

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 580 Session of 2024

INTRODUCED BY ROBINSON, COLLETT, KANE, TARTAGLIONE, BOSCOLA, HAYWOOD, KEARNEY, COSTA, COMMITTA, SCHWANK, LAUGHLIN, BREWSTER, SANTARSIERO, FARRY, STREET, FLYNN, CAPPELLETTI AND DILLON, MARCH 28, 2024

SENATOR ROBINSON, LABOR AND INDUSTRY, AS AMENDED, JUNE 11, 2024

AN ACT

1 Establishing the Pennsylvania Family and Medical Leave Program
2 and the Family and Medical Leave Fund; conferring powers and
3 imposing duties on the Department of Labor and Industry;
4 creating a right of action; and imposing penalties.

TABLE OF CONTENTS

6 Chapter 1. Preliminary Provisions

7 Section 101. Short title.

8 Section 102. Legislative intent.

9 Section 103. Definitions.

10 Chapter 3. Family and Medical Leave Program

11 Section 301. Family and Medical Leave Program.

12 Section 302. Powers and duties of department.

13 Section 303. Eligibility for family and medical leave benefits.

14 Section 304. Duration of benefits.

15 Section 305. Amount of benefits.

16 Section 306. Contributions.

17 Section 307. Reduced leave schedule.

18 Section 308. Employment protections.

1 Section 309. Coordination of benefits.
2 Section 310. Employer waiver to use private plan.
3 Chapter 5. Administration and Procedures
4 Section 501. Notice.
5 Section 502. Erroneous payments and disqualification for
6 benefits.
7 Section 503. Elective coverage.
8 Section 504. Violations.
9 Section 505. Judicial review.
10 Section 506. Family and Medical Leave Fund.
11 Section 507. Annual report.
12 Section 508. Public education.
13 Section 509. Advisory Board.
14 Section 510. Regulations.
15 Section 511. Right of action.
16 Chapter 21. Miscellaneous Provisions
17 Section 2101. Effective date.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 CHAPTER 1

21 PRELIMINARY PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Pennsylvania
24 Family and Medical Leave Act.

25 Section 102. Legislative intent.

26 The General Assembly finds and declares as follows:

27 (1) Paid family and medical leave promotes the physical
28 and emotional health of children and their families.

29 (2) Paid family and medical leave has a positive impact
30 on economic stability and ensures competitive viability for

1 all businesses, but particularly smaller businesses.

2 (3) The establishment of a paid family and medical leave
3 program is essential to public health, safety and welfare.

4 Section 103. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Abuse of a vulnerable adult." The term includes:

9 (1) Force or threat of force of inappropriate use of
10 medications or physical or chemical restraints.

11 (2) Misuse of power or authority granted to a person
12 through a power of attorney or by a court in a guardianship
13 or conservatorship proceeding that results in unreasonable
14 confinement or restriction of liberty.

15 (3) An act of violence against, or the taking,
16 transferring, concealing, harming or disposing of, an
17 emotional support or service animal owned, possessed or held
18 by a vulnerable adult.

19 (4) The failure of a caregiver to provide goods, care or
20 services essential to avoid a clear and serious threat to the
21 physical or mental health of a vulnerable adult.

22 (5) An act or course of conduct by a caregiver against a
23 vulnerable adult or a vulnerable adult's resources, without
24 the informed consent of the vulnerable adult or with consent
25 obtained through misrepresentation, coercion or threats of
26 force, that results in monetary, personal or other benefit,
27 gain or profit for the perpetrator or monetary or personal
28 loss to the vulnerable adult.

29 (6) The desertion of a vulnerable adult by a caregiver.

30 (7) Knowingly restricting the movement or independence

1 of a vulnerable adult without the vulnerable adult's consent
2 by removing means of transportation, communication or access
3 to other activities of daily living, including removing
4 access to assistive technology, communication devices or
5 mobility aids.

6 "Application year." The 12-month period beginning on the
7 first day of the calendar week in which an individual files a
8 claim for family and medical leave benefits.

9 "Attesting third party." A disability service organization
10 manager or coordinator, caregiver agency coordinator or manager,
11 law enforcement official, licensed health care professional,
12 licensed social worker, victim advocate or victim service
13 provider.

14 "Authorized reason for leave for a qualifying act of
15 violence." Leave for a covered individual or to assist a family
16 member whom the covered individual is caring for, to:

17 (1) Seek or obtain medical attention, rehabilitative
18 services, accessibility equipment or other treatment related
19 to a physical or mental injury or disability caused or
20 aggravated by the applicable qualifying act.

21 (2) Recover from a physical or mental injury or
22 disability caused or aggravated by the applicable qualifying
23 act.

24 (3) Seek or obtain services from a victim service
25 provider in relation to the applicable qualifying act.

26 (4) Seek or obtain mental health treatment or other
27 counseling in relation to the applicable qualifying act.

28 (5) Relocate or engage in the process of securing a new
29 residence due to the applicable qualifying act, including,
30 but not limited to, securing temporary or permanent housing

1 or enrolling children in a new school.

2 (6) Seek or obtain financial services or meet with a
3 financial professional to address financial issues resulting
4 from the applicable qualifying act.

5 (7) Seek, obtain or provide child care or care to a
6 care-dependent adult necessary as a result of the applicable
7 qualifying act.

8 (8) Seek or obtain legal services related to or
9 resulting from the applicable qualifying act.

10 (9) Prepare for, participate in or attend any civil,
11 administrative or criminal legal proceeding relating to or
12 resulting from the applicable qualifying act.

13 (10) Make modifications to a home or vehicle necessary
14 to create usability of and accessibility to the home or
15 vehicle due to an injury sustained in a qualifying act.

16 (11) Seek or obtain new caregiver services.

17 (12) Take any other actions necessary to protect or
18 restore physical, mental, emotional or economic well-being as
19 a result of the applicable qualifying act.

20 "Benefits." The monetary allowances payable to a covered
21 individual as family and medical leave during an approved family
22 and medical leave under the program in accordance with this act.

23 "Board." The Pennsylvania Family and Medical Leave Act
24 Advisory Board established under section 509.

25 "Claim." The filing of a written application with the
26 department for the receipt of benefits.

27 "Covered individual." An employee, or a self-employed person
28 who elects coverage pursuant to section 503, who meets the
29 following requirements, as applicable:

30 (1) Is currently employed in this Commonwealth or was

1 previously employed in this Commonwealth within 120 days of
2 separation from employment.

3 (2) Meets the employment and income eligibility
4 requirements under section 303.

5 (3) Meets the requirements of this act as to the receipt
6 of benefits.

7 (4) Submits a claim that is approved by the department.

8 ~~"Covered service member." A current or former member of the <--~~
9 ~~armed forces of the United States, including a current or former~~
10 ~~member of a reserve component of the armed forces of the United~~
11 ~~States or the Pennsylvania National Guard, who meets any of the~~
12 ~~following requirements:~~

13 ~~(1) Is undergoing medical treatment, recuperation or~~
14 ~~therapy.~~

15 ~~(2) Is otherwise in outpatient status.~~

16 ~~(3) Is on the temporary disability retired list for a~~
17 ~~serious injury or illness incurred in the line of duty on~~
18 ~~active duty in the armed forces of the United States or a~~
19 ~~serious injury or illness that existed before the beginning~~
20 ~~of the member's active duty that was aggravated by service in~~
21 ~~the line of duty on active duty in the armed forces of the~~
22 ~~United States, a reserve component of the armed forces of the~~
23 ~~United States or the Pennsylvania National Guard.~~

24 "Department." The Department of Labor and Industry of the
25 Commonwealth.

26 "Domestic violence." The occurrence of any of the following
27 acts between family or household members as defined in 23
28 Pa.C.S. § 6102(a) (relating to definitions):

29 (1) Intentionally, knowingly or recklessly causing, or
30 attempting to cause, bodily injury, serious bodily injury or

1 sexual violence.

2 (2) Placing another individual in reasonable fear of
3 imminent serious bodily harm.

4 (3) An act of domestic and other violence as defined in
5 55 Pa. Code ~~§ 3041.3~~ § 3042.3 (relating to definitions). <--

6 (4) The infliction of false imprisonment under 18
7 Pa.C.S. § 2903 (relating to false imprisonment).

8 "Employee." An individual who is employed by an employer
9 doing business in this Commonwealth. The term includes a self-
10 employed individual.

11 "Employer." An employer as defined in section 103 of the
12 Workers' Compensation Act.

13 "Family." Includes any of the following:

14 (1) A biological child, adopted or foster child,
15 stepchild or legal ward, a child of a domestic partner or a
16 child to whom an employee stands in loco parentis, regardless
17 of age.

18 (2) A biological parent, foster parent, stepparent or
19 adoptive parent or legal guardian of an employee or an
20 employee's spouse or domestic partner or an individual who
21 stood in loco parentis when the employee or the employee's
22 spouse or domestic partner was a minor child.

23 (3) An individual to whom the employee is legally
24 married under the laws of any state or a domestic partner of
25 an employee as registered under the laws of any state or
26 political subdivision.

27 (4) A grandparent, grandchild or sibling, whether of a
28 biological, foster, adoptive or step relationship, of the
29 employee or the employee's spouse or domestic partner.

30 (5) An individual who regularly resides in the

1 employee's home or where the relationship creates an
2 expectation that the employee cares for the individual and
3 that the individual depends on the employee for care. The
4 term does not include an individual who simply resides in the
5 same home with no expectation that the employee care for the
6 individual.

7 "Family and medical leave." Benefits approved and payable to
8 covered individuals under the program.

9 "Fund." The Family and Medical Leave Fund established under
10 section 506.

11 "Health care provider." A health care center or a person,
12 including a corporation, university or other educational
13 institution licensed or approved by the Commonwealth to provide
14 health care or professional medical services, including a
15 physician, certified nurse midwife, mental health care provider,
16 hospital, nursing home, birth center or any other person
17 determined by the department to be providing health care
18 services.

19 "Leave." The allotted amount of time approved by the
20 department for the receipt of benefits under this act.

21 "Medical certification." Written certification from a health
22 care provider on a form prepared by the department that verifies
23 the serious health condition prompting the filing of a claim and
24 receipt of benefits by a covered individual pursuant to this
25 act.

26 "Program." The Pennsylvania Family and Medical Leave Program
27 established under section 301.

28 "Qualifying act of violence." An act, conduct or pattern of
29 conduct that could constitute any of the following, regardless
30 of whether anyone is arrested or charged with committing a

1 crime:

2 (1) Domestic violence.

3 (2) Sexual violence.

4 (3) Stalking.

5 (4) Abuse of a vulnerable adult.

6 (5) An act or conduct in which a person uses force to
7 cause or attempt to cause physical or mental injury to
8 another. This does not include conduct arising out of the
9 ownership, maintenance or use of a motor vehicle, except when
10 the person engaging in the conduct intended to cause or
11 intended to threaten to cause physical or mental injury or
12 when the person engaging in the conduct was under the
13 influence of alcohol or a controlled substance.

14 (6) An act or conduct in which a person makes a
15 reasonably perceived or actual threat of physical or mental
16 injury to another. This does not include conduct arising out
17 of the ownership, maintenance or use of a motor vehicle,
18 except when the person engaging in the conduct intended to
19 cause or intended to threaten to cause physical or mental
20 injury or when the person engaging in the conduct was under
21 the influence of alcohol or a controlled substance.

22 "Qualifying exigency leave." Leave for the family member of
23 a military member deployed at home or abroad, OR WHO HAS BEEN <--
24 NOTIFIED OF AN IMPENDING DEPLOYMENT AT HOME OR ABROAD, for the
25 purposes specified in 29 CFR 825.126 (relating to leave because
26 of a qualifying exigency).

27 "Retaliatory personnel action." One of the following:

28 (1) Any threat, discipline, discharge, suspension,
29 demotion, reduction of hours or any other adverse action
30 taken against an employee for exercising the rights and

1 protections afforded by this act.

2 (2) Interference with or punishment for participating in
3 or acting on a complaint or appeal under this act.

4 "Secretary." The Secretary of Labor and Industry of the
5 Commonwealth.

6 "Serious health condition." An illness, injury, impairment,
7 pregnancy, recovery from childbirth or physical or mental
8 condition as defined in 29 U.S.C. § 2611(11) (relating to
9 definitions).

10 "Sexual violence." As defined under 42 Pa.C.S. § 62A03
11 (relating to definitions).

12 "Stalking." Conduct in which an individual either:

13 (1) engages in a course of conduct or repeatedly commits
14 acts toward another individual, including following the other
15 individual without proper authority:

16 (i) under circumstances which demonstrate either an
17 intent to place the other individual in reasonable fear
18 of bodily injury or to cause substantial emotional
19 distress to the other individual; or

20 (ii) which as a result intentionally, knowingly or
21 recklessly places the other individual in reasonable fear
22 of bodily injury or causes substantial emotional distress
23 to the other individual; or

24 (2) engages in a course of conduct or repeatedly
25 communicates to another individual:

26 (i) under circumstances which demonstrate or
27 communicate either an intent to place the other
28 individual in reasonable fear of bodily injury or to
29 cause substantial emotional distress to the other
30 individual; or

1 (ii) which as a result intentionally, knowingly or
2 recklessly places the other individual in reasonable fear
3 of bodily injury or causes substantial emotional distress
4 to the other individual.

5 "Statewide average weekly wage." The average amount of
6 weekly wages as determined by the department on an annual basis
7 for each calendar year pursuant to the Workers' Compensation
8 Act, which shall be posted on the department's publicly
9 accessible Internet website.

10 "Unemployment Compensation Law." The act of December 5, 1936
11 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
12 Compensation Law.

13 "Victim." Either of the following:

14 (1) An individual against whom a qualifying act was
15 committed.

16 (2) An individual who was physically present at the
17 scene of a qualifying act and witnessed the qualifying act,
18 who did not commit the qualifying act and who as a direct
19 result:

20 (i) suffers physical or mental injury; or

21 (ii) reasonably believes that the individual is
22 under the threat of physical harm.

23 "Victim advocate." An individual, whether paid or serving as
24 a volunteer, who provides services to victims under the auspices
25 or supervision of a victim service provider or a court or a law
26 enforcement or prosecution agency.

27 "Victim service provider." An agency or organization that
28 provides services to victims. The term includes:

29 (1) A rape crisis center as defined in 42 Pa.C.S. §
30 5945.1 (relating to confidential communications with sexual

1 assault counselors).

2 (2) A domestic violence program as defined in 23 Pa.C.S.
3 § 6102(a).

4 (3) An agency or organization with a documented history
5 of providing services to victims.

6 "Vulnerable adult." An individual who is 18 years of age or
7 older, is reliant on a caregiver and is unable to protect
8 against abuse, neglect or exploitation by others because of a
9 disability or impairment.

10 "Workers' Compensation Act." The act of June 2, 1915
11 (P.L.736, No.338), known as the Workers' Compensation Act.

12 CHAPTER 3

13 FAMILY AND MEDICAL LEAVE PROGRAM

14 Section 301. Family and Medical Leave Program.

15 (a) Establishment of program.--

16 (1) Within one year of the effective date of this
17 section, the department shall establish the Pennsylvania
18 Family and Medical Leave Program.

19 (2) Except as provided under section 310, no later than
20 two years following the establishment of the program, the
21 department shall pay family and medical leave benefits as
22 specified in this act.

23 (b) Required documentation.--The department shall establish
24 reasonable procedures and forms for filing a claim under this
25 act, the documentation necessary to support a claim and any
26 certification required from a health care provider for proof of
27 a serious health condition or any certification required from a
28 victim of a qualifying act of violence.

29 (c) Notice of approved claim.--In addition to the notice
30 provided to an employer by an employee under section 501(d), the

1 department shall notify the employer within 10 business days of
2 an approved claim for benefits under this act.

3 (d) Information sharing.--Information sharing and
4 integration technology to facilitate the disclosure of relevant
5 information or records shall be used as practicable subject to
6 consent and disclosure requirements under State law.

7 (e) Confidentiality.--Information contained in the files and
8 records pertaining to an individual filing a claim under this
9 act are confidential and shall not be open to public inspection
10 other than to public employees in the performance of their
11 official duties.

12 (f) Cooperation among departments.--To properly effectuate
13 the provisions of this act, all departments and agencies under
14 the jurisdiction of the Governor shall fully cooperate with the
15 department and provide assistance and support as needed to
16 ensure the timely and efficient delivery of benefits under this
17 act.

18 Section 302. Powers and duties of department.

19 (a) Administration of act.--The department shall be
20 responsible for the administration of this act and the fund.
21 Administration of the program for purposes of this section and
22 section 506 shall include acquisition, development and
23 operational costs related to information technology,
24 infrastructure and personnel needed to process claims and issue
25 benefits pursuant to the act.

26 (b) Powers and duties.--To fulfill its responsibilities
27 under this act, the department shall have the following powers
28 and duties:

29 (1) Calculate and set the amount of benefits payable to
30 a covered individual under section 305 initially and on an

1 annual basis thereafter.

2 (2) Provide information to employees and employers on
3 the amount to be deducted as employee payroll contributions
4 under section 306 initially and every year thereafter.

5 (3) Develop and prepare the written notices that
6 employers must distribute and provide to their employees
7 pursuant to section 501. The form of the notices shall be
8 posted on the department's publicly accessible Internet
9 website.

10 (4) Prepare and provide the medical certification form
11 referenced in section 303(f) on the department's publicly
12 accessible Internet website.

13 (5) Prepare and provide the necessary forms for filing
14 and acknowledging a benefits claim and for providing notice
15 of benefits approval to both employers and covered individual
16 employees.

17 (6) Evaluate and adjudicate claims.

18 (7) Evaluate and determine the amount of payroll
19 contributions and maximum employee contributions to ensure
20 fund solvency.

21 (8) Coordinate benefits with employers that have already
22 paid for benefits outside the fund.

23 (9) Make payments on claims.

24 (10) Develop the abstract for employer posting of notice
25 in the workplace under section 501, which shall be available
26 on the department's publicly accessible Internet website.

27 (11) Prepare and provide the employee complaint form on
28 the department's publicly accessible Internet website.

29 (12) Develop forms necessary to ensure implementation of
30 this act.

1 (13) Develop procedures to investigate and resolve
2 complaints under this act.

3 (14) Conduct an ongoing public outreach campaign to
4 inform employers and employees about the availability of the
5 program and the process for filing a benefits claim.

6 (15) Promulgate regulations as necessary to administer
7 this act.

8 (16) Issue an annual report under section 507.

9 (c) Enforcement of act.--The secretary shall establish a
10 system for an administrative complaint and appeals process in
11 the case of a denial of family and medical leave benefits,
12 denial of a waiver under section 310, denial of family and
13 medical leave benefits provided through a private plan under
14 section 310 and all violations assessed under this act. The
15 system for administrative complaints and appeals process shall
16 be established by regulations promulgated by the department.
17 Procedures to ensure confidentiality of all information related
18 to any claims filed or appeals taken shall be implemented in
19 accordance with applicable laws.

20 Section 303. Eligibility for family and medical leave benefits.

21 (a) Basis for receipt of benefits.--No later than two years
22 following the establishment of the program, benefits under this
23 act shall be payable to a covered individual who files an
24 approved claim based on any of the following:

25 (1) Because of birth, adoption or placement through
26 foster care, is caring for a new child during the first year
27 after the birth, adoption or placement of that child.

28 (2) Is caring for a family member with a serious health
29 condition.

30 (3) Has a serious health condition, including pregnancy,

1 that renders the covered individual unable to perform the
2 functions of the individual's position.

3 ~~(4) Is caring for a family member who is a covered~~ <--
4 ~~service member due to a qualifying exigency leave in~~
5 ~~accordance with the terms of 29 U.S.C. Ch. 28 (relating to~~
6 ~~family and medical leave).~~ DUE TO A QUALIFYING EXIGENCY <--
7 LEAVE.

8 (5) Is a victim of a qualifying act of violence or has a
9 family member who is a victim of a qualifying act of violence
10 and is taking leave for an authorized reason for leave for a
11 qualifying act of violence.

12 (b) Employment and income eligibility requirements.--To be
13 eligible to file a benefits claim, a covered individual must
14 have:

15 (1) Worked at least 18 weeks during the 12-month period
16 prior to submitting a claim.

17 (2) Earned at least \$2,718 in income during the 12-month
18 period prior to submitting a claim. This earned income rate
19 shall be adjusted annually by the department and reflect the
20 minimum qualifying wage to qualify for benefits under the
21 Unemployment Compensation Act.

22 (3) Not been employed by an employer that has been
23 issued a waiver under section 310.

24 (c) Proof of wages.--The fund shall not be liable for
25 payment of benefits unless the amount of wages that the covered
26 individual earned at the time of the covered individual's leave
27 is verified under section 305(a)(2) or under this subsection. If
28 a discrepancy is identified by the department in verifying wages
29 under section 305(a)(2), the department may request the
30 following documents from a covered individual to verify wages:

- 1 (1) A check, check stub or payroll record.
- 2 (2) A tax return, including IRS form W-2 and form 1099,
3 or successor forms.
- 4 (3) Unemployment compensation records, including form
5 UC-2A.
- 6 (4) Bank statements or records showing regular and
7 recurring deposits.
- 8 (5) Written documentation created contemporaneously with
9 the payment of wages.
- 10 (d) Interaction with the Workers' Compensation Act and the
11 Unemployment Compensation Law.--To file a benefits claim and
12 receive benefits under this act, a covered individual may not
13 receive benefits for the same day under the Workers'
14 Compensation Act or the Unemployment Compensation Law.
- 15 (e) Filing of benefits claim.--An individual seeking
16 benefits under this act shall submit a claim to the department
17 providing the required documentation to support a claim for
18 benefits, including any necessary medical certification or
19 certification of a qualifying act of violence.
- 20 (f) Medical certification.--
- 21 (1) A covered individual shall obtain a medical
22 certification confirming a serious health condition under
23 subsection (a)(2) or (3) that justifies the filing of a claim
24 and the receipt of benefits under this act and shall make
25 that information available to the department on a form
26 prescribed by the department. When possible, the department
27 shall use Federal family and medical leave forms. Any
28 completed medical certification form regarding a covered
29 individual shall be used solely for the purpose of
30 adjudicating a claim under this act.

1 (2) Confidential medical documentation may not be
2 released by the department unless written authorization is
3 provided by an employee or covered individual.

4 (g) Qualifying act of violence certification.--

5 (1) The department may require that an employee, within
6 a reasonable period after the absence, provide documentation
7 that the employee or the employee's family member is a victim
8 of a qualifying act of violence. The employee may satisfy the
9 certification requirement by providing to the department any
10 of the following:

11 (i) a copy of a valid court order that restrains the
12 person alleged to have committed the qualifying act of
13 violence from contact with the employee or family member
14 of the employee;

15 (ii) medical or mental health records indicating
16 that the employee or family member is a victim of a
17 qualifying act of violence;

18 (iii) a police report documenting the act of which
19 the employee or family member is a victim of a qualifying
20 act of violence;

21 (iv) evidence that the person alleged to have
22 committed the qualifying act of violence has been charged
23 with or convicted of an act of which the employee or
24 family member is a victim;

25 (v) a written certification signed by an attesting
26 third party that affirms that the employee or family
27 member is a victim of a qualifying act of violence; or

28 (vi) any other form of documentation that reasonably
29 verifies that the employee or the employee's family
30 member is a victim, including a written statement signed

1 by the employee or signed by an individual authorized to
2 act on the employee's behalf.

3 (2) Furnishing documentation or providing a
4 certification under this subsection shall not waive any
5 confidentiality or privilege that may exist between the
6 employee or victim and a third party.

7 (3) The department shall not require that the employee
8 provide a certification that explains the details of the
9 qualifying act of violence. The department may not require a
10 disclosure of the details relating to a qualifying act of
11 violence or the details of an employee's or employee's family
12 member's medical condition as a condition of providing leave
13 under this act.

14 (4) All information provided to the department under
15 this subsection shall be retained in the strictest confidence
16 by the department, except to the extent that disclosure is:

17 (i) requested or consented to in writing by the
18 employee; or

19 (ii) otherwise required by applicable Federal or
20 State law in which case the department shall provide the
21 employee notice prior to any authorized disclosure.

22 (h) Married or domestic partners employed by the same
23 employer.--Individuals who are legally married or domestic
24 partners under the laws of any state or political subdivision
25 and employed by the same employer shall both be eligible for
26 benefits under this act, even when the leave runs concurrently.

27 (i) Regulations.--The department shall promulgate
28 regulations to provide for an adjudication process under this
29 act.

30 (j) Determination of eligibility.--Upon receipt of all

1 necessary documentation to support a claim for benefits from a
2 covered individual, the department shall determine eligibility
3 for benefits under this act within 20 business days.

4 Section 304. Duration of benefits.

5 (a) Maximum leave duration of 20 weeks.--The maximum number
6 of weeks during which benefits are payable under section 303(a)
7 (1) or (3) in an application year is 20 weeks.

8 (b) Maximum leave duration of 12 weeks.--The maximum number
9 of weeks during which benefits are payable under section 303(a)
10 (2), (4) or (5) in an application year is 12 weeks.

11 (c) Total maximum duration.--The duration of leave under
12 subsections (a) and (b) combined may not exceed a total number
13 of 20 weeks in any one application year regardless of reason.

14 (d) Initial payment of benefits.--The first payment of
15 benefits shall be made to a covered individual no later than one
16 week:

17 (1) after the claim is filed and approved by the
18 department; or

19 (2) from the date the leave is scheduled to commence.

20 (e) Payment of benefits.--After the initial payment of
21 benefits, subsequent payments shall be made weekly thereafter
22 for the duration of the approved leave.

23 Section 305. Amount of benefits.

24 (a) Calculation of benefits.--

25 (1) The benefits payable to a covered individual shall
26 be calculated as follows:

27 (i) the portion of a covered individual's average
28 weekly wage that is equal to or less than 50% of the
29 Statewide average weekly wage shall be replaced at a rate
30 of 90%; and

1 (ii) the portion of a covered individual's average
2 weekly wage that exceeds 50% of the Statewide average
3 weekly wage shall be replaced at a rate of 50%.

4 (2) The calculation of a covered individual's average
5 weekly wage shall be as follows:

6 (i) If at the time the leave commences the wages are
7 fixed by the week, the amount fixed shall be the average
8 weekly wage.

9 (ii) If at the time the leave commences the wages
10 shall be fixed by the month, the average weekly wage
11 shall be the monthly wage fixed multiplied by 12 and
12 divided by 52.

13 (iii) If at the time the leave commences the wages
14 are fixed by the year, the average weekly wage shall be
15 the yearly wage fixed divided by 52.

16 (iv) If at the time the leave commences the wages
17 are fixed by any manner not provided under this
18 subsection, the average weekly wage shall be calculated
19 by dividing by 13 the total wages earned in the employ of
20 the employer in each of the highest three of the last
21 four consecutive periods of 13 calendar weeks in the 52
22 weeks immediately preceding the leave period, and by
23 averaging the total amounts earned during these three
24 periods.

25 (v) If the covered employee has not been employed by
26 the employer for at least three consecutive periods of 13
27 calendar weeks in the 52 weeks immediately preceding the
28 leave period, the average weekly wage shall be calculated
29 by dividing by 13 the total wages earned in the employ of
30 the employer for any completed period of 13 calendar

1 weeks immediately preceding the leave period, and by
2 averaging the total amounts earned during the periods.

3 (vi) If the employee has worked less than a complete
4 period of 13 calendar weeks and does not have fixed
5 weekly wages, the average weekly wage shall be the hourly
6 wage rate multiplied by the number of hours the employee
7 was expected to work per week under the terms of
8 employment.

9 (vii) Except as provided in subparagraph (v) or
10 (vi), in occupations which are exclusively seasonal and
11 therefore cannot be carried throughout the year, the
12 average weekly wage shall be taken to be one-fifteenth of
13 the total wages which the employee has earned from all
14 occupations during the 12 calendar months immediately
15 preceding the leave, unless it be shown that during the
16 year, by reason of exceptional causes, the method of
17 calculation does not clearly provide the earnings of the
18 employee, in which case the period for calculation shall
19 be extended so far as to give a basis for the fair
20 ascertainment of average weekly earnings.

21 (3) As used in this subsection, the terms "average
22 weekly wage" and "total wages" shall include board and
23 lodging received from the employer and gratuities reported to
24 the United States Internal Revenue Service by or for the
25 employee for Federal income tax purposes. The terms shall not
26 include:

27 (i) Amounts deducted by the employer under the
28 contract of hiring for labor furnished or paid for by the
29 employer and necessary for the performance of the
30 contract by the employee.

1 (ii) Deductions from wages due to the employer for
2 rent and supplies necessary for the employee's use in the
3 performance of labor.

4 (iii) Fringe benefits, including employer payments
5 for or contributions to a retirement, pension, health and
6 welfare, life insurance, Social Security or any other
7 plan for the benefit of the employee or the employee's
8 dependents.

9 (4) The amount of any bonus, incentive or vacation
10 payment earned on an annual basis shall be excluded from the
11 calculations under paragraph (2)(i), (ii), (iii), (iv), (v)
12 or (vi). Those payments, if any, shall instead be divided by
13 52 and the amount shall be added to the average weekly wage
14 otherwise calculated under paragraph (2)(i), (ii), (iii),
15 (iv), (v) or (vi).

16 (5) If an employee is working under concurrent contracts
17 with two or more employers, the wages from all employers
18 shall be considered.

19 (b) Limitation.--

20 (1) In no case shall the weekly benefits payable to a
21 covered individual be more than the Statewide average weekly
22 wage.

23 (2) The application of the Statewide average weekly wage
24 on a claim shall begin on the date that the basis for the
25 receipt of benefits under section 303(a) arises.

26 (3) If a claim carries over from one year into another
27 and the Statewide average weekly wage is adjusted, the most
28 recent Statewide average weekly wage shall be used in
29 calculating all future payments.

30 (c) Adjustment of benefits calculation.--The department

1 shall adjust the maximum family and medical leave benefit cap
2 established in subsection (a) annually based on the Statewide
3 average weekly wage and shall transmit notice of the revised
4 family and medical leave benefit rates to the Legislative
5 Reference Bureau for publication in the next available issue of
6 the Pennsylvania Bulletin on an annual basis.

7 (d) Limit on taking of benefits and nonsequential leave.--
8 Under this section and section 307, benefits are not payable for
9 less than eight hours of leave taken in one work week.

10 Section 306. Contributions.

11 (a) Payment into the program.--All persons employed in this
12 Commonwealth, except persons employed by an employer issued a
13 waiver under section 310, shall be required to contribute to the
14 program for the purpose of financing the program.

15 (b) Commencement of payroll contributions.--Payroll
16 contributions into the fund for the purpose of financing the
17 program shall commence at least one year prior to the payment of
18 benefits from the fund to covered individuals.

19 (c) Calculation of payroll contributions.--The amount
20 payable through employee payroll contributions shall be set at a
21 percentage of an individual employee's wages to initiate
22 payments into the program. The following shall apply:

23 (1) The payroll contribution shall be calculated using
24 an actuarial experience study that shall take into account
25 all available data. The rate shall be set at an amount to
26 ensure solvency of the fund but shall not exceed 1% of an
27 individual employee's wages.

28 (2) Every year thereafter, the department shall evaluate
29 and determine the amount of payroll contributions and maximum
30 employee contributions necessary to finance and adequately

1 support the program. THE RATE SHALL NOT EXCEED 1% OF AN
2 INDIVIDUAL EMPLOYEE'S WAGES.

3 (3) The payroll contribution rate shall be posted on the
4 department's publicly accessible Internet website.

5 (d) Notification to employers.--The department shall notify
6 the Department of Revenue to advise employers of the amount
7 payable through employee payroll contributions.

8 (e) Penalty for failure to withhold.--Except for an employer
9 issued a waiver under section 310, an employer who fails to
10 withhold payroll contributions in accordance with this act shall
11 be subject to those penalties enforceable through the act of
12 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
13 1971, for failure to properly withhold wages for income tax and
14 sales and use tax purposes.

15 Section 307. Reduced leave schedule.

16 (a) Taking of nonsequential leave.--A covered individual
17 shall be entitled to utilize the leave authorized under section
18 304, at the option of the covered individual, to take leave on
19 an intermittent or reduced leave schedule in which all of the
20 leave authorized under this act is not taken sequentially.
21 Family and medical leave benefits for intermittent or reduced
22 leave schedules shall be prorated.

23 (b) Impact on duration of leave.--Nonsequential leave taken
24 under this section may not result in a reduction in the total
25 amount of family and medical leave to which a covered individual
26 is entitled beyond the amount of leave actually taken.

27 (c) Total amount of leave allowed.--Nothing in this section
28 shall be construed to enable a covered individual to take more
29 leave than allowed under section 304.

30 Section 308. Employment protections.

1 (a) Restoration of employment position.--A covered
2 individual who takes leave pursuant to this act shall, upon the
3 expiration of that leave, be restored by the employer to the
4 position previously held by the covered individual when the
5 leave commenced, or to a position with equivalent seniority,
6 status, employment benefits, pay and other terms and conditions
7 of employment.

8 (b) Health care benefits maintained.--For the duration of a
9 leave approved under this act, the employer shall maintain any
10 health care benefits the covered individual had prior to taking
11 leave as if the covered individual had continued in employment
12 continuously from the date leave was commenced until the date
13 the leave terminates. A covered individual shall continue to pay
14 the covered individual's share of the cost of health benefits as
15 required prior to the commencement of the leave.

16 (c) Interference with benefits.--It shall be unlawful for an
17 employer or any other person to interfere with, restrain or deny
18 the exercise of, or the attempt to exercise, any protection
19 afforded under this act.

20 (d) Retaliation prohibited.--An employer, temporary help
21 company, employment agency, employee organization or other
22 person may not take retaliatory personnel action or otherwise
23 discriminate against a person because the person took any action
24 in accordance with this act, including:

25 (1) Applying for or using benefits or taking leave under
26 this act.

27 (2) Communicating to the employer or any other person or
28 entity an intent to file and act on a claim, a complaint or
29 an appeal with the department or a court of competent
30 jurisdiction.

1 (e) Consideration of absence.--It shall be unlawful for an
2 employer to count leave taken under this act as an absence that
3 may lead to or result in a retaliatory personnel action.

4 (f) Good faith protection.--Protections under this section
5 shall apply to any person who mistakenly but in good faith
6 alleges a violation of this act.

7 Section 309. Coordination of benefits.

8 (a) Leave concurrent with Federal law.--Leave taken under
9 this act that also qualifies as leave under 29 U.S.C. Ch. 28
10 (relating to family and medical leave) shall run concurrently
11 with leave taken under 29 U.S.C. Ch. 28.

12 (b) Coordination with other paid leave.--An employee may
13 elect to utilize paid leave available under any other Federal or
14 State law, collective bargaining agreement or employer policy
15 prior to receiving benefits under this act, provided that the
16 paid leave does not conflict with Federal law. Employers shall
17 provide employees with written notice of the opportunity to make
18 the election and inform employees how leave will be coordinated
19 absent any election.

20 (c) Employer's obligation.--This act does not diminish an
21 employer's obligation to comply with any of the following that
22 provide more generous leave:

23 (1) A collective bargaining agreement.

24 (2) An employer policy.

25 (3) Any other Federal or State law.

26 (d) Prohibition on subsequent collective bargaining
27 agreement or employer policy.--An individual's right to leave
28 and the payment of benefits under this act may not be diminished
29 by a collective bargaining agreement entered into or renewed, or
30 an employer policy adopted or retained, after the effective date

1 of this subsection. Any agreement by an individual to waive the
2 individual's rights under this act is void as against public
3 policy.

4 (e) Impact on Workers' Compensation Act.--Nothing in this
5 act shall be construed to impact the provisions of the Workers'
6 Compensation Act with regard to work-related injuries.

7 (f) Impact on Public Employe Relations Act.--Nothing in this
8 act shall be construed to supersede or preempt the rights,
9 remedies and procedures afforded to employees or labor
10 organizations under Federal or State law, including the act of
11 July 23, 1970 (P.L.563, No.195), known as the Public Employe
12 Relations Act, or any provision of a collective bargaining
13 agreement negotiated between an employer and an exclusive
14 representative of the employees in accordance with the Public
15 Employe Relations Act.

16 Section 310. Employer waiver to use private plan.

17 (a) Waiver.--An employer may apply to the department for a
18 waiver to waive the employer's obligations under this chapter
19 with a private plan. The application shall be submitted on a
20 form and in a manner prescribed by the department. The
21 department shall approve a private plan and issue a waiver under
22 this section if, in accordance with subsection (b), a private
23 plan confers all of the same rights, protections and benefits
24 provided to employees under this chapter and if the employer
25 provides evidence of a self-funded plan or insurance policy in
26 effect and has a certificate of authority to transact insurance
27 under section 208 of the act of May 17, 1921 (P.L.789, No.285),
28 known as The Insurance Department Act of 1921. The private plan
29 shall provide:

30 (1) Benefits to a covered individual under section

1 303(a) (1) and (3) for the maximum number of weeks required
2 under section 304(a) in a benefit year.

3 (2) Benefits to a covered individual under section
4 303(a) (2), (4) and (5) for the maximum number of weeks
5 required under section 304(b) in a benefit year.

6 (3) Covered individuals, in the aggregate, at least the
7 maximum number of weeks of benefits in a benefit year as
8 provided under section 304(c).

9 (4) A weekly wage replacement rate for each week of
10 benefits of at least the amount required by section 305(a).

11 (5) A maximum weekly benefit rate for each week of
12 benefits of at least the amount specified in section 305(c).

13 (6) Payment of benefits in accordance with section
14 303(f) and (g).

15 (7) The allowance of leave and benefits to be taken
16 intermittently or on a reduced schedule as authorized by
17 section 307.

18 (8) For the adjustment of the maximum weekly benefit cap
19 in accordance with the notice published annually in the
20 Pennsylvania Bulletin under section 305(c).

21 (9) That no additional conditions or restrictions on the
22 use of leave or benefits beyond those explicitly authorized
23 by this act or regulations promulgated under this act shall
24 be imposed.

25 (10) An employee covered under the private plan who is
26 eligible to receive benefits under this act, with benefits
27 under the private plan.

28 (11) That the cost to employees covered by a private
29 plan shall not be greater than the cost charged to employees
30 under section 306(c) and posted on the department's publicly

1 accessible Internet website under section 306(c)(3).

2 (b) Additional employer duties.--To be eligible for a waiver
3 under subsection (a), an employer shall meet all of the
4 following requirements:

5 (1) If the private plan is in the form of self-
6 insurance, an employer must furnish a bond running to the
7 Commonwealth, issued by an entity authorized to transact
8 surety business in this Commonwealth under Article VI(e) of
9 the act of May 17, 1921 (P.L.682, No.284), known as The
10 Insurance Company Law of 1921. The form of surety shall be on
11 a form approved by the department and in an amount required
12 by the department.

13 (2) The private plan shall provide for all eligible
14 employees throughout the employee's period of employment.

15 (3) If the private plan provides for insurance, the
16 forms of the policy must be issued by an approved insurer.

17 (4) An employer that provides a private plan under this
18 section shall provide each employee with a notice of the
19 availability of the program. The notice shall be provided to
20 each employee within five days of approval of a waiver, upon
21 hire and annually thereafter.

22 (c) Documentation to be submitted upon approval.--Upon
23 approval of an application for a waiver:

24 (1) The employer shall provide to the department all
25 reports required by regulations promulgated by the
26 department.

27 (2) If a waiver is based on the employer having a self-
28 funded plan, the employer shall provide satisfactory evidence
29 of maintenance of the form of surety as required by the
30 department under subsection (b)(1).

1 (d) Termination of waiver.--If the secretary finds that the
2 terms and conditions of a private plan granted a waiver under
3 this section have been violated, the department may terminate
4 the waiver. The department shall notify an employer if the
5 department terminated the employer's waiver. A cause for
6 termination under this subsection may include one or more of the
7 following:

8 (1) Failure to pay benefits.

9 (2) Failure to pay benefits timely and in a manner
10 consistent with this act.

11 (3) Failure to maintain an adequate security deposit.

12 (4) Misuse of private plan trust funds.

13 (5) Failure to submit reports as required by regulations
14 promulgated by the department.

15 (6) Failure to comply with this section or regulations
16 promulgated by the department.

17 (e) Protections and enforcement.--An employee covered under
18 a private plan shall retain all employee protections under
19 section 308, enforcement procedures and the appeals process
20 under section 302(c). The following shall apply:

21 (1) Applicable enforcement procedures and the appeals
22 process for benefits by an employer-funded plan shall be
23 subject to an appeal under section 302(c).

24 (2) Applicable enforcement procedures and the appeals
25 process for benefits by an insurance policy shall be subject
26 to review as outlined in the insurance policy.

27 (3) If all appeals under the insurance policy have been
28 exhausted, an individual may appeal to the Insurance
29 Department on a form and in a manner prescribed by the
30 Insurance Department.

1 CHAPTER 5

2 ADMINISTRATION AND PROCEDURES

3 Section 501. Notice.

4 (a) Employer notice to employees.--Except for an employer
5 that has been issued a waiver under section 310, upon initial
6 hiring of an employee, and annually thereafter, an employer
7 shall provide written notice of the requirements of this act
8 using the notices prepared and posted by the department under
9 section 302.

10 (b) Employer acknowledgment of leave request.--Using the
11 form prepared by the department under section 302, an employer
12 shall provide written acknowledgment to an employee when the
13 employee requests leave under this act. The acknowledgment shall
14 include:

15 (1) An explanation of the employee's right to benefits
16 under this act and the terms for its use.

17 (2) An explanation of how benefits will be calculated.

18 (3) The procedure for filing a benefits claim with the
19 department.

20 (4) Provisions on job protection and benefits
21 continuation under section 308.

22 (5) The prohibition on employer discrimination and
23 retaliatory personnel action against a person for requesting,
24 applying for or using leave as provided in section 308.

25 (6) The employee's ability to file a complaint alleging
26 a violation of this act.

27 (c) Public display of notice.--Using the abstract for
28 employer posting available on the department's publicly
29 accessible Internet website, an employer shall display and
30 maintain a poster in a conspicuous place accessible to employees

1 at the employer's place of business that contains the
2 information required by this section in English and Spanish,
3 with consideration to the inclusion of other significant
4 languages spoken in the workplace.

5 (d) Employee notice to employer.--When the need for leave is
6 known to the employee at least 30 days in advance, the employee
7 shall provide written or verbal notice to the employer of the
8 need and schedule for taking leave at least 30 days prior to
9 taking leave. The employee shall make a reasonable effort to
10 schedule leave in a manner that does not unduly disrupt the
11 operations of the employer. For all other absences, the employee
12 shall notify the employer as soon as practicable, including if
13 the need arises immediately before or after the employee has
14 reported for work.

15 Section 502. Erroneous payments and disqualification for
16 benefits.

17 (a) Employee disqualification.--A covered individual is
18 disqualified from receiving benefits for one year if the
19 individual is determined by the department to have willfully
20 made a false statement or misrepresentation regarding a material
21 fact, or willfully failed to report a material fact, to obtain
22 benefits under this act.

23 (b) Incorrect payment of benefits.--

24 (1) If benefits under this act are paid erroneously
25 without fault, or for a claim that is subsequently rejected
26 after benefits are paid, the department may seek repayment
27 through a reduction in future benefits due the recipient
28 subject to the following:

29 (i) Recoupment from future benefits shall not exceed
30 one-third of the maximum benefit amount due to the

1 recipient for any week.

2 (ii) Recoupment from future benefits shall not occur
3 more than three years after the incorrect payment of
4 benefits.

5 (2) If benefits under this act are paid as a result of
6 willful misrepresentation by the recipient, the recipient
7 shall:

8 (i) Be liable to repay a sum equal to the amount of
9 benefits derived through that willful misrepresentation.

10 (ii) Be subject to a penalty in the amount of 50% of
11 the benefits paid as a result of the misrepresentation.

12 (iii) Be disqualified for benefits as described
13 under subsection (a).

14 (c) Proof of wages.--During the appeals process, if
15 determination or proof of wages is a factor in a
16 disqualification or incorrect payment of benefits, a covered
17 employee's proof of wages may be proven:

18 (1) as provided under section 303(c);

19 (2) by testimony of the employer that is presented under
20 oath at a hearing under section 505; or

21 (3) by testimony of the covered employee, if found
22 credible by the judge during a hearing under section 505.

23 Section 503. Elective coverage.

24 (a) Self-employed option.--A self-employed person, including
25 a sole proprietor, partner or participant in a joint venture,
26 may elect coverage under this act for an initial period of not
27 less than three years upon meeting all of the following
28 requirements:

29 (1) Filing a notice of election in writing with the
30 department, effective on the date of filing the notice.

1 (2) Supplying all income information that the department
2 deems necessary.

3 (3) Compliance with all eligibility, employment and
4 income requirements under section 303.

5 (b) Withdrawal from coverage.--A self-employed person who
6 has elected coverage may withdraw from coverage within 30 days
7 after the end of the three-year period of coverage or at other
8 times as the department may prescribe. Upon filing written
9 notice with the department, the self-employed person's
10 withdrawal from coverage shall take effect no later than 30 days
11 after filing the notice of withdrawal.

12 Section 504. Violations.

13 An employer who violates the requirements of sections 308,
14 309 or 501 shall be subject to the penalties under 29 U.S.C. §
15 2617 (relating to enforcement).

16 Section 505. Judicial review.

17 Judicial review of any decision regarding the denial of
18 benefits or an appeal of any violation of this act shall be
19 permitted in Commonwealth Court as required under 42 Pa.C.S. §
20 763 (relating to direct appeals from government agencies) after
21 a party aggrieved thereby has exhausted all administrative
22 remedies established by the department.

23 Section 506. Family and Medical Leave Fund.

24 (a) Fund established.--The Family and Medical Leave Fund is
25 established as a nonlapsing fund in the State Treasury.

26 (b) Deposit of money.--Money from employee payroll
27 contributions paid under section 306 and any financial penalties
28 imposed under this act shall be deposited into the fund and used
29 by the department for the administration of the program and the
30 payment of benefits to covered individuals.

1 (c) Continuing appropriation.--All money deposited in the
2 fund and all interest accrued is appropriated to the department
3 on a continuing basis to administer the program and provide
4 benefits under this act.

5 (d) Limitations on fund.--

6 (1) No administrative action shall prevent the deposit
7 of money into the fund in the fiscal year in which the money
8 is received.

9 (2) The fund may only be used for the program authorized
10 under this act. Money in the fund cannot be transferred or
11 diverted to any other purpose by administrative action.

12 (e) Other deposits.--The department may deposit into the
13 fund any other funds received for the purposes under this act.
14 Section 507. Annual report.

15 (a) Annual report.--No later than September 1, 2027, and
16 each September 1 thereafter, the department shall submit a
17 report to the chair and minority chair of the Labor and Industry
18 Committee of the Senate and the chair and minority chair of the
19 Labor and Industry Committee of the House of Representatives,
20 that includes:

21 (1) Actual program participation by category as
22 delineated in paragraph (2), including total number of leaves
23 taken.

24 (2) Beneficiary gender for leaves taken.

25 (3) Types of family members for whom leave was taken to
26 provide care.

27 (4) Payroll contribution rate calculations for the
28 current and previous calendar year and projected rate
29 calculations for the next three calendar years.

30 (5) Projected program participation over the next three

1 calendar years.

2 (6) Account balances.

3 (7) The scope and success of outreach efforts.

4 (8) Recommendations for improvements to the program.

5 (b) Public posting of annual report.--The department shall
6 make the report available on the department's publicly
7 accessible Internet website. Monthly data should also be made
8 available online.

9 Section 508. Public education.

10 (a) Outreach campaign.--

11 (1) The department shall conduct a public education
12 campaign to inform employees and employers regarding the
13 availability of family and medical leave benefits under this
14 act.

15 (2) The department shall allocate at least \$500,000 from
16 the fund annually to pay for a public education program that
17 informs employees about benefits and eligibility under this
18 act.

19 (3) Outreach information shall be available in English,
20 Spanish and other languages as determined by the department.

21 (b) Community outreach.--The department may utilize outreach
22 money to identify and assist appropriate community organizations
23 in educating hard-to-reach populations or industries, including
24 low-income employees, employees and employers in industries that
25 do not typically provide paid family leave and employees and
26 employers whose primary language is not English.

27 Section 509. Advisory Board.

28 (a) Establishment.--The department shall establish the
29 Pennsylvania Family and Medical Leave Act Advisory Board to
30 assist in the implementation of the program and ensure effective

1 public outreach regarding the availability of benefits under
2 this act.

3 (b) Composition of board.--The board shall be composed of
4 the following:

5 (1) The secretary or a designee, who shall serve as the
6 chairperson.

7 (2) The State Treasurer or a designee.

8 (3) The Insurance Commissioner or a designee.

9 (4) The chairperson and minority chairperson of the
10 Labor and Industry Committee of the Senate or a designee.

11 (5) The chairperson and minority chairperson of the
12 Labor and Industry Committee of the House of Representatives
13 or a designee.

14 (6) Six members appointed by the secretary representing
15 an equal number of employers and employees who are residents
16 of and who work within this Commonwealth.

17 (c) Terms.--

18 (1) Members specified under subsection (b) (1), (2), (3),
19 (4) and (5) shall serve for the length of the member's tenure
20 in the underlying capacity.

21 (2) Members appointed under subsection (a) (6) shall
22 serve four-year terms and shall not be eligible to serve more
23 than two full consecutive terms.

24 (d) Quorum.--A majority of the members of the board
25 participating in person or by video conference shall constitute
26 a quorum.

27 (e) Meetings.--The board shall meet at the call of the chair
28 and shall hold meetings at least biannually.

29 (f) Public access.--The board shall permit the public to
30 view or listen to an advisory board meeting through

1 contemporaneous methods and shall make the recordings available
2 on the department's publicly accessible Internet website.

3 (g) Expenses.--Members shall not receive compensation but
4 shall be reimbursed for actual expenses incurred in service of
5 the board.

6 Section 510. Regulations.

7 (a) Duty of department.--In addition to the necessary
8 regulations under sections 302(c) and 303(i), the department may
9 promulgate additional regulations as necessary to implement and
10 administer this act.

11 (b) Publication.--Proposed regulations shall be submitted to
12 the Legislative Reference Bureau for publication in the next
13 available issue of the Pennsylvania Bulletin, as required by the
14 act of July 31, 1968 (P.L.769, No.240), referred to as the
15 Commonwealth Documents Law, no later than one year after the
16 effective date of this subsection.

17 Section 511. Right of action.

18 (a) Civil action by employee.--An action to recover damages
19 or other appropriate civil or equitable relief for a violation
20 of section 308, 309 or 501 may be maintained against an employer
21 in a court of competent jurisdiction in this Commonwealth by one
22 or more employees.

23 (b) Fees and costs.--The court, in an action under this
24 section, shall, in addition to any judgment awarded to the
25 plaintiff, allow reasonable attorney fees and other costs of the
26 action to be paid by the defendant.

27 (c) Limitations.--An action brought by an employee under
28 subsection (a) shall terminate on the filing of a complaint by
29 the secretary in an action under subsection (d).

30 (d) Civil action by secretary.--The secretary may bring an

1 action in Commonwealth Court to recover damages and other
2 appropriate relief.

3 (e) Money recovered by secretary.--Money recovered by the
4 secretary shall be held in a special deposit account and shall
5 be paid directly to each employee affected within 60 days of
6 receipt.

7 CHAPTER 21

8 MISCELLANEOUS PROVISIONS

9 Section 2101. Effective date.

10 This act shall take effect in 180 days.