

HOUSE BILL 985

K3, P4, L6

5lr0885

By: **Delegate Kelly**

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Family and Medical Leave Insurance Program –**
3 **Establishment**

4 FOR the purpose of establishing the Family and Medical Leave Insurance Program;
5 prohibiting an employee from disclosing certain information; authorizing a
6 self-employed individual to elect to participate in the Program by filing a certain
7 notice with the Secretary of Labor, Licensing, and Regulation; providing that a
8 certain election becomes effective on the date a certain notice is filed; requiring a
9 certain individual to participate in the Program for a certain initial period;
10 authorizing a certain individual to renew participation in the Program for a certain
11 period; requiring a certain individual to notify the Secretary in writing of the
12 individual's withdrawal from the Program within a certain time period; requiring a
13 certain individual to pay a certain portion of a certain contribution rate during a
14 certain period; providing that an employee's right to benefits under this Act may not
15 be diminished by a collective bargaining agreement entered into or renewed or an
16 employer policy adopted or retained after a certain date; providing that a certain
17 agreement is void as against public policy; stating the purpose of the Program;
18 providing for the manner in which the Program is to be administered; providing for
19 the powers and duties of the Secretary under the Program; establishing the Family
20 and Medical Leave Insurance Fund as a special fund; providing for the
21 administration of the Fund; specifying the contents of the Fund; specifying the
22 purposes for which the Fund may be used; requiring, beginning on a certain date,
23 certain employers and employees to pay the Secretary certain contributions;
24 requiring the Secretary to establish in regulation the rate of contribution; requiring
25 the rate of contribution to be sufficient to fund the benefits payable under this Act
26 and set in a certain manner; requiring, beginning on a certain date, an individual to
27 meet certain conditions to be eligible for benefits; authorizing a covered employee to
28 take certain leave on an intermittent leave schedule; requiring a covered employee
29 who is taking certain leave on an intermittent leave schedule to take certain action;
30 prohibiting an employer from taking certain action if leave is taken on an
31 intermittent leave schedule; providing for the manner in which benefits are to be

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 calculated and paid; requiring the Division of Unemployment Insurance, under
2 certain circumstances, to notify certain individuals of certain information regarding
3 the federal income tax; requiring the Division, under certain circumstances, to
4 deduct and withhold a certain amount from benefits paid; providing for the manner
5 in which certain employees who receive benefits are to be treated by employers;
6 establishing certain prohibited acts; authorizing the Division to seek repayment of
7 benefits under certain circumstances; authorizing the Secretary to waive the
8 repayment of benefits under certain circumstances; exempting the Fund from a
9 certain provision of law; providing for the construction and application of this Act;
10 requiring the Secretary to adopt certain regulations on or before a certain date;
11 defining certain terms; and generally relating to the Family and Medical Leave
12 Insurance Program.

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 8–302
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2014 Supplement)

18 BY adding to
19 Article – Labor and Employment
20 Section 8.3–101 through 8.3–901 to be under the new title “Title 8.3. Family and
21 Medical Leave Insurance Program”
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2014 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – State Finance and Procurement
26 Section 6–226(a)(1) and (2)(i)
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2014 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article – State Finance and Procurement
31 Section 6–226(a)(2)(ii)81. and 82.
32 Annotated Code of Maryland
33 (2009 Replacement Volume and 2014 Supplement)

34 BY adding to
35 Article – State Finance and Procurement
36 Section 6–226(a)(2)(ii)83.
37 Annotated Code of Maryland
38 (2009 Replacement Volume and 2014 Supplement)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
40 That the Laws of Maryland read as follows:

1 **Article – Labor and Employment**

2 8–302.

3 (a) There is a Division of Unemployment Insurance.

4 (b) The Division of Unemployment Insurance shall perform any function that the
5 Secretary assigns to it to carry out this title **AND TITLE 8.3 OF THIS ARTICLE.**

6 **TITLE 8.3. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

7 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

8 **8.3–101.**

9 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) “ADOPTED CHILD” MEANS A CHILD ADOPTED BY OR PLACED FOR
12 ADOPTION WITH AN EMPLOYEE OR THE EMPLOYEE’S SPOUSE OR DOMESTIC
13 PARTNER.

14 (C) “APPLICATION YEAR” MEANS THE 12–MONTH PERIOD BEGINNING ON
15 THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED EMPLOYEE FILES AN
16 APPLICATION FOR BENEFITS.

17 (D) “BENEFITS” MEANS THE MONEY PAYABLE UNDER THIS TITLE TO A
18 COVERED EMPLOYEE.

19 (E) “CHILD” MEANS:

20 (1) AN ADOPTED CHILD;

21 (2) A BIOLOGICAL CHILD;

22 (3) A FOSTER CHILD;

23 (4) A LEGAL WARD;

24 (5) A STEPCHILD; OR

25 (6) A CHILD WITH RESPECT TO WHOM AN INDIVIDUAL STANDS IN
26 LOCO PARENTIS.

1 **(F) “COVERED EMPLOYEE” MEANS AN EMPLOYEE WHO HAS EARNED AT**
2 **LEAST \$1,800 IN WAGES DURING:**

3 **(1) THE FIRST 4 OF THE LAST 5 COMPLETED CALENDAR QUARTERS**
4 **IMMEDIATELY PRECEDING THE START OF AN APPLICATION YEAR; OR**

5 **(2) THE 4 MOST RECENTLY COMPLETED CALENDAR QUARTERS**
6 **IMMEDIATELY PRECEDING THE START OF AN APPLICATION YEAR ONLY IF THE**
7 **EMPLOYEE APPLYING FOR THE BENEFITS DOES NOT QUALIFY FOR ANY BENEFITS**
8 **UNDER THIS TITLE USING THE DEFINITION IN ITEM (1) OF THIS SUBSECTION.**

9 **(G) “DEPARTMENT” MEANS THE DEPARTMENT OF LABOR, LICENSING, AND**
10 **REGULATION.**

11 **(H) “EMPLOYER” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT**
12 **EMPLOYS AT LEAST ONE INDIVIDUAL IN THE STATE.**

13 **(I) “FAMILY MEMBER” MEANS:**

14 **(1) A CHILD;**

15 **(2) A PARENT;**

16 **(3) A PARENT-IN-LAW;**

17 **(4) A GRANDPARENT OR STEPGRANDPARENT OF AN EMPLOYEE OR**
18 **THE EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER;**

19 **(5) A GRANDCHILD OR STEPGRANDCHILD OF AN EMPLOYEE OR THE**
20 **EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER;**

21 **(6) A SPOUSE;**

22 **(7) A DOMESTIC PARTNER;**

23 **(8) A SIBLING;**

24 **(9) THE SPOUSE OR DOMESTIC PARTNER OF A SIBLING; OR**

25 **(10) ANY OTHER INDIVIDUAL RELATED BY BLOOD OR AFFINITY WHOSE**
26 **CLOSE ASSOCIATION WITH THE EMPLOYEE IS EQUIVALENT TO A FAMILY**
27 **RELATIONSHIP.**

1 **(J) “FUND” MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE FUND**
2 **ESTABLISHED UNDER § 8.3–501 OF THIS TITLE.**

3 **(K) “GOVERNMENTAL ENTITY” HAS THE MEANING STATED IN § 8–101 OF**
4 **THIS ARTICLE.**

5 **(L) “INDIVIDUAL WHO STANDS IN LOCO PARENTIS” MEANS, WHETHER OR**
6 **NOT A BIOLOGICAL OR LEGAL RELATIONSHIP EXISTS, AN INDIVIDUAL:**

7 **(1) WHO HAS DAY–TO–DAY RESPONSIBILITIES TO CARE FOR AND**
8 **FINANCIALLY SUPPORT A CHILD; OR**

9 **(2) IN THE CASE OF AN EMPLOYEE OR THE EMPLOYEE’S SPOUSE OR**
10 **DOMESTIC PARTNER, WHO HAD RESPONSIBILITY FOR THE EMPLOYEE OR THE**
11 **SPOUSE OR DOMESTIC PARTNER WHEN THE EMPLOYEE OR THE SPOUSE OR**
12 **DOMESTIC PARTNER WAS A CHILD.**

13 **(M) “NEWBORN CHILD” MEANS A CHILD UNDER THE AGE OF 1 YEAR.**

14 **(N) “NEXT–OF–KIN” MEANS THE NEAREST BLOOD RELATIVE.**

15 **(O) “PARENT” MEANS:**

16 **(1) AN ADOPTIVE PARENT;**

17 **(2) A BIOLOGICAL PARENT;**

18 **(3) A FOSTER PARENT;**

19 **(4) A LEGAL GUARDIAN;**

20 **(5) A STEPPARENT; OR**

21 **(6) AN INDIVIDUAL WHO STANDS IN LOCO PARENTIS TO AN**
22 **EMPLOYEE.**

23 **(P) “PARENT–IN–LAW” MEANS:**

24 **(1) THE PARENT OF AN EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER;**
25 **OR**

26 **(2) AN INDIVIDUAL WHO STANDS IN LOCO PARENTIS TO AN**
27 **EMPLOYEE’S SPOUSE OR DOMESTIC PARTNER.**

1 **(Q) “PROGRAM” MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE**
2 **PROGRAM.**

3 **(R) “QUALIFYING EXIGENCY” MEANS ANY OF THE FOLLOWING REASONS**
4 **FOR WHICH LEAVE MAY BE NEEDED BY A FAMILY MEMBER OF A SERVICE MEMBER:**

5 **(1) BECAUSE THE SERVICE MEMBER HAS RECEIVED NOTICE OF**
6 **DEPLOYMENT WITHIN 7 DAYS BEFORE THE DEPLOYMENT IS TO BEGIN;**

7 **(2) TO ATTEND MILITARY EVENTS AND RELATED ACTIVITIES;**

8 **(3) TO ATTEND CHILD CARE OR SCHOOL ACTIVITIES ONLY BECAUSE**
9 **THE SERVICE MEMBER IS ON ACTIVE DUTY CALL OR ACTIVE DUTY STATUS;**

10 **(4) TO MAKE FINANCIAL AND LEGAL ARRANGEMENTS FOR THE**
11 **SERVICE MEMBER’S ABSENCE OR BECAUSE OF THE ABSENCE;**

12 **(5) TO ATTEND COUNSELING THAT:**

13 **(I) IS NEEDED DUE TO THE ACTIVE DUTY OR CALL TO ACTIVE**
14 **DUTY STATUS OF THE SERVICE MEMBER; AND**

15 **(II) IS PROVIDED BY AN INDIVIDUAL WHO IS NOT A LICENSED**
16 **HEALTH CARE PROVIDER;**

17 **(6) TO SPEND NO MORE THAN 5 DAYS WITH A SERVICE MEMBER WHO**
18 **IS ON SHORT-TERM TEMPORARY REST AND RECUPERATION LEAVE DURING THE**
19 **PERIOD OF DEPLOYMENT;**

20 **(7) TO ATTEND POSTDEPLOYMENT ACTIVITIES; OR**

21 **(8) BECAUSE OF ANY OTHER ISSUES THAT ARISE OUT OF ACTIVE DUTY**
22 **OR A CALL TO ACTIVE DUTY THAT AN EMPLOYER AND AN EMPLOYEE AGREE SHOULD**
23 **BE COVERED.**

24 **(S) “SECRETARY” MEANS THE SECRETARY OF LABOR, LICENSING, AND**
25 **REGULATION.**

26 **(T) “SERIOUS HEALTH CONDITION” MEANS AN ILLNESS, AN INJURY, AN**
27 **IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:**

1 **(B) (1) IF A SELF-EMPLOYED INDIVIDUAL ELECTS TO PARTICIPATE IN**
2 **THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, THE INDIVIDUAL SHALL**
3 **PARTICIPATE FOR AN INITIAL PERIOD OF NOT LESS THAN 3 YEARS.**

4 **(2) ONCE THE INITIAL PARTICIPATION PERIOD EXPIRES, THE**
5 **SELF-EMPLOYED INDIVIDUAL MAY RENEW PARTICIPATION IN THE PROGRAM FOR A**
6 **PERIOD OF NOT LESS THAN 1 YEAR.**

7 **(3) IF THE SELF-EMPLOYED INDIVIDUAL DOES NOT WISH TO RENEW**
8 **PARTICIPATION IN THE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION,**
9 **WITHIN 30 DAYS BEFORE THE PARTICIPATION PERIOD EXPIRES, THE**
10 **SELF-EMPLOYED INDIVIDUAL SHALL NOTIFY THE SECRETARY IN WRITING OF THE**
11 **SELF-EMPLOYED INDIVIDUAL'S WITHDRAWAL FROM THE PROGRAM.**

12 **(C) DURING THE PERIOD A SELF-EMPLOYED INDIVIDUAL PARTICIPATES IN**
13 **THE PROGRAM, THE SELF-EMPLOYED INDIVIDUAL SHALL PAY ONLY THE EMPLOYEE**
14 **PORTION OF THE CONTRIBUTION REQUIRED UNDER § 8.3-601 OF THIS TITLE.**

15 **8.3-202.**

16 **THIS TITLE MAY NOT BE CONSTRUED TO DIMINISH AN EMPLOYER'S**
17 **OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN**
18 **EMPLOYER POLICY THAT ALLOWS AN EMPLOYEE TO TAKE LEAVE FOR A LONGER**
19 **PERIOD OF TIME THAN THE EMPLOYEE WOULD BE ABLE TO RECEIVE BENEFITS**
20 **UNDER THIS TITLE.**

21 **8.3-203.**

22 **(A) AN EMPLOYEE'S RIGHT TO BENEFITS UNDER THIS TITLE MAY NOT BE**
23 **DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO OR**
24 **RENEWED OR AN EMPLOYER POLICY ADOPTED OR RETAINED ON OR AFTER JUNE 1,**
25 **2015.**

26 **(B) AN AGREEMENT BY AN EMPLOYEE TO WAIVE THE EMPLOYEE'S RIGHTS**
27 **UNDER THIS TITLE IS VOID AS AGAINST PUBLIC POLICY.**

28 **SUBTITLE 3. ESTABLISHMENT OF PROGRAM.**

29 **8.3-301.**

30 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

1 **8.3-302.**

2 **THE PURPOSE OF THE PROGRAM IS TO PROVIDE TEMPORARY BENEFITS TO AN**
3 **EMPLOYEE WHO IS TAKING PAID OR UNPAID LEAVE FROM EMPLOYMENT:**

4 **(1) TO CARE FOR A NEWBORN CHILD OR A CHILD NEWLY PLACED FOR**
5 **ADOPTION OR FOSTER CARE WITH THE EMPLOYEE DURING THE FIRST YEAR AFTER**
6 **THE BIRTH, ADOPTION, OR PLACEMENT;**

7 **(2) TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH**
8 **CONDITION;**

9 **(3) BECAUSE THE EMPLOYEE HAS A SERIOUS HEALTH CONDITION**
10 **THAT RESULTS IN THE EMPLOYEE BEING UNABLE TO PERFORM THE FUNCTIONS OF**
11 **THE POSITION OF THE EMPLOYEE;**

12 **(4) TO CARE FOR A SERVICE MEMBER WHO IS THE EMPLOYEE'S NEXT**
13 **OF KIN; OR**

14 **(5) BECAUSE THE EMPLOYEE HAS A QUALIFYING EXIGENCY ARISING**
15 **OUT OF THE DEPLOYMENT OF A FAMILY MEMBER OF THE EMPLOYEE.**

16 **SUBTITLE 4. ADMINISTRATION.**

17 **8.3-401.**

18 **THIS TITLE SHALL BE ADMINISTERED UNDER THE SUPERVISION OF THE**
19 **SECRETARY BY THE DIVISION OF UNEMPLOYMENT INSURANCE ESTABLISHED**
20 **UNDER § 8-302 OF THIS ARTICLE.**

21 **8.3-402.**

22 **THE SECRETARY MAY DELEGATE TO AN EMPLOYEE OF THE DEPARTMENT ANY**
23 **POWER OR DUTY THAT IS REASONABLE AND PROPER FOR THE ADMINISTRATION OF**
24 **THIS TITLE.**

25 **8.3-403.**

26 **(A) THE SECRETARY SHALL:**

27 **(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ADOPT**
28 **REGULATIONS NECESSARY TO CARRY OUT THIS TITLE;**

1 **(2) ESTABLISH PROCEDURES AND FORMS FOR FILING CLAIMS FOR**
2 **BENEFITS, INCLUDING PROCEDURES FOR NOTIFYING AN EMPLOYER WITHIN 5**
3 **BUSINESS DAYS AFTER AN EMPLOYEE OF THE EMPLOYER FILES A CLAIM FOR**
4 **BENEFITS UNDER THIS TITLE;**

5 **(3) USE INFORMATION-SHARING AND INTEGRATION TECHNOLOGY**
6 **TO FACILITATE THE DISCLOSURE OF RELEVANT INFORMATION OR RECORDS**
7 **NEEDED FOR THE ADMINISTRATION OF THIS TITLE; AND**

8 **(4) SUBJECT TO SUBSECTION (C) OF THIS SECTION, CARRY OUT A**
9 **PUBLIC EDUCATION PROGRAM FOR THE PURPOSE OF EDUCATING THE PUBLIC**
10 **ABOUT BENEFITS AVAILABLE TO EMPLOYEES UNDER THIS TITLE.**

11 **(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1) OF THIS**
12 **SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED TO IMPLEMENT THE**
13 **FEDERAL FAMILY AND MEDICAL LEAVE ACT AND ANY RELEVANT STATE LAWS TO**
14 **THE EXTENT THAT THE ADOPTED REGULATIONS DO NOT CONFLICT WITH THIS**
15 **TITLE.**

16 **(C) (1) THE SECRETARY MAY USE A PORTION OF THE FUNDS PAID UNDER**
17 **§ 8.3-601 OF THIS TITLE OR OTHER AVAILABLE FUNDING TO PAY FOR AND CARRY**
18 **OUT THE PUBLIC EDUCATION PROGRAM REQUIRED UNDER SUBSECTION (A)(4) OF**
19 **THIS SECTION.**

20 **(2) MATERIALS USED IN THE PUBLIC EDUCATION PROGRAM**
21 **REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL BE MADE AVAILABLE**
22 **IN ENGLISH AND SPANISH.**

23 **8.3-404.**

24 **(A) TO ENFORCE THIS TITLE, THE SECRETARY MAY:**

25 **(1) CONDUCT AN INVESTIGATION UNDER THIS TITLE, ON THE**
26 **SECRETARY'S OWN INITIATIVE OR BY RECEIPT OF A WRITTEN COMPLAINT;**

27 **(2) ADMINISTER AN OATH;**

28 **(3) CERTIFY TO AN OFFICIAL ACT;**

29 **(4) TAKE A DEPOSITION;**

1 **(5) ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO**
2 **TESTIFY OR THE PRODUCTION OF BOOKS, CORRESPONDENCE, MEMORANDA,**
3 **PAPERS, OR OTHER RECORDS; AND**

4 **(6) BRING A CIVIL ACTION IN THE COUNTY WHERE THE VIOLATION**
5 **ALLEGEDLY OCCURRED.**

6 **(B) (1) A SUBPOENA ISSUED UNDER SUBSECTION (A)(5) OF THIS SECTION**
7 **SHALL BE SERVED IN ANY MANNER IN WHICH A SUBPOENA OF A COURT MAY BE**
8 **SERVED.**

9 **(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER**
10 **SUBSECTION (A)(5) OF THIS SECTION ON A COMPLAINT FILED BY THE SECRETARY,**
11 **THE CIRCUIT COURT FOR THE COUNTY WHERE THE INVESTIGATION IS BEING**
12 **CONDUCTED OR WHERE THE PERSON RESIDES, IS PRESENT, OR TRANSACTS**
13 **BUSINESS MAY ISSUE AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR**
14 **COMPELLING TESTIMONY.**

15 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**
16 **PERSON MAY NOT BE EXCUSED FROM COMPLYING WITH A SUBPOENA ISSUED UNDER**
17 **SUBSECTION (A)(5) OF THIS SECTION ON THE GROUND THAT THE EVIDENCE OR**
18 **TESTIMONY REQUIRED MAY TEND TO INCRIMINATE THE PERSON OR SUBJECT THE**
19 **PERSON TO A FORFEITURE OR PENALTY.**

20 **(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF**
21 **THIS SUBPARAGRAPH, AFTER CLAIMING THE PRIVILEGE AGAINST**
22 **SELF-INCRIMINATION, A PERSON MAY NOT BE PROSECUTED OR SUBJECTED TO ANY**
23 **FORFEITURE OR PENALTY BECAUSE OF ANY MATTER, THING, OR TRANSACTION**
24 **ABOUT WHICH THE PERSON IS COMPELLED TO PRODUCE EVIDENCE OR TESTIFY.**

25 **2. IF THE PERSON COMMITS PERJURY WHILE GIVING**
26 **TESTIMONY, THE PERSON IS SUBJECT TO PROSECUTION FOR THAT OFFENSE.**

27 **8.3-405.**

28 **IN A CIVIL ACTION TO ENFORCE THIS TITLE, THE SECRETARY AND THE STATE**
29 **MAY BE REPRESENTED BY:**

30 **(1) THE ATTORNEY GENERAL; OR**

31 **(2) ANY QUALIFIED ATTORNEY WHO:**

32 **(I) IS A SALARIED EMPLOYEE OF THE SECRETARY; AND**

1 (II) ON RECOMMENDATION OF THE ATTORNEY GENERAL, IS
2 DESIGNATED TO REPRESENT THE SECRETARY OR THE BOARD OF APPEALS AND THE
3 STATE.

4 **8.3-406.**

5 (A) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY SHALL
6 SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
7 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT ON THE
8 ADMINISTRATION AND OPERATION OF THIS TITLE DURING THE PREVIOUS FISCAL
9 YEAR.

10 (B) THE ANNUAL REPORT SHALL INCLUDE INFORMATION REGARDING:

11 (1) PROJECTED AND ACTUAL PROGRAM PARTICIPATION RATES;

12 (2) CONTRIBUTION RATES;

13 (3) FUND BALANCES; AND

14 (4) PUBLIC OUTREACH EFFORTS.

15 **SUBTITLE 5. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

16 **8.3-501.**

17 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

18 **8.3-502.**

19 (A) THE SECRETARY SHALL ADMINISTER THE FUND.

20 (B) THE FUND SHALL BE A SPECIAL FUND THAT IS SEPARATE FROM STATE
21 MONEY.

22 **8.3-503.**

23 (A) THE FUND SHALL CONSIST OF:

24 (1) EMPLOYER AND EMPLOYEE CONTRIBUTIONS;

1 **(2) MONEY PAID TO THE FUND FOR THE PURPOSE OF REIMBURSING**
2 **THE SECRETARY UNDER § 8.3-802 OF THIS TITLE FOR BENEFITS PAID IN ERROR;**

3 **(3) INTEREST EARNED ON MONEY IN THE FUND; AND**

4 **(4) MONEY RECEIVED FOR THE FUND FROM ANY OTHER SOURCE.**

5 **(B) MONEY IN THE FUND SHALL BE COMMINGLED.**

6 **(C) THE FUND SHALL BE USED ONLY FOR THE PURPOSES OF THIS TITLE.**

7 **8.3-504.**

8 **(A) (1) THE STATE TREASURER IS CUSTODIAN OF THE FUND.**

9 **(2) THE STATE TREASURER SHALL MANAGE THE FUND IN**
10 **ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS.**

11 **(B) UNDER THE DIRECTION OF THE SECRETARY, THE STATE TREASURER**
12 **SHALL ESTABLISH THE FUND ACCOUNT IN ANY FINANCIAL INSTITUTION IN WHICH**
13 **THE GENERAL FUND OF THE STATE MAY BE DEPOSITED.**

14 **(C) ON RECEIPT OF ANY MONEY PAYABLE TO THE FUND, THE SECRETARY**
15 **SHALL ENSURE IMMEDIATE DEPOSIT OF THE MONEY INTO THE FUND ACCOUNT AS**
16 **REQUIRED BY THE STATE TREASURER.**

17 **(D) IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS,**
18 **MONEY IN THE FUND ACCOUNT:**

19 **(1) SHALL BE USED TO PAY BENEFITS UNDER THIS TITLE; AND**

20 **(2) MAY BE USED TO PAY FOR THE PUBLIC EDUCATION PROGRAM**
21 **REQUIRED UNDER § 8.3-403(A)(4) OF THIS TITLE.**

22 **8.3-505.**

23 **A CHECK THAT THE STATE TREASURER ISSUES TO PAY BENEFITS OR**
24 **REFUNDS SHALL:**

25 **(1) BE ISSUED ONLY ON A WARRANT SIGNED BY THE SECRETARY;**

26 **(2) BEAR THE SIGNATURE OF THE STATE TREASURER; AND**

1 **(3) BE COUNTERSIGNED BY AN AUTHORIZED AGENT.**

2 **8.3-506.**

3 **THIS TITLE DOES NOT GRANT AN EMPLOYER OR EMPLOYEE ANY PRIOR CLAIM**
4 **OR RIGHT TO MONEY THE EMPLOYER OR THE EMPLOYEE PAYS INTO THE FUND.**

5 **SUBTITLE 6. CONTRIBUTIONS.**

6 **8.3-601.**

7 **(A) BEGINNING ON JANUARY 1, 2016, EACH EMPLOYEE AND EMPLOYER**
8 **SHALL PAY TO THE SECRETARY CONTRIBUTIONS FOR THE FUND ON WAGES FOR**
9 **EMPLOYMENT THAT IS PERFORMED FOR AN EMPLOYER.**

10 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
11 **SECRETARY SHALL ESTABLISH IN REGULATION THE RATE OF CONTRIBUTION AN**
12 **EMPLOYEE OR EMPLOYER IS REQUIRED TO PAY UNDER SUBSECTION (A) OF THIS**
13 **SECTION.**

14 **(2) THE RATE OF CONTRIBUTION ESTABLISHED UNDER PARAGRAPH**
15 **(1) OF THIS SUBSECTION SHALL BE:**

16 **(I) SUFFICIENT TO FUND THE BENEFITS PAYABLE UNDER THIS**
17 **TITLE; AND**

18 **(II) SET IN A MANNER THAT RESULTS IN BOTH THE EMPLOYER**
19 **AND THE EMPLOYEE EACH PAYING 50% OF THE CONTRIBUTION RATE.**

20 **SUBTITLE 7. BENEFITS.**

21 **8.3-701.**

22 **(A) BEGINNING ON JANUARY 1, 2017, TO BE ELIGIBLE FOR BENEFITS, A**
23 **COVERED EMPLOYEE MUST BE TAKING PAID OR UNPAID LEAVE FROM EMPLOYMENT**
24 **BECAUSE THE COVERED EMPLOYEE:**

25 **(1) IS CARING FOR A NEWBORN CHILD OR A CHILD NEWLY PLACED**
26 **FOR ADOPTION OR FOSTER CARE WITH THE COVERED EMPLOYEE DURING THE FIRST**
27 **YEAR AFTER THE BIRTH, ADOPTION, OR PLACEMENT;**

28 **(2) IS CARING FOR A FAMILY MEMBER WITH A SERIOUS HEALTH**
29 **CONDITION;**

1 **(3) HAS A SERIOUS HEALTH CONDITION THAT RESULTS IN THE**
2 **COVERED EMPLOYEE BEING UNABLE TO PERFORM THE FUNCTIONS OF THE**
3 **POSITION OF THE COVERED EMPLOYEE;**

4 **(4) IS CARING FOR A SERVICE MEMBER WHO IS THE COVERED**
5 **EMPLOYEE'S NEXT OF KIN; OR**

6 **(5) HAS A QUALIFYING EXIGENCY ARISING OUT OF THE DEPLOYMENT**
7 **OF A FAMILY MEMBER OF THE COVERED EMPLOYEE.**

8 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED**
9 **EMPLOYEE MAY TAKE THE LEAVE FOR WHICH THE EMPLOYEE IS ELIGIBLE FOR**
10 **BENEFITS UNDER SUBSECTION (A) OF THIS SECTION ON AN INTERMITTENT LEAVE**
11 **SCHEDULE.**

12 **(2) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE SCHEDULE, THE**
13 **COVERED EMPLOYEE SHALL:**

14 **(I) MAKE A REASONABLE EFFORT TO SCHEDULE THE**
15 **INTERMITTENT LEAVE IN A MANNER THAT DOES NOT UNDULY DISRUPT THE**
16 **OPERATIONS OF THE EMPLOYER; AND**

17 **(II) PROVIDE THE EMPLOYER WITH REASONABLE AND**
18 **PRACTICABLE PRIOR NOTICE OF THE REASON FOR WHICH THE INTERMITTENT**
19 **LEAVE IS NECESSARY.**

20 **(3) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE SCHEDULE, AN**
21 **EMPLOYER MAY NOT:**

22 **(I) UNLESS THE INTERMITTENT LEAVE SCHEDULE IS**
23 **MEDICALLY NECESSARY, BE REQUIRED TO ALLOW AN INTERMITTENT LEAVE**
24 **SCHEDULE FOR MORE THAN 24 CONSECUTIVE WEEKS; OR**

25 **(II) REDUCE THE TOTAL AMOUNT OF LEAVE TO WHICH THE**
26 **COVERED EMPLOYEE IS ENTITLED.**

27 **8.3-702.**

28 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
29 **COVERED EMPLOYEE MAY NOT RECEIVE MORE THAN 12 WEEKS OF BENEFITS IN AN**
30 **APPLICATION YEAR.**

1 **(2) A COVERED EMPLOYEE MAY RECEIVE AN ADDITIONAL 12 WEEKS**
2 **OF BENEFITS IF THE COVERED EMPLOYEE DURING THE SAME APPLICATION YEAR:**

3 **(I) RECEIVED BENEFITS BECAUSE THE COVERED EMPLOYEE**
4 **WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(3) OF THIS SUBTITLE; AND**

5 **(II) BECOMES ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(2),**
6 **(4), OR (5) OF THIS SUBTITLE.**

7 **(B) (1) A COVERED EMPLOYEE MAY NOT BE PAID BENEFITS FOR THE**
8 **FIRST 5 CONSECUTIVE CALENDAR DAYS AFTER THE COVERED EMPLOYEE BECOMES**
9 **ELIGIBLE FOR BENEFITS UNDER § 8.3-701 OF THIS SUBTITLE UNLESS THE COVERED**
10 **EMPLOYEE:**

11 **(I) HAS USED 10 OR MORE DAYS OF PAID OR UNPAID LEAVE**
12 **DURING THE APPLICATION YEAR; OR**

13 **(II) ALREADY HAS UNDERGONE THE WAITING PERIOD IN THE**
14 **SAME APPLICATION YEAR.**

15 **(2) AN EMPLOYER MAY NOT REQUIRE A COVERED EMPLOYEE TO USE**
16 **LEAVE PROVIDED BY THE EMPLOYER DURING THE WAITING PERIOD REQUIRED**
17 **UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

18 **(C) A COVERED EMPLOYEE MAY NOT BE PAID BENEFITS FOR LESS THAN 1**
19 **DAY OR 8 CONSECUTIVE HOURS OF LEAVE TAKEN IN 1 WORKWEEK.**

20 **8.3-703.**

21 **IF AN EMPLOYER PROVIDES A COVERED EMPLOYEE WITH WRITTEN NOTICE,**
22 **THE EMPLOYER MAY REQUIRE THAT BENEFITS PAID UNDER THIS TITLE TO THE**
23 **COVERED EMPLOYEE BE COORDINATED WITH PAYMENT MADE OR LEAVE ALLOWED**
24 **UNDER THE TERMS OF DISABILITY OR FAMILY CARE LEAVE UNDER A COLLECTIVE**
25 **BARGAINING AGREEMENT OR EMPLOYER POLICY.**

26 **8.3-704.**

27 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE WEEKLY**
28 **BENEFIT AMOUNT PAYABLE TO A COVERED EMPLOYEE UNDER THIS TITLE SHALL BE**
29 **66% OF THE HIGHEST TOTAL AMOUNT OF WAGES EARNED BY THE COVERED**
30 **EMPLOYEE IN 1 WEEK DURING THE BASE PERIOD.**

1 **(2) THE WEEKLY BENEFIT AMOUNT PAYABLE UNDER PARAGRAPH (1)**
2 **OF THIS SUBSECTION:**

3 **(I) SHALL BE AT LEAST \$50; AND**

4 **(II) MAY NOT EXCEED \$700.**

5 **(B) THE DIVISION SHALL:**

6 **(1) MAKE THE FIRST PAYMENT OF BENEFITS TO A COVERED**
7 **EMPLOYEE WITHIN 2 WEEKS AFTER THE CLAIM IS FILED; AND**

8 **(2) MAKE SUBSEQUENT PAYMENTS EVERY 2 WEEKS UNTIL THE**
9 **BENEFIT PERIOD ENDS.**

10 **8.3-705.**

11 **(A) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT BENEFITS**
12 **PAID UNDER THIS SUBTITLE ARE SUBJECT TO FEDERAL INCOME TAX, AT THE TIME**
13 **AN INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, THE DIVISION SHALL NOTIFY**
14 **THE INDIVIDUAL THAT:**

15 **(1) THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT THE**
16 **BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX;**

17 **(2) THERE ARE REQUIREMENTS REGARDING ESTIMATED TAX**
18 **PAYMENTS;**

19 **(3) THE INDIVIDUAL MAY ELECT TO HAVE FEDERAL INCOME TAX**
20 **DEDUCTED AND WITHHELD FROM THE BENEFITS THAT THE INDIVIDUAL RECEIVES**
21 **UNDER THIS TITLE AT THE AMOUNT SPECIFIED IN THE INTERNAL REVENUE CODE;**
22 **AND**

23 **(4) THE INDIVIDUAL IS PERMITTED TO CHANGE A PREVIOUSLY**
24 **ELECTED WITHHOLDING STATUS.**

25 **(B) (1) IF AN INDIVIDUAL ELECTS TO HAVE FEDERAL INCOME TAX**
26 **DEDUCTED AND WITHHELD UNDER SUBSECTION (A)(3) OF THIS SECTION, THE**
27 **DIVISION SHALL DEDUCT AND WITHHOLD THE AMOUNT SPECIFIED IN THE**
28 **INTERNAL REVENUE CODE IN A MANNER REQUIRED BY THE INTERNAL REVENUE**
29 **SERVICE.**

1 **(2) IF THE DIVISION DEDUCTS AND WITHHOLDS FEDERAL INCOME**
2 **TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DEDUCTED AND**
3 **WITHHELD SHALL REMAIN IN THE FUND UNTIL IT IS TRANSFERRED TO THE**
4 **FEDERAL TAXING AUTHORITY AS A PAYMENT OF INCOME TAX.**

5 **8.3-706.**

6 **IF A COVERED EMPLOYEE RECEIVES BENEFITS UNDER THIS SUBTITLE OR**
7 **TAKES LEAVE FROM WORK THAT FULFILLS THE WAITING PERIOD REQUIRED UNDER**
8 **§ 8.3-702(B) OF THIS SUBTITLE, THE EMPLOYER OF THE COVERED EMPLOYEE**
9 **SHALL, ON THE EXPIRATION OF THE LEAVE, RESTORE THE EMPLOYEE TO AN**
10 **EQUIVALENT POSITION OF EMPLOYMENT IN THE SAME MANNER AS AN EMPLOYEE**
11 **ENTITLED TO LEAVE UNDER THE FEDERAL FAMILY MEDICAL LEAVE ACT IS**
12 **REQUIRED TO BE RESTORED.**

13 **8.3-707.**

14 **IF A COVERED EMPLOYEE IS RECEIVING BENEFITS UNDER THIS TITLE OR IS**
15 **TAKING LEAVE THAT FULFILLS THE WAITING PERIOD REQUIRED UNDER §**
16 **8.3-702(B) OF THIS SUBTITLE, THE EMPLOYER OF THE COVERED EMPLOYEE SHALL**
17 **CONTINUE ANY EMPLOYMENT BENEFITS IN THE SAME MANNER AS REQUIRED UNDER**
18 **THE FEDERAL FAMILY MEDICAL LEAVE ACT FOR THE TIME PERIOD THAT THE**
19 **COVERED EMPLOYEE IS ABSENT FROM WORK AND RECEIVING BENEFITS UNDER**
20 **THIS TITLE.**

21 **SUBTITLE 8. PROHIBITED ACTS; PENALTIES.**

22 **8.3-801.**

23 **IF AN INDIVIDUAL WILLFULLY MAKES A FALSE STATEMENT OR**
24 **MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS TO**
25 **REPORT A MATERIAL FACT TO OBTAIN BENEFITS UNDER THIS TITLE, THE**
26 **INDIVIDUAL IS DISQUALIFIED FROM RECEIVING BENEFITS FOR 1 YEAR.**

27 **8.3-802.**

28 **(A) THE DIVISION MAY SEEK REPAYMENT OF BENEFITS FROM AN**
29 **INDIVIDUAL WHO RECEIVED BENEFITS UNDER THIS TITLE IF:**

30 **(1) THE BENEFITS WERE PAID ERRONEOUSLY OR AS A RESULT OF**
31 **WILLFUL MISREPRESENTATION; OR**

1 (ii) The provisions of subparagraph (i) of this paragraph do not apply
2 to the following funds:

3 81. the Cybersecurity Investment Fund; [and]

4 82. the Northeastern Maryland Additive Manufacturing
5 Innovation Authority Fund; AND

6 **83. THE FAMILY AND MEDICAL LEAVE INSURANCE**
7 **FUND.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
9 apply only prospectively and may not be applied or interpreted to have any effect on or
10 application to any collective bargaining agreement entered into before the effective date of
11 this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2015,
13 the Secretary of Labor, Licensing, and Regulation shall adopt regulations as required under
14 § 8.3–403 of the Labor and Employment Article, as enacted by Section 1 of this Act.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
16 1, 2015.