

Senate Bill 411

By: Senators Tate of the 38th, Henson of the 41st, Fort of the 39th, Orrock of the 36th, Butler of the 55th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial  
2 relations, so as to provide for the creation of a program to compensate in part for the wage  
3 loss sustained by any individual who is unable to work due to such individual's own sickness  
4 or injury, the sickness or injury of a family member, or the birth, adoption, or foster care  
5 placement of a new child; to provide a short title; to provide legislative findings and  
6 declarations; to provide for definitions; to provide for the payment of temporary family  
7 medical leave insurance benefits; to provide for the amount and duration of such benefits;  
8 to provide for eligibility and disqualifications; to provide for penalties for certain actions; to  
9 create the Family Medical Leave Fund; to provide for contributions to such fund; to provide  
10 for filing determination and payment of claims; to provide for the promulgation of rules and  
11 regulations by the Department of Labor; to provide for related matters; to provide a  
12 contingent effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
16 is amended by adding a new chapter to read as follows:

17 CHAPTER 8A

18 34-8A-1.

19 This chapter shall be known and may be cited as the 'Georgia Family Medical Leave Act  
20 of 2016.'

21 34-8A-2.

22 The General Assembly finds and declares that:

23 (1) It is in the public benefit to provide temporary family medical leave insurance  
24 benefits to working individuals to care for themselves and their family members. The  
25 need for temporary family medical leave insurance benefits has intensified as both  
26 parents' participation in the workforce has increased and the number of single parents in  
27 the workforce has increased. The need for partial wage replacement for individuals  
28 taking leave will be exacerbated as the population of those needing care, both children  
29 and parents of individuals in the workforce, increases in relation to the number of  
30 working adults;

31 (2) Developing systems to help families adapt to the competing demands of work and  
32 family not only benefits individuals in the workforce but also benefits employers by  
33 increasing productivity and reducing turnover;

34 (3) The federal Family and Medical Leave Act of 1993, as amended, entitles eligible  
35 individuals working for covered employers to take unpaid, job-protected leave for up to  
36 12 workweeks in a 12 month period. Under the federal Family and Medical leave Act,  
37 unpaid leave may be taken for the birth, adoption, or foster care placement of a new child;  
38 to care for a child, parent, or spouse with a serious health condition or for the individual's  
39 disability;

40 (4) Although the federal Family and Medical Leave Act of 1993, as amended, entitles  
41 eligible individuals to take leave, a significant number of individuals in this state who  
42 need to take such leave due to their own nonwork related injuries, illnesses, or conditions,  
43 including pregnancy, that prevent them from working are unable to take such leave as  
44 some employers do not provide paid leave or do not provide paid leave for an extended  
45 time period;

46 (5) A significant number of individuals in this state are unable to take leave to care for  
47 a sick or inured child, spouse, or parent or to bond with a new child because they are  
48 unable to afford leave without pay. When individuals do not receive some form of wage  
49 replacement while taking leave, their families suffer from such individuals' loss of  
50 income, increasing the demand on the state unemployment insurance system and  
51 dependence on the state's welfare system;

52 (6) It is the intent of the General Assembly to create a temporary family medical leave  
53 insurance program, funded through contributions by working individuals and their  
54 employers, to help reconcile the demands of work and family; and

55 (7) The purpose of this chapter is to compensate in part for the wage loss sustained by  
56 any individual who is unable to work due to his or her own sickness or injury, the  
57 sickness or injury of a family member, or the birth, adoption, or foster care placement of  
58 a new child and to reduce to a minimum the suffering caused by unemployment resulting  
59 therefrom. This chapter shall be construed liberally in aid of its declared purpose to

60 mitigate the evils and burdens which fall on working individuals who experience a  
 61 disability or are needed to care for a member of his or her family.

62 34-8A-3.

63 As used in this chapter, the term:

64 (1) 'Base period' means for benefit periods beginning in October, November, or  
 65 December, the four calendar quarters ending in the next preceding month of June; for  
 66 benefit periods beginning in January, February, or March, the four calendar quarters  
 67 ending in the next preceding month of September; for benefit periods beginning in April,  
 68 May, or June, the four calendar quarters ending in the next preceding month of  
 69 December; and for benefit periods beginning in July, August, or September, the four  
 70 calendar quarters ending with the next preceding month of March.

71 (2) 'Benefit period' means a continuous period of unemployment and disability or care  
 72 leave beginning with the first day with respect to which the individual files a valid claim  
 73 for temporary family medical leave insurance benefits.

74 (3) 'Care leave' means leave taken to care for a serious health condition of a family  
 75 member or to bond with a new child.

76 (4) 'Care provider' means a family member who is providing the required care for a  
 77 serious health condition or a family member who is bonding with a new child.

78 (5) 'Care recipient' means a family member who is receiving care for a serious health  
 79 condition or a new child with whom the care provider is bonding.

80 (6) 'Child' means a biological, adopted, or foster son or daughter, a stepson or  
 81 stepdaughter, a legal ward, a son or daughter of a spouse, or an individual to whom the  
 82 working individual stands in loco parentis.

83 (7) 'Claimant' means an individual who files a claim for temporary family medical leave  
 84 insurance benefits under this chapter.

85 (8) 'Commissioner' means the Commissioner of Labor.

86 (9) 'Department' means the Georgia Department of Labor.

87 (10) 'Disability' or 'disabled' includes:

88 (A) A physical or mental illness or injury, including any illness or injury resulting from  
 89 pregnancy, childbirth, or a related medical condition;

90 (B) An inability to work because of a written order from a state or local health officer  
 91 to an individual infected with, or suspected of being infected with, a communicable  
 92 disease;

93 (C) Acute alcoholism that is being medically treated or resulting in resident status in  
 94 an alcoholic recovery home; or

- 95 (D) An acute drug-induced illness that is being medically treated or resulting in  
96 resident status in a drug-free residential facility.
- 97 (11) 'Employment' shall have the same meaning as provided in Code Section 34-8-35.
- 98 (12) 'Family member' means a child, parent, grandparent, grandchild, sibling, or spouse.
- 99 (13) 'Family Medical Leave Fund' means the fund created pursuant to Code  
100 Section 34-8A-15.
- 101 (14) 'Grandchild' means a child of an individual's child.
- 102 (15) 'Grandparent' means a parent of an individual's parent.
- 103 (16) 'New child' means a child who is:
- 104 (A) Less than one year of age; or
- 105 (B) Less than 18 years of age and has been placed in connection with foster care or an  
106 adoption within the past 12 months.
- 107 (17) 'Other benefits' means any of the following:
- 108 (A) Temporary total or temporary partial disability benefits paid pursuant to Chapter 8  
109 of this title or under the laws of any other state or of the federal government; or
- 110 (B) Permanent total or permanent partial disability benefits paid pursuant to Chapter 8  
111 of this title or under the laws of any other state or of the federal government.
- 112 (18) 'Parent' means a biological, foster, or adoptive parent, a parent-in-law, a stepparent,  
113 a legal guardian, or any other individual who stood in loco parentis to the working  
114 individual when such individual was a child.
- 115 (19) 'Parent-in-law' means the parent of a spouse.
- 116 (20) 'Serious health condition' means an illness, injury, impairment, or physical or mental  
117 condition that involves inpatient care in a hospital, hospice, or residential health care  
118 facility or continuing treatment or supervision by a health care provider.
- 119 (21) 'Sibling' means an individual related to another person by blood, adoption, or  
120 affinity through a common legal or biological parent.
- 121 (22) 'Spouse' means a partner in a lawful marriage.
- 122 (23) 'Twelve-month period' means the 365 consecutive days that begin with the first day  
123 the individual first establishes a valid claim for temporary family medical leave insurance  
124 benefits.
- 125 (24) 'Wages' shall have the same meaning as provided in Code Section 34-8-49.
- 126 (25) 'Weekly benefit amount' means the applicable amount set forth in Code  
127 Section 34-8A-6 payable to an individual who takes time off work due to a disability or  
128 for care leave.

129 34-8A-4.

130 (a) There shall be established by the department a temporary family medical leave  
 131 insurance program to provide up to six weeks of wage replacement benefits to individuals  
 132 who take time off work due to a disability or for care leave.

133 (b) Temporary family medical leave insurance benefits shall be payable from the Family  
 134 Medical Leave Fund to individuals who are eligible to receive such benefit payments under  
 135 this chapter.

136 (c) The maximum amount payable to an individual during any benefit period for  
 137 temporary family medical leave insurance shall be six times his or her weekly benefit  
 138 amount, but in no case shall the total amount of benefits payable be more than the total  
 139 wages paid to the individual during his or her base period. If the benefit is not a multiple  
 140 of \$1.00, it shall be computed to the next highest multiple of \$1.00.

141 (d) No more than six weeks of temporary family medical leave insurance benefits shall be  
 142 paid within any 12 month period.

143 34-8A-5.

144 (a) On and after January 1, 2018, an individual shall be deemed eligible for temporary  
 145 family medical leave insurance benefits on any day in which he or she is unable to perform  
 146 his or her regular or customary work because of:

- 147 (1) His or her disability;
- 148 (2) Care he or she is providing to a seriously ill family member; or
- 149 (3) Bonding with a new child.

150 (b) Eligibility for temporary family medical leave insurance benefits shall be subject to a  
 151 waiting period of seven consecutive days during each benefit period when no benefits are  
 152 payable within such period.

153 34-8A-6.

154 (a) Except as provided in subsection (b) of this Code section, an individual's weekly  
 155 benefit amount shall be the amount appearing in Column B in the following table on the  
 156 line in Column A of the table where there appears the wage bracket containing the amount  
 157 of wages paid to the individual for employment by employers during the quarter of his or  
 158 her base period in which wages were the highest.

<u>Column A</u>	<u>Column B</u>
<u>Amount of wages in highest quarter</u>	<u>Weekly benefit amount</u>
161 <u>\$75.00 - \$1,149.99 .....</u>	<u>\$50.00</u>
162 <u>\$1,150.00 - \$1,174.99 .....</u>	<u>\$51.00</u>

163	<u>\$1,175.00 - \$1,199.99</u> .....	<u>\$52.00</u>
164	<u>\$1,200.00 - \$1,224.99</u> .....	<u>\$53.00</u>
165	<u>\$1,225.00 - \$1,249.99</u> .....	<u>\$54.00</u>
166	<u>\$1,250.00 - \$1,274.99</u> .....	<u>\$55.00</u>
167	<u>\$1,275.00 - \$1,299.99</u> .....	<u>\$56.00</u>
168	<u>\$1,300.00 - \$1,324.99</u> .....	<u>\$57.00</u>
169	<u>\$1,325.00 - \$1,349.99</u> .....	<u>\$58.00</u>
170	<u>\$1,350.00 - \$1,374.99</u> .....	<u>\$59.00</u>
171	<u>\$1,375.00 - \$1,399.99</u> .....	<u>\$60.00</u>
172	<u>\$1,400.00 - \$1,424.99</u> .....	<u>\$61.00</u>
173	<u>\$1,425.00 - \$1,449.99</u> .....	<u>\$62.00</u>
174	<u>\$1,450.00 - \$1,474.99</u> .....	<u>\$63.00</u>
175	<u>\$1,475.00 - \$1,499.99</u> .....	<u>\$64.00</u>
176	<u>\$1,500.00 - \$1,524.99</u> .....	<u>\$65.00</u>
177	<u>\$1,525.00 - \$1,549.99</u> .....	<u>\$66.00</u>
178	<u>\$1,550.00 - \$1,574.99</u> .....	<u>\$67.00</u>
179	<u>\$1,575.00 - \$1,599.99</u> .....	<u>\$68.00</u>
180	<u>\$1,600.00 - \$1,624.99</u> .....	<u>\$69.00</u>
181	<u>\$1,625.00 - \$1,649.99</u> .....	<u>\$70.00</u>
182	<u>\$1,650.00 - \$1,674.99</u> .....	<u>\$71.00</u>
183	<u>\$1,675.00 - \$1,699.99</u> .....	<u>\$72.00</u>
184	<u>\$1,700.00 - \$1,724.99</u> .....	<u>\$73.00</u>
185	<u>\$1,725.00 - \$1,749.20</u> .....	<u>\$74.00</u>

186 (b)(1) For benefit periods commencing on or after January 1, 2018, if the amount of  
 187 wages paid an individual for employment by employers during the quarter of his or her  
 188 base period in which these wages were highest exceeds \$1,749.20, the weekly benefit  
 189 amount shall be equal to 55 percent of these wages divided by 13 but shall not exceed the  
 190 maximum workers' compensation temporary partial disability weekly benefit amount  
 191 provided for in 34-9-262.

192 (2) Notwithstanding the maximum workers' compensation temporary disability weekly  
 193 benefit amount cap set forth in paragraph (1) of this subsection, if the benefit under this  
 194 subsection is not a multiple \$1.00, it shall be computed to the next highest multiple  
 195 of \$1.00.

196 (c) For purposes of this Code section, to determine the wages or regular wages received  
 197 by the eligible individual, the amount as stated by the individual shall be presumed to be  
 198 accurate. This presumption is one affecting the burden of producing evidence.

199 (d) Vacation pay shall not be considered wages for determining eligibility for benefits  
200 under this chapter.

201 34-8A-7.

202 (a) An individual eligible to receive temporary family medical leave insurance benefits  
203 who receives wages or regular wages from his or her employer during the period of his or  
204 her disability or care leave shall be paid temporary family medical leave insurance benefits  
205 for any seven-day week or partial week in an amount not to exceed his or her maximum  
206 weekly amount which together with the wages or regular wages does not exceed his or her  
207 weekly wage, exclusive of wages paid for overtime work, immediately prior to the  
208 commencement of his or her disability or care leave.

209 (b) An individual shall not be eligible for temporary family medical leave insurance  
210 benefits with respect to any day that he or she has received unemployment compensation  
211 benefits under Chapter 8 of this title or under an unemployment compensation act of any  
212 other state or of the federal government.

213 (c) An individual shall not be eligible for temporary family medical leave insurance  
214 benefits with respect to any day of disability or care leave for which he or she has received,  
215 or is entitled to receive, 'other benefits' in the form of cash benefits except as provided in  
216 Code Section 34-8A-8.

217 (d) An individual shall not be eligible for temporary family medical leave insurance  
218 benefits with respect to any day that he or she is entitled to receive the same or similar  
219 benefits under a disability insurance act or care leave act of any other state or of the federal  
220 government.

221 (e) An individual shall not be eligible for temporary family medical leave insurance  
222 benefits with respect to any day that another care provider is able and available for the  
223 same period of time that the individual is providing the required care for the care recipient.

224 (f) An individual who is entitled to leave under the federal Family and Medical Leave Act  
225 of 1993, as amended, shall take leave under this chapter concurrent with leave taken under  
226 the federal Family and Medical Leave Act of 1993, as amended.

227 (g) As a condition of an individual's initial receipt of temporary family medical leave  
228 insurance benefits during any 12 month period in which an individual is eligible for such  
229 benefits, an employer may require an individual to take up to two weeks of earned but  
230 unused paid leave prior to the individual's initial receipt of such benefits. If an employer  
231 so requires an individual to take such paid leave, the portion of the paid leave that does not  
232 exceed one seven-day week shall be applied to the waiting period required under  
233 subsection (b) of Code Section 34-8A-5. This subsection shall not be construed in a

234 manner that relieves an employer of any duty of collective bargaining that such employer  
235 may have.

236 34-8A-8.

237 Except as otherwise provided in this Code section, an individual shall not be eligible for  
238 temporary family medical leave insurance benefits under this chapter for any day for which  
239 he or she has received, or is entitled to receive, other benefits in the form of cash payments.  
240 If such other benefits are less than the amount an individual would otherwise receive as  
241 benefits under this chapter, he or she shall be entitled to receive, for such day, if otherwise  
242 eligible, benefits under this chapter, reduced by the amount of such other benefits.

243 34-8A-9.

244 If the remuneration of an individual is not based upon a fixed period or duration of time,  
245 or if the individual's wages are paid at irregular intervals or in such manner as not to extend  
246 regularly over the period of employment, the wages for any week or for any calendar  
247 quarter for the purpose of computing an individual's right to benefits under this chapter  
248 shall be determined in a manner to secure results reasonably similar to those which would  
249 prevail if the individual were paid his or her wages at regular intervals. The Commissioner  
250 shall promulgate rules and regulations providing for the calculations to be used to secure  
251 such results.

252 34-8A-10.

253 (a) A benefit period shall include two consecutive periods of disability or care leave due  
254 to the same or related cause or condition and separated by a period of not more than 60  
255 days.

256 (b) Periods of leave to provide care to the same care recipient within a 12 month period  
257 shall be considered one benefit period.

258 (c) Periods of leave for pregnancy and periods of leave for bonding associated with the  
259 birth of a child shall be considered one benefit period.

260 34-8A-11.

261 (a) An individual shall be disqualified from receiving benefits under this chapter if he or  
262 she has willfully, for the purpose of obtaining benefits, either made a false statement or  
263 representation, with actual knowledge of the falsity thereof, or withheld a material fact in  
264 order to obtain any benefits under this chapter.

265 (b) An individual disqualified under subsection (a) of this Code section under a  
266 determination transmitted to him or her by the department shall be ineligible to receive



267 benefits from the date the disqualifying determination was issued and for not less than  
268 seven nor more than 35 subsequent days for which he or she is otherwise eligible for  
269 benefits under this chapter. When successive disqualifications under subsection (a) of this  
270 Code section occur, the Commissioner may extend the period of ineligibility for an  
271 additional period not to exceed 56 days.

272 (c) If all or any of the assessed days of ineligibility cannot be served because the individual  
273 is no longer otherwise eligible for benefits under this chapter, the assessed days of  
274 ineligibility shall be applied to any subsequent disability or care leave benefit period for  
275 which he or she is otherwise eligible for benefits. No disqualification under this Code  
276 section shall be applied, however, to any day of eligibility which falls beyond the  
277 three-year period next succeeding the date upon which the determination was mailed or  
278 served by the department.

279 34-8A-12.

280 An individual who is otherwise eligible shall not be disqualified for benefits under this  
281 chapter for the day on which he or she, a family member for whom the individual is  
282 providing care, or with whom the individual is bonding, died.

283 34-8A-13.

284 An individual shall be ineligible for benefits under this chapter for any day during which  
285 he or she is incarcerated in any federal, state, or municipal penal institution, jail, medical  
286 facility, public or private hospital, or in any other place because of a criminal violation of  
287 a federal, state, or local law or ordinance. For purposes of this Code section, the term  
288 'incarceration' means any time spent in the custody of law enforcement authorities upon  
289 adjudication or conviction by a court of competent jurisdiction.

290 34-8A-14.

291 If the Commissioner finds that any individual falsely certifies the medical condition of any  
292 individual in order to obtain temporary family medical leave insurance benefits with the  
293 intent to defraud, whether for the maker or for any other individual, the Commissioner shall  
294 assess a penalty against the individual in the amount of 25 percent of the benefits paid as  
295 a result of the false certification. The provisions of Code Section 34-8-164 with respect to  
296 refunds and the provisions of Code Section 34-8-254 with respect to collections shall apply  
297 to the assessments provided by this Code section, except that penalties collected under this  
298 Code section shall be deposited in the Family Medical Leave Fund.

299 34-8A-15.

300 (a) There is established the Family Medical Leave Fund as a trust fund which shall be of  
301 a perpetual, nonlapsing nature for the sole purpose of making payments in accordance with  
302 this chapter. The state treasurer shall act as custodian of the fund and shall credit to this  
303 fund all amounts dedicated, transferred, or contributed to such fund. The state treasurer  
304 shall invest the fund moneys in the same manner as authorized for investing moneys in the  
305 state treasury. The state treasurer shall be authorized to disburse moneys from the fund  
306 only upon written order of the Commissioner, who shall serve as the administrator of the  
307 fund.

308 (b) The Family Medical Leave Fund shall consist of all contributions required of  
309 individuals and their employers under this chapter with respect to wages paid by employers  
310 for employment; all money received for the purpose of disability benefits or care leave  
311 benefits from the federal government or any department or agency thereof, or from any  
312 other source; and any property or securities acquired through the use of money belonging  
313 to the Family Medical Leave Fund and all earnings of such money or securities.

314 (c) All moneys received from the federal government for the purpose of providing  
315 disability benefits or care leave benefits for the administration of this chapter shall be  
316 deposited into the Family Medical Leave Fund in accordance with the terms of the federal  
317 grant. Unless the federal government approves, no money made available to this state  
318 under Title III of the federal Social Security Act shall be used for temporary family medical  
319 leave insurance benefits or for the administration of this chapter.

320 (d) All moneys contributed and revenues deposited and transferred into the Family  
321 Medical Leave Fund pursuant to this chapter and any interest earned on such moneys shall  
322 be appropriated to the department for the sole purpose of providing temporary family  
323 medical insurance benefits as provided for in this chapter and may be used for the  
324 necessary expenses of administration of this chapter.

325 34-8A-16.

326 Any amounts determined by the Commissioner or his or her authorized representatives to  
327 be payable as refunds of amounts deposited in any of the accounts of the Family Medical  
328 Leave Fund which are unclaimed at the end of three years from such determination shall  
329 be included in the revenue of the account in the Family Medical Leave Fund in which they  
330 were deposited. Any person entitled to such payment shall not thereafter maintain any  
331 claim, action, or proceeding with respect to such amounts.

332 34-8A-17.

333 Each individual performing services for an employer in employment and such individual's  
334 employer shall contribute to the Family Medical Leave Fund the contributions required of  
335 such individual and employer pursuant to Code Section 34-8A-18.

336 34-8A-18.

337 (a)(1) Each individual and his or her employer shall pay contributions to the Family  
338 Medical Leave Fund. The amount of such contributions shall be determined by applying  
339 the rate of contributions as determined by the Commissioner pursuant to this Code  
340 section to the individual's wages and then dividing the resulting amount in half so that the  
341 contribution amount is evenly shared between the individual and his or her employer. On  
342 or before October 31 of each calendar year, the Commissioner shall prepare a statement,  
343 which shall be a public record, declaring the rate of contributions with respect to wages  
344 for the calendar year and shall notify promptly all employers of individuals covered for  
345 temporary family medical leave insurance benefits of the rate.

346 (2) The rate of contributions with respect to wages for calendar years 2017 and 2018  
347 shall be 1.5 percent.

348 (3) Except as provided in paragraph (4) of this subsection, the rate of contributions with  
349 respect to wages for calendar year 2019 and for each subsequent calendar years shall be  
350 1.45 times the amount disbursed from the Family Medical Leave Fund during the 12  
351 month period ending on September 30 and immediately preceding the calendar year for  
352 which the rate is to be effective, less the amount in the Family Medical Leave Fund on  
353 September 30, with the resulting figure divided by total wages paid during the same 12  
354 month period and then rounded to the nearest one-tenth of 1 percent.

355 (4) The rate of contributions with respect to wages shall not exceed 1.5 percent or be less  
356 than 0.1 percent. After October 31, 2018, the rate of contributions shall not decrease  
357 from the rate in the previous year by more than two-tenths of 1 percent.

358 (b) Notwithstanding subsection (a) of this Code section, and except as provided in  
359 paragraph (2) thereof, the Commissioner may, at his or her discretion, increase or decrease  
360 by not more than 0.1 percent the rate of contributions with respect to wages determined  
361 pursuant to subsection (a) of this Code section, up to a maximum contribution rate of 1.5  
362 percent, if he or she determines the adjustment is necessary to reimburse the Family  
363 Medical Leave Fund for disability or care leave benefits paid or estimated to be paid to  
364 individuals covered by this Code section or to prevent the accumulation of funds in excess  
365 of those needed to maintain an adequate fund balance.

366 (c) The time, procedure, manner of payment, and collection of contributions under this  
367 chapter shall be the same as those for unemployment compensation in accordance with the  
368 provisions of Chapter 8 of this title.

369 34-8A-19.

370 (a) The department shall issue the initial payment for benefits under this chapter to an  
371 individual who files a claim and is determined to be eligible by the department under  
372 applicable law and rules and regulations of the department within 14 days of receipt of such  
373 individual's properly completed first claim.

374 (b) All claims for benefits under this chapter shall be made in accordance with rules and  
375 regulations of the department. Each employer shall post and maintain in places readily  
376 accessible to individuals in his or her service printed statements concerning such rules and  
377 regulations and shall make available to such individual copies of such printed statements,  
378 rules and regulations, or matters relating to claims for benefits under this chapter as the  
379 Commissioner may prescribe. Such printed statements shall be supplied to each employer  
380 by the department without cost to the employer.

381 34-8A-20.

382 (a) A first claim, accompanied by a certificate on a form furnished by the department to  
383 the claimant, shall be filed not later than the forty-first consecutive day following the first  
384 compensable day of unemployment and disability or care leave with respect to which the  
385 claim is made for benefits, which time shall be extended by the department upon a showing  
386 of good cause. If a first claim is not complete, the claim form shall be returned to the  
387 claimant for completion, and it shall be completed and returned not later than the tenth  
388 consecutive day after the date on which it was mailed by the department to the claimant,  
389 except that such time shall be extended by the department upon a showing of good cause.

390 (b) Any continued medical certification shall be submitted to the department within 20 days  
391 of the date the claimant is issued a notice of final payment or departmental request for  
392 additional medical certification. The 20 day time limit shall be extended by the department  
393 upon a showing of good cause.

394 34-8A-21.

395 (a) The department shall give a notice of the filing of a first claim for each benefit period  
396 to the claimant's employer by which the claimant was last employed immediately preceding  
397 the filing of such claim.

398 (b) Within two working days after receipt of the notice provided for in subsection (a) of  
399 this Code section, or within five working days after termination if there has been a

400 termination of the claimant's service, whichever provides the longest number of days, the  
401 claimant's employer by which the claimant was last employed shall notify the department  
402 of any information known which may bear upon the eligibility of the claimant.

403 (c) The department shall consider the information submitted by the employer pursuant to  
404 subsection (b) of this Code section and make a determination as to the eligibility of the  
405 claimant for benefits. The department shall promptly notify the claimant of the  
406 determination and the reasons therefor. The claimant may appeal therefrom in the same  
407 manner a claimant may appeal a determination as to the eligibility of benefits pursuant to  
408 Chapter 8 of this title.

409 34-8A-22.

410 (a) A claimant shall establish medical eligibility for each uninterrupted period of disability  
411 or care leave by filing a first claim for benefits supported by the certificate of a treating  
412 physician or practitioner that establishes the sickness, injury, or pregnancy of the claimant  
413 or the condition of the family member that warrants the care of the claimant. For  
414 subsequent periods of uninterrupted disability or care leave after the period covered by the  
415 initial certificate or any preceding continued claim, a claimant shall file a continued claim  
416 for those benefits supported by the certificate of a treating physician or practitioner. A  
417 certificate filed to establish medical eligibility for the claimant's own sickness, injury, or  
418 pregnancy shall contain a diagnosis and diagnostic code or, if no diagnosis has yet been  
419 obtained, a detailed statement of symptoms.

420 (b) A certificate filed to establish medical eligibility of the claimant's own sickness, injury,  
421 or pregnancy shall also contain a statement of medical facts, including secondary diagnoses  
422 when applicable, within the physician's or practitioner's knowledge based on a physical  
423 examination and a documented medical history of the claimant by the physician or  
424 practitioner indicating the physician's or practitioner's conclusion as to the claimant's  
425 disability and a statement of the physician's or practitioner's opinion as to the expected  
426 duration of the disability.

427 (c) An individual shall be required to file a certificate to establish eligibility when taking  
428 leave to care for a family member with a serious health condition. The certificate shall be  
429 developed by the department. In order to establish medical eligibility of the serious health  
430 condition of the family member that warrants care by the claimant, the information shall  
431 be within the physician's or practitioner's knowledge, shall be based on a physical  
432 examination and documented medical history of the family member, and shall contain all  
433 of the following:

434 (1) A diagnosis and diagnostic code or, if no diagnosis has yet been obtained, a detailed  
435 statement of symptoms;

- 436 (2) The date, if known, on which the condition commenced;  
 437 (3) The probable duration of the condition;  
 438 (4) An estimate of the amount of time that the physician or practitioner believes the  
 439 claimant needs to care for the family member; and  
 440 (5) A statement that the serious health condition warrants the participation of the  
 441 claimant to provide care for a family member. For purposes of this paragraph, the term  
 442 'warrants the participation of the claimant' includes, but is not limited to, providing  
 443 psychological comfort and arranging third party care for the family member, as well as  
 444 directly providing, or participating in, the medical care.
- 445 (d) The department shall develop a certification form for bonding that is separate and  
 446 distinct for an individual taking leave to bond with a new child.
- 447 (e) The first and any continuing claim of an individual who obtains care and treatment  
 448 outside this state shall be supported by a certificate of a treating physician or practitioner  
 449 duly licensed or certified by this state or any foreign country in which the claimant is  
 450 receiving care and treatment. If a physician or practitioner licensed by, and practicing in,  
 451 a foreign country is under investigation by the department for filing false claims and the  
 452 department does not have legal remedies to conduct a criminal investigation or prosecution  
 453 in such country, the department may suspend the processing of all further certifications  
 454 until the physician or practitioner fully cooperates, and continues to cooperate, with the  
 455 investigation. A physician or practitioner licensed by, and practicing in, a foreign country  
 456 who has been convicted of filing false claims with the department may not file a certificate  
 457 in support of a claim for disability or care leave benefits for a period of five years.
- 458 (f) Nothing in this Code section shall be construed to preclude the department from  
 459 requesting additional medical evidence to supplement the first or any continued claim if  
 460 the additional evidence can be procured without additional cost to the claimant. The  
 461 department may require that the additional evidence include any or all of the following:
- 462 (1) Identification of diagnoses;  
 463 (2) Identification of symptoms; and  
 464 (3) A statement setting forth the facts of the claimant's disability or the serious condition  
 465 of the claimant's family member. The statement shall be completed by any of the  
 466 following individuals:
- 467 (A) The physician or practitioner treating the claimant or the claimant's family  
 468 member;  
 469 (B) The registrar, authorized medical officer, or other duly authorized official of the  
 470 hospital or health facility treating the claimant or the claimant's family member; or  
 471 (C) An examining physician or other representative of the department.

472 34-8A-23.

473 Benefits paid pursuant to this chapter shall not be charged against an employer's account  
474 maintained pursuant to Chapter 8 of this title."

475 **SECTION 2.**

476 This Act shall become effective on January 1, 2017, only if there is ratified at the 2016  
477 general election an amendment to the Constitution of Georgia which authorizes the  
478 dedication of funds to the Family Medical Leave Fund. If no such amendment is proposed  
479 by the General Assembly, if such amendment is rejected by the electors, or if the election to  
480 ratify the proposed amendment is not held at the time of the 2016 general election, this Act  
481 shall be repealed on January 1, 2017.

482 **SECTION 3.**

483 All laws and parts of laws in conflict with this Act are repealed.