1  80T42F-2
2  By Representative Ellis
3  RFD: Insurance
4  First Read: 21-Mar-23
5
6  2023 Regular Session
Enrolled, 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:

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

§27-19-150

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

§27-19-151

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

§27-19-152

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

(1) CHILD. An individual who is:

a. Under 19 years of age.

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

c. Either paragraph a. or b. and a biological, adopted, or foster son or daughter; a stepson or stepdaughter; a legal ward; or a son or daughter of an individual to whom the employee stands in loco parentis.
(2) FAMILY LEAVE. Any leave taken by an employee from work for reasons set forth in Section 27-19-153.

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

(4) HEALTH CARE PROVIDER. An individual licensed under Title 34 to provide health care services.

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

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

§27-19-153
Family leave benefits may be provided for any leave taken by an employee from work to do any of the following:

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

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

(3) Address a qualifying exigency as interpreted under the Family and Medical Leave Act, 29 U.S.C. § 2612(a)(1)(e) and 29 C.F.R. § 825.126(a)(1)-(8), arising out of the fact that the spouse, child, or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces of the United States.

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

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

§27-19-154
The insurance policy shall set forth the details and requirements with regard to each of the covered family leave reasons.

§27-19-155
The insurance policy shall set forth the length of family leave benefits that are available for each covered family leave reason, which will in no event be less than two weeks during a period of 52 consecutive calendar weeks.

Fifty-two consecutive calendar weeks may be calculated by any of the following methods:

(1) A calendar year.

(2) Any fixed period starting on a particular date such as the effective or anniversary date.
(3) The period measured forward from the employee's first day of family leave.

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

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

§27-19-156
The insurance policy shall set forth whether there is an unpaid waiting period and, if so, the terms and conditions of the unpaid waiting period, which may include, but are not limited to, all of the following:

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

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

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

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

§27-19-157
(a) The insurance policy shall set forth all of the following:

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

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

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

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

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

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

§27-19-158

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

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

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

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

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

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

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

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

§27-19-159
Family leave benefits provided under this article shall
be paid periodically and promptly as provided in Section
27-19-11 except as to a contested period of family leave and
subject to any of the provisions of Section 27-19-158.

§27-19-160
(a) Premiums for policies or riders providing paid
family leave benefits in accordance with state disability
income insurance law shall be calculated in accordance with
applicable provisions of state insurance law.

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

Section 2. This act shall become effective on the first
day of the third month following its passage and approval by
the Governor, or its otherwise becoming law.
HB141 Enrolled

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 11-Apr-23.

John Treadwell
Clerk

Senate 27-Apr-23
Passed