

HB141 INTRODUCED



1 80T42F-1
2 By Representative Ellis
3 RFD: Insurance
4 First Read: 21-Mar-23
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SYNOPSIS:

Under existing law, disability insurance benefits do not provide paid family leave to employees for certain circumstances related to serious health conditions, care for a newborn, newly adopted or newly placed foster care child, immediate family members on active duty military service, or care for another family member.

This bill would authorize insurers providing employee disability policies to expand disability insurance benefits to include family leave under specific circumstances for which paid leave is not currently available, subject to certain limitations and exclusions.

A BILL
TO BE ENTITLED
AN ACT

Relating to disability insurance policies; to authorize disability insurers to offer paid family leave benefit policies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29 Section 1. Article 4, commencing with Section
30 27-19-150, is added to Chapter 19 of Title 27, Code of Alabama
31 1975, to read as follows:

32 §27-19-150

33 The purpose of this article is to authorize disability
34 insurers to expand their fully insured benefits to include
35 paid family leave benefits through employer-sponsored group
36 insurance policies or voluntarily purchased employee policies.

37 §27-19-151

38 This article shall be known and may be cited as the
39 "Paid Family Leave Income Replacement Benefits Act."

40 §27-19-152

41 For purposes of this article, the following terms have
42 the following meanings:

43 (1) CHILD. An individual who is:

44 a. Under 19 years of age.

45 b. 19 years of age or older and incapable of self-care
46 because of a mental or physical disability.

47 c. Either paragraph a. or b. and a biological, adopted,
48 or foster son or daughter; a stepson or stepdaughter; a legal
49 ward; or a son or daughter of an individual to whom the
50 employee stands in loco parentis.

51 (2) FAMILY LEAVE. Any leave taken by an employee from
52 work for reasons set forth in Section 27-19-153.

53 (3) FAMILY MEMBER. May include a child, spouse, or
54 parent or any other individual defined as a family member in
55 the insurance policy.

56 (4) HEALTH CARE PROVIDER. An individual licensed under



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57 Title 34 to provide health care services.

58 (5) PARENT. A biological, foster, or adoptive parent, a
59 stepparent, a legal guardian, or other individual who stood in
60 loco parentis to the employee when the employee was a child.

61 (6) SERIOUS HEALTH CONDITION. An illness, injury,
62 impairment, or physical or mental condition, including
63 transplantation preparation and recovery from surgery related
64 to organ or tissue donation, that involves inpatient care in a
65 hospital, hospice, or residential health care facility,
66 continuing treatment or continuing supervision by a health
67 care provider including a period of incapacity that is
68 permanent or long term due to a condition for which treatment
69 may not be effective and where the family member need not be
70 receiving active treatment by a health care provider.

71 §27-19-153

72 Family leave benefits may be provided for any leave
73 taken by an employee from work to do any of the following:

74 (1) Participate in providing care, including physical
75 or psychological care, for a family member of the employee
76 made necessary by a serious health condition of the family
77 member.

78 (2) Bond with the employee's child during the first
79 twelve months after the child's birth, or the first 12 months
80 after the placement of the child for adoption or foster care
81 with the employee.

82 (3) Address a qualifying exigency as interpreted under
83 the Family and Medical Leave Act, 29 U.S.C. § 2612(a)(1)(e)
84 and 29 C.F.R. § 825.126(a)(1)-(8), arising out of the fact



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85 that the spouse, child, or parent of the employee is on active
86 duty, or has been notified of an impending call or order to
87 active duty, in the Armed Forces of the United States.

88 (4) Care for a family service member injured in the
89 line of duty.

90 (5) Take other leave to provide care for a family
91 member or other family leave as specified in the insurance
92 policy.

93 §27-19-154

94 The insurance policy shall set forth the details and
95 requirements with regard to each of the covered family leave
96 reasons.

97 §27-19-155

98 The insurance policy shall set forth the length of
99 family leave benefits that are available for each covered
100 family leave reason, which will in no event be less than two
101 weeks during a period of 52 consecutive calendar weeks.
102 Fifty-two consecutive calendar weeks may be calculated by any
103 of the following methods:

104 (1) A calendar year.

105 (2) Any fixed period starting on a particular date such
106 as the effective or anniversary date.

107 (3) The period measured forward from the employee's
108 first day of family leave.

109 (4) A rolling period measured by looking back from the
110 employee's first day of family leave.

111 (5) Any other method that is specified in the insurance
112 policy.



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113 §27-19-156

114 The insurance policy shall set forth whether there is
115 an unpaid waiting period and, if so, the terms and conditions
116 of the unpaid waiting period, which may include, but are not
117 limited to, all of the following:

118 (1) Whether the waiting period runs over a consecutive
119 calendar day period.

120 (2) Whether the waiting period is counted toward the
121 annual allotment of family leave benefits or is in addition to
122 the annual allotment of family leave benefits.

123 (3) Whether the waiting period must be met only once
124 per benefit year or must be met for each separate claim for
125 benefits.

126 (4) Whether the employee may work or receive paid time
127 off or other compensation by the employer during the waiting
128 period.

129 §27-19-157

130 (a) The insurance policy shall set forth all of the
131 following:

132 (1) The amount of benefits that will be paid for
133 covered family leave reasons.

134 (2) The definition of the wages or other income upon
135 which the amount of family leave benefits will be based.

136 (3) How the wages or other income will be calculated.

137 (b) If the family leave benefits are subject to offsets
138 for wages or other income received or for which the insured
139 may be eligible, the policy shall set forth both of the
140 following:



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141 (1) All the wages or other income that may be offset.

142 (2) The circumstances under which it may be offset.

143 §27-19-158

144 Eligibility for family leave benefits under this
145 article may be limited, excluded, or reduced, but any
146 limitations, exclusions, or reductions shall be set forth in
147 the insurance policy. Permissible limitations, exclusions, or
148 reductions may include, but are not limited to, any of the
149 following:

150 (1) Any period of family leave wherein the required
151 notice and medical certification as prescribed in the policy
152 have not been provided.

153 (2) Any family leave related to a serious health
154 condition or other harm to a family member brought about by
155 the willful intention of the employee.

156 (3) Any period of family leave during which the
157 employee performed work for remuneration or profit.

158 (4) Any period of family leave for which the employee
159 is eligible to receive from his or her employer or from a fund
160 to which the employer has contributed remuneration or
161 maintenance.

162 (5) Any period of family leave in which the employee is
163 eligible to receive benefits under any other statutory program
164 or employer-sponsored program, including, but not limited to,
165 unemployment insurance benefits, worker's compensation
166 benefits, statutory disability benefits, statutory paid leave
167 benefits, or any paid time off or employer's paid leave
168 policy.



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169 (6) Any period of family leave commencing before the
170 employee becomes eligible for family leave benefits under the
171 policy.

172 (7) Any period of family leave where more than one
173 individual seeks family leave for the same family member.

174 §27-19-159

175 Family leave benefits provided under this article shall
176 be paid periodically and promptly as provided in Section
177 27-19-11 except as to a contested period of family leave and
178 subject to any of the provisions of Section 27-19-158.

179 §27-19-160

180 (a) Premiums for policies or riders providing paid
181 family leave benefits in accordance with state disability
182 income insurance law shall be calculated in accordance with
183 applicable provisions of state insurance law.

184 (b) Insurance policies issued pursuant to this article
185 may offer coverage for paid family leave benefits or may offer
186 paid family leave benefits as a rider to a disability
187 insurance policy.

188 Section 2. This act shall become effective on the first
189 day of the third month following its passage and approval by
190 the Governor, or its otherwise becoming law.