weeks may be calculated by:

3.8 (1) a calendar year;

3.9 (2) any fixed period starting on a particular date, including the policy effective date or
3.10 anniversary date;

3.11 (3) the period measured forward from the employee's first day of family leave;

3.12 (4) a rolling period measured by looking back from the employee's first day of family
3.13 leave; or

3.14 (5) any other method specified in the insurance policy.

3.15 (b) The insurance policy must set forth whether there is an unpaid waiting period and,
3.16 if so, the unpaid waiting period terms and conditions, which may include but are not limited
3.17 to whether:

3.18 (1) the waiting period runs over a period of consecutive calendar days;

3.19 (2) the waiting period is in addition to the annual allotment of family leave benefits;

3.20 (3) the waiting period must be met only once per benefit year; and

3.21 (4) the employee may work or receive paid time off or other compensation by the
3.22 employer during the waiting period.

3.23 Sec. 6. **[63A.06] AMOUNT OF FAMILY LEAVE BENEFITS; OTHER INCOME.**

3.24 (a) The insurance policy must set forth:

3.25 (1) the amount of benefits that paid for covered family leave reasons;

3.26 (2) the definition of the wages or other income upon which the amount of family leave
3.27 benefits is based; and

3.28 (3) how the wages or other income is calculated.

4.1 (b) If family leave benefits are subject to offsets for wages or other income received or
4.2 that the insured may be eligible for, the policy must set forth:

4.3 (1) all wages or other income that may be set off; and

4.4 (2) the circumstances under which wages or other income may be offset.

4.5 **Sec. 7. [63A.07] PERMISSIBLE LIMITATIONS, EXCLUSIONS, REDUCTIONS.**

4.6 Limitations, exclusions, or reductions must be set forth in the insurance policy. A
4.7 permissible limitation, exclusion, or reduction may include but is not limited to any of the
4.8 following:

4.9 (1) any period of family leave where the notice and medical certification required by
4.10 the policy has not been provided;

4.11 (2) any family leave related to a serious health condition or other harm to a family
4.12 member brought about by the employee's willful intention;

4.13 (3) any period of family leave during which the employee performed work for
4.14 remuneration or profit;

4.15 (4) any period of family leave for which the employee is eligible to receive from the
4.16 employee's employer, or from a fund to which the employer has contributed remuneration
4.17 or maintenance;

4.18 (5) any period of family leave in which the employee is eligible to receive benefits under
4.19 any other statutory program or employer-sponsored program, including but not limited to
4.20 unemployment insurance benefits, worker's compensation benefits, statutory disability
4.21 benefits, statutory paid leave benefits, or paid time off or employer's paid leave policy;

4.22 (6) any period of family leave beginning before the employee becomes eligible for family
4.23 leave benefits under the policy; or

4.24 (7) periods of family leave where more than one person seeks family leave for the same
4.25 family member.

4.26 **Sec. 8. [63A.08] PAYMENT OF FAMILY LEAVE BENEFITS.**

4.27 Except for a contested period of family leave and subject to section 63A.07, family leave
4.28 benefits provided under this chapter must be paid periodically and promptly.

4.29 **Sec. 9. EFFECTIVE DATE.**

4.30 This act is effective January 1, 2021.