

By: Senator(s) Turner-Ford

To: Labor; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2292

1 AN ACT TO ESTABLISH THE MISSISSIPPI PAID FAMILY LEAVE ACT TO
2 BE ADMINISTERED BY THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
3 SECURITY; TO PROVIDE DEFINITIONS; TO PROVIDE ENTITLEMENT
4 REQUIREMENTS AND CONDITIONS FOR PAID LEAVE; TO AUTHORIZE
5 INTERMITTENT OR REDUCED LEAVE; TO PROVIDE THAT THIS ACT IS TO BE
6 CONSTRUED WITH SIMILAR PROVISIONS IN THE FEDERAL FAMILY AND
7 MEDICAL LEAVE ACT; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** This act shall be known and may be cited as the
10 "Mississippi Paid Family Leave Act."

11 **SECTION 2. Definitions.** Unless the context clearly requires
12 otherwise, the definitions in this section apply throughout this
13 act:

14 (a) "Alternative base period" means the last four (4)
15 completed calendar quarters immediately preceding the first day of
16 an individual's application year.

17 (b) "Application year" means the twelve-month period
18 beginning on the first day of the calendar week in which an
19 individual files an application for family leave insurance
20 benefits.



21 (c) "Average weekly wage" means one-thirteenth (1/13)
22 of the wages paid during the quarter of the covered individual's
23 base period or alternative base period in which the total wages
24 were highest.

25 (d) "Base period" means the first four (4) of the last
26 five (5) completed calendar quarters immediately preceding the
27 first day of an individual's application year; provided that if
28 the first quarter of the last five (5) completed calendar quarters
29 was included in the base period applicable to any individual's
30 previous application year, the individual's base period shall be
31 the last four (4) completed calendar quarters.

32 (e) "Child" means, regardless of age, a biological,
33 adopted or foster child, stepchild or legal ward, a child of a
34 domestic partner, a child to whom the covered individual stands in
35 loco parentis, or a person to whom the covered individual stood in
36 loco parentis when the person was a minor.

37 (f) "Covered individual" means a person who:

38 (i) Satisfies the following earnings requirements:

39 1. Has earned not less than twenty-six (26)
40 times the minimum weekly benefit amount pursuant to Section
41 71-5-503 from work in the state during the person's base period or
42 alternative base period; and

43 2. Has earned not less than forty (40) times
44 the person's weekly benefit amount pursuant to Section 71-5-503
45 from work in the state during that quarter of the person's base



46 period or alternative base period in which the person's wages were
47 highest;

48 (ii) Meets the administrative requirements
49 outlined in this chapter and in other law and rules; and

50 (iii) Submits an application.

51 (g) "Department" means the Department of Employment
52 Security.

53 (h) "Director" means the director of the Department of
54 Employment Security.

55 (i) "Employee" means an individual employed by an
56 employer within this state.

57 (j) "Employer" has the same meaning as defined in the
58 federal Fair Labor Standards Act of 1938 (29 USC Section 203(d)).

59 (k) "Family and medical leave insurance benefits" means
60 the benefits provided under this chapter.

61 (l) "Family member" means:

62 (i) A child;

63 (ii) A biological, adoptive or foster parent,
64 stepparent, or legal guardian of a covered individual or a covered
65 individual's spouse or domestic partner or a person who stood in
66 loco parentis when the covered individual or the covered
67 individual's spouse or domestic partner was a minor child;

68 (iii) A person to whom the covered individual is
69 legally married under the laws of a state or jurisdiction of the
70 United States;



71 (iv) A grandparent or step-grandparent of the
72 covered individual or the covered individual's spouse or the
73 domestic partner;

74 (v) A grandchild or step-grandchild of the covered
75 individual or the covered individual's spouse or domestic partner;

76 (vi) A biological, foster, or adopted sibling or
77 the spouse or domestic partner of the sibling;

78 (vii) A domestic partner registered as such under
79 the laws of a state or political subdivision; or

80 (viii) Any other individual related by blood or
81 whose close association with the covered individual is the
82 equivalent of a family relationship.

83 (m) "Health care provider" means any person licensed
84 under Federal law, any state law or the laws of another country
85 wherein the person practices to provide medical or emergency
86 services, including, but not limited to, doctors, nurses and
87 emergency room personnel, clinical social workers, licensed
88 professional counselors, or certified midwives.

89 (n) "Paid family and medical leave" means leave taken
90 from employment, self-employment, or availability for employment
91 in connection with family and medical leave insurance benefits
92 under this chapter.

93 (o) "Qualifying exigency leave" means leave for the
94 family member of a service member for a need arising out of a
95 covered individual's family member's active duty service or notice



96 of an impending call or order to active duty in the United States
97 armed forces, including, but not limited to:

98 (i) Providing for the care or other needs of the
99 service member's child or other family member;

100 (ii) Making financial or legal arrangements for
101 the service member;

102 (iii) Attending counseling;

103 (iv) Attending military events or ceremonies;

104 (v) Spending time with the service member during
105 rest and recuperation leave;

106 (vi) Spending time with the service member
107 following a return from deployment; or

108 (vii) Making arrangements following the death of
109 the service member.

110 (p) "Serious health condition" has the same meaning as
111 defined in the federal Family and Medical Leave Act of 1993 (29
112 USC 2611(11)).

113 (q) "State average weekly wage" has the same meaning as
114 the term "average weekly wage for the state", as referenced in
115 Section 71-3-3.

116 **SECTION 3. Administration.** The Mississippi Department of
117 Employment Security shall administer and implement the provisions
118 of this act.

119 **SECTION 4. Entitlement to paid leave.** (1) Beginning on
120 January 1, 2026, a covered individual has the right to take paid



121 family and medical leave and to receive family and medical leave
122 insurance benefits pursuant to this chapter if the individual
123 meets one (1) of the following requirements:

124 (a) Because of birth, adoption, or placement through
125 foster care, is caring for a new child within the first year of
126 the anticipated birth, adoption, or placement;

127 (b) Is caring for a family member with a serious health
128 condition;

129 (c) Has a serious health condition; or

130 (d) Because of any qualifying exigency leave arising
131 out of the deployment of a family member of the covered
132 individual.

133 (2) Benefits are payable to an individual who is not
134 currently employed and has been separated from employment for not
135 more than twenty-six (26) weeks at the start of the individual's
136 paid family and medical leave, but who is a covered individual
137 meeting one (1) of the requirements listed in subsection (1) of
138 this section.

139 (3) The maximum number of weeks for which a covered
140 individual may take paid family and medical leave and for which
141 family and medical leave insurance benefits are payable in an
142 application year is twelve (12) weeks.

143 **SECTION 5. Amount of family and medical leave insurance**

144 **benefits.** (1) The amount of family and medical leave insurance
145 benefits is determined as follows:



146 (a) The weekly benefit is ninety percent (90%) of a
147 covered individual's average weekly wage; provided, however, that
148 if a covered individual's average weekly wage is less than Thirty
149 Dollars (\$30.00), then the weekly benefit must be Thirty Dollars
150 (\$30.00)

151 (b) The maximum weekly benefit is the state average
152 weekly wage, except that for paid family and medical leave
153 beginning before January 1, 2027, the maximum weekly benefit is
154 One Thousand Dollars (\$1,000.00).

155 (2) Family and medical leave insurance benefits are not
156 payable until the covered individual accumulates at least one (1)
157 day or eight (8) consecutive hours of family and medical leave.

158 **SECTION 6. Creation of the family and medical leave**

159 **insurance fund.** (1) There is created in the State Treasury the
160 Family and Medical Leave Insurance Fund, referred to in this
161 section as the "fund." Monies in the fund may be used only to
162 pay family and medical leave insurance benefits under this chapter
163 and to administer the family and medical leave insurance program
164 pursuant to this act. Only the director may authorize
165 expenditures from the fund.

166 (2) Whenever, in the judgment of the State Treasurer, there
167 shall be in the Family and Medical Leave Insurance Fund an amount
168 of funds in excess of that amount deemed by the State Treasurer to
169 be sufficient to meet the current expenditures properly payable
170 therefrom, the State Treasurer shall have full power to invest,



171 reinvest, manage, contract, sell or exchange investments acquired
172 with such excess funds in the manner prescribed by Section
173 27-105-33. Interest earned on the investment of monies in the
174 fund, and monies remaining in the fund at the end of a fiscal
175 year, remain in the fund and do not revert to the General Fund or
176 any other fund.

177 **SECTION 7. Premiums.** (1) The State Treasurer is
178 responsible for determining the amount of premiums necessary to
179 finance the Family and Medical Leave Insurance Program annually,
180 no later than October 1, for the coming calendar year. Beginning
181 on October 1, 2024, the State Treasurer shall set the premium as
182 percentage of employee wages based on sound actuarial principles.

183 (2) Beginning on January 1, 2025, an employee must pay
184 premiums in an amount determined by the State Treasurer under
185 subsection (1) of this section.

186 (3) An employer shall collect the premium amount from each
187 employee and shall remit the premium amount to the State
188 Treasurer, who shall transfer the premiums to the State Treasury
189 for deposit in the fund.

190 **SECTION 8. Employment protection.** (1) Any covered
191 individual who exercises the individual's right to family and
192 medical leave shall, upon the expiration of that leave, be
193 entitled to be restored by their employer to the position held by
194 the covered individual when the leave commenced, or to a position
195 with equivalent seniority, status, employment benefits, pay, and



196 other terms and conditions of employment, including fringe
197 benefits and service credits that the covered individual was
198 entitled to at the commencement of leave.

199 (2) During leave taken pursuant to this act, the employer
200 shall maintain any health care benefits the covered individual had
201 prior to taking such leave for the duration of the leave as if the
202 covered individual remained in employment continuously from the
203 date the individual commenced the leave until the date the
204 individual returns from paid family and medical leave. However,
205 the covered individual shall continue to pay the covered
206 individual's share of the cost of health care benefits as required
207 prior to the commencement of the leave.

208 **SECTION 9. Prohibited acts.** (1) It is unlawful for an
209 employer or another person to interfere with, restrain, or deny
210 the exercise of, or the attempt to exercise, any right protected
211 under this chapter.

212 (2) An employer, temporary help company, employment agency,
213 employee organization, or other person shall not discharge, expel,
214 demote, or otherwise discriminate or take adverse employment
215 action against a person because the person:

216 (a) Files, applies for or uses benefits provided for
217 under this chapter;

218 (b) Takes leave from work under this act;

219 (c) Intends to file a claim, a complaint or an appeal
220 in relation to this act;



221 (d) Testifies, is about to testify or assists in a
222 proceeding under this chapter at any time, including the period in
223 which the person receives family and medical leave insurance
224 benefits under this act; or

225 (e) Exercises other rights under this act.

226 (3) It is unlawful for an employer's absence control policy
227 to count paid family and medical leave taken under this chapter as
228 an absence that may lead to or result in discipline, discharge,
229 demotion, suspension, or other adverse actions.

230 (4) The protections provided pursuant to this Section apply
231 to a person who mistakenly but in good faith alleges a violation
232 of this act.

233 **SECTION 10. Enforcement.** (1) Any employer that violates
234 Section 7 or 8 of this act shall be held liable for damages and
235 such equitable relief as provided under 29 USC Section 2617(a),
236 including that an action to recover such damages or equitable
237 relief may be maintained against any employer that violates
238 Section 7 or 8 of this act in the manner prescribed in 29 USC
239 Section 2617(a).

240 (2) It shall be the duty of the director to administer this
241 chapter. The director shall have the power and authority to
242 adopt, amend or rescind such rules and regulations and to employ
243 such persons, make such expenditures, require such reports, make
244 such investigations, and take such other action as deemed
245 necessary or suitable to that end, and such rules and regulations



246 shall be effective upon publication in the manner, not
247 inconsistent with this act, which the director shall prescribe.

248 **SECTION 11. Coordination of benefits.** (1) (a) Leave taken
249 with family and medical leave insurance benefits under this
250 chapter that also qualifies as leave under the federal Family and
251 Medical Leave Act of 1993 (FMLA) (29 USC Section 2601 et seq.)
252 shall run concurrently with leave taken under the FMLA.

253 (b) An employer may require that family and medical
254 leave insurance benefit payments made pursuant to this section be
255 made concurrently or otherwise coordinated with payment made or
256 leave allowed under the terms of short-term disability or
257 designated family care leave under a collective bargaining
258 agreement or employer policy. The employer must give employees
259 written notice of this requirement when the employee requests
260 leave under this section, or when the employer acquires knowledge
261 that an employee's leave may be for a qualifying reason under
262 Section 3(a) of this act.

263 (2) (a) This act does not diminish an employer's obligation
264 to comply with a collective bargaining agreement or employer
265 policy, as applicable, that provides greater leave or more
266 generous benefits.

267 (b) An agreement by an individual to waive the
268 individual's rights under this act is void as against public
269 policy.



270 **SECTION 12. Appeals.** (1) Claims for benefits must be made
271 in accordance with regulations the director prescribes.

272 (2) An applicant for family and medical leave insurance
273 benefits who is dissatisfied with any determination of their claim
274 for family and medical leave insurance benefits under this chapter
275 may appeal the determination within ninety (90) days of receiving
276 notice of the determination in the manner provided in Section
277 71-5-519.

278 **SECTION 13. Erroneous payments and disqualification for**
279 **benefits.** (1) A covered individual may be disqualified from
280 family and medical leave insurance benefits for up to one (1) year
281 if the individual willfully makes a false statement or
282 misrepresentation regarding a material fact, or willfully failed
283 to report a material fact, to obtain benefits under this act.

284 (2) If family and medical leave insurance benefits are paid
285 erroneously or as a result of willful misrepresentation, or if a
286 claim for family and medical leave insurance benefits is rejected
287 after benefits are paid, then the department may seek repayment of
288 benefits from the recipient. The director shall exercise
289 discretion to waive, in whole or in part, the amount of any such
290 payments where the recovery would be against equity and good
291 conscience.

292 **SECTION 14. Elective coverage.** (1) A self-employed person,
293 including an independent contractor, sole proprietor, partner, or
294 joint venturer, may elect coverage under this chapter for an



295 initial period of not less than three (3) years or a subsequent
296 period of not less than one (1) year immediately following another
297 period of coverage. A self-employed person who elects coverage
298 shall become eligible for family and medical leave insurance
299 benefits immediately when that individual has met the requirements
300 of Section (2)(f)(i) of this act. The self-employed person must
301 file a notice of election in writing with the director, as
302 required by the department. The election becomes effective on the
303 date of filing the notice.

304 (2) A self-employed person who has elected coverage may
305 withdraw from coverage within thirty (30) days after the end of
306 the three (3) year period of coverage, or at other times as the
307 Director may prescribe by rule, by filing written notice with the
308 Director, the withdrawal to take effect not sooner than thirty
309 (30) days after filing the notice.

310 (3) A person who has elected coverage under this section and
311 is no longer a self-employed person shall be excused from their
312 obligations under this section, as the department shall prescribe
313 by rule.

314 **SECTION 15. Administration.** (1) The department shall
315 establish and administer a family and medical leave insurance
316 program using monies from the Family and Medical Leave Insurance
317 Fund and pay family and medical leave insurance benefits as
318 specified in this act.



319 (2) The department shall establish procedures and forms for
320 filing claims for benefits under this act. The department shall
321 notify the employer within five (5) business days of the
322 department's receipt of a claim being filed pursuant to this act.

323 (3) The department shall use information sharing and
324 integration technology to facilitate the disclosure of relevant
325 information or records so long as an individual consents to the
326 disclosure in the manner provided by applicable law.

327 (4) Information contained in the files and records
328 pertaining to an individual under this chapter are confidential
329 and not open to public inspection under the Mississippi Public
330 Records Act of 1983 in Section 25-61-1 et seq., other than to
331 public employees in the performance of their official duties.
332 However, an individual, or an authorized representative of an
333 individual, may review the records or receive specific information
334 from the records on the presentation of the signed authorization
335 of the individual.

336 **SECTION 16. Promulgation of rules.** The director may
337 promulgate rules in accordance with the Mississippi Administrative
338 Procedures Law in Section 25-43-1.101 et seq., as necessary to
339 implement this act. In promulgating rules, the director shall
340 maintain, to the extent possible, consistency with the rules
341 promulgated to implement the federal Family and Medical Leave Act
342 of 1993 (29 USC 2601 et seq.).



343 **SECTION 17. Income taxes.** If the federal Internal Revenue
344 Service determines that family and medical leave insurance
345 benefits under this chapter are subject to federal income tax,
346 then the department must advise an individual filing a new claim
347 for family and medical leave insurance benefits, at the time the
348 individual files the claim, that:

349 (a) The federal Internal Revenue Service has determined
350 that benefits are subject to federal income tax; and

351 (b) Requirements exist pertaining to estimated tax
352 payments.

353 **SECTION 18. Intermittent or reduced leave schedule.** (1) A
354 covered individual shall be entitled, at the option of the covered
355 individual, to take paid family and medical leave on an
356 intermittent or reduced leave schedule in which all of the leave
357 authorized under this act is not taken sequentially. Family and
358 medical leave insurance benefits for intermittent or reduced leave
359 schedules shall be prorated.

360 (2) The covered individual shall make a reasonable effort to
361 schedule intermittent or reduced leave so as not to disrupt unduly
362 the operations of the employer. The covered individual shall
363 provide the employer with prior notice of the schedule on which
364 the covered individual will be taking leave, to the extent
365 practicable. Leave taken on an intermittent leave schedule shall
366 not result in a reduction of the total amount of leave to which a



367 covered individual is entitled beyond the amount of leave actually
368 taken.

369 **SECTION 19. Reports.** No later than April 1, 2027, and by
370 April 1 of each subsequent year, the department shall report to
371 the general assembly on projected and actual program
372 participation, premium rates, fund balances and outreach efforts.

373 **SECTION 20. Public education campaign.** The department shall
374 conduct a public education campaign to inform workers and
375 employers about the program and the availability of paid family
376 leave and medical leave. The department may use a portion of the
377 funds collected for the paid family and medical leave insurance
378 program in a given year to pay for the public education campaign.
379 Outreach information must be available in English and other
380 languages spoken by more than ten percent (10%) of the state's
381 population.

382 **SECTION 21. Data collection.** The department is encouraged
383 to use state data collection and technology to the extent possible
384 in order to keep the cost of the Family and Medical Leave
385 Insurance Program down and to integrate the program with existing
386 state policies.

387 **SECTION 22. Notice.** (1) An employer shall provide written
388 notice to each employee upon hiring and each calendar year
389 thereafter. An employer shall also provide written notice to an
390 employee when the employee requests leave under this act, or when
391 the employer acquires knowledge that an employee's leave may be



392 for a qualifying reason under Section 4(1) of this act. The
393 notice must include:

394 (a) The employee's right to family and medical leave
395 insurance benefits under this act and the terms under which it may
396 be used;

397 (b) The amount of family and medical leave insurance
398 benefits;

399 (c) The procedure for filing a claim for benefits;

400 (d) The right to employment restoration and benefits
401 continuation under Section 7 of this act;

402 (e) A statement that discrimination and retaliatory
403 personnel actions against a person for requesting, applying for or
404 using family and medical leave insurance benefits is prohibited
405 under Section 8 of this act;

406 (f) A statement informing the employee whether the
407 employer requires payment pursuant to this act be made
408 concurrently or otherwise coordinated with payment made or leave
409 allowed under the terms of short-term disability or designated
410 family care leave under a collective bargaining agreement or
411 employer policy under Section 10 of this act; and

412 (g) That the employee has a right to enforce their
413 rights under this section pursuant to Section 9 of this act.

414 (2) An employer shall also display and maintain a poster in
415 a conspicuous place accessible to employees at the employer's
416 place of business that contains the information required by



417 subsection (1) of this section in English, Spanish, and any
418 language that is the first language spoken by at least ten percent
419 (10%) of the employer's workforce, as long as the notice has been
420 made publicly available by the department. The director may adopt
421 regulations to establish additional requirements concerning the
422 means by which employers provide the notice.

423 **SECTION 23. Effective date.** For purposes of promulgating
424 rules, Section 15 of this act shall take effect upon passage. For
425 all other purposes, this act takes effect January 1, 2024.

426 **SECTION 24.** This act shall take effect and be in force from
427 and after July 1, 2023.

