

By: Senator(s) Turner-Ford

To: Labor; Economic and Workforce Development

SENATE BILL NO. 2089

1 AN ACT TO ESTABLISH THE MISSISSIPPI PAID FAMILY LEAVE ACT; TO
2 PROVIDE CERTAIN APPLICABLE DEFINITIONS; TO ENABLE THE MISSISSIPPI
3 DEPARTMENT OF EMPLOYMENT SECURITY TO ADMINISTER AND IMPLEMENT THIS
4 ACT; TO ENTITLE COVERED INDIVIDUALS THE RIGHT TO PAID LEAVE; TO
5 DETERMINE THE AMOUNT OF FAMILY AND MEDICAL LEAVE INSURANCE
6 BENEFITS FOR COVERED INDIVIDUALS; TO CREATE THE FAMILY AND MEDICAL
7 LEAVE INSURANCE FUND IN THE STATE TREASURY; TO STIPULATE FOR THE
8 DETERMINATION OF INSURANCE PREMIUMS BY THE STATE TREASURER; TO
9 PROTECT THE EMPLOYMENT OF COVERED INDIVIDUALS WHILE THEY ARE ON
10 LEAVE; TO PROHIBIT EMPLOYERS FROM VIOLATING RIGHTS PROTECTED IN
11 THIS ACT; TO ALLOW THE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF
12 EMPLOYMENT SECURITY TO ADMINISTER THIS ACT AND HOLD VIOLATING
13 EMPLOYERS LIABLE; TO PROVIDE THAT THIS ACT IS TO BE CONSTRUED
14 ALONGSIDE SIMILAR PROVISIONS IN THE FEDERAL FAMILY AND MEDICAL
15 LEAVE ACT; TO REQUIRE THAT CLAIMS BE MADE IN ACCORDANCE WITH
16 REGULATIONS PRESCRIBED BY THE DIRECTOR OF THE MISSISSIPPI
17 DEPARTMENT OF EMPLOYMENT SECURITY; TO DISQUALIFY COVERED
18 INDIVIDUALS FROM COVERAGE UPON FRAUD, MISREPRESENTATION, OR
19 ERRONEOUS PAYMENT; TO ALLOW COVERED INDIVIDUALS TO ELECT FOR
20 INITIAL COVERAGE OR SUBSEQUENT COVERAGE; TO REQUIRE THAT THE
21 MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ESTABLISH AND
22 ADMINISTER A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM; TO
23 OUTLINE CERTAIN REQUIREMENTS FOR THE FORMATION AND ADMINISTRATION
24 OF A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM; TO STIPULATE FOR
25 CERTAIN ACTIONS BY THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
26 SECURITY IF THE INSURANCE BENEFITS IN THIS ACT ARE SUBJECT TO
27 FEDERAL INCOME TAX; TO ALLOW INTERMITTENT OR REDUCED LEAVE; TO
28 REQUIRE THAT THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY
29 MAKE AN ANNUAL REPORT TO THE LEGISLATURE; TO REQUIRE THAT THE
30 DEPARTMENT OF EMPLOYMENT SECURITY CONDUCT A PUBLIC EDUCATION
31 CAMPAIGN; TO ENCOURAGE THE DEPARTMENT TO COLLECT DATA FOR THE
32 PURPOSE OF LIMITING THE COST OF THE PROGRAM; TO REQUIRE THAT AN
33 EMPLOYER PROVIDE WRITTEN NOTICE OF THE PROGRAM TO EMPLOYEES UPON
34 HIRING AND ANNUALLY THEREAFTER; AND FOR RELATED PURPOSES.



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

36 **SECTION 1. Definitions.** (1) Unless the context clearly
37 requires otherwise, the definitions in this section apply
38 throughout this act:

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

42 (b) "Application year" means the twelve-month period
43 beginning on the first day of the calendar week in which an
44 individual files an application for family leave insurance
45 benefits.

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

50 (d) "Base period" means the first four (4) of the last
51 five (5) completed calendar quarters immediately preceding the
52 first day of an individual's application year; provided that if
53 the first quarter of the last five (5) completed calendar quarters
54 was included in the base period applicable to any individual's
55 previous application year, the individual's base period shall be
56 the last four (4) completed calendar quarters.

57 (e) "Child" means, regardless of age, a biological,
58 adopted or foster child, stepchild or legal ward, a child of a
59 domestic partner, a child to whom the covered individual stands in



60 loco parentis, or a person to whom the covered individual stood in
61 loco parentis when the person was a minor.

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

63 (i) Satisfies the following earnings requirements:

64 1. Has earned not less than twenty-six (26)
65 times the minimum weekly benefit amount pursuant to Section
66 71-5-503 from work in the state during the person's base period or
67 alternative base period; and

68 2. Has earned not less than forty (40) times
69 the person's weekly benefit amount pursuant to Section 71-5-503
70 from work in the state during that quarter of the person's base
71 period or alternative base period in which the person's wages were
72 highest;

73 (ii) Meets the administrative requirements
74 outlined in this act and in other law and rules; and

75 (iii) Submits an application.

76 (g) "Department" means the Department of Employment
77 Security.

78 (h) "Director" means the director of the department.

79 (i) "Employee" means an individual employed by an
80 employer within this state.

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

83 (k) "Family and medical leave insurance benefits" means
84 the benefits provided under this act.



85 (l) "Family member" means:
86 (i) A child;
87 (ii) A biological, adoptive or foster parent,
88 stepparent, or legal guardian of a covered individual or a covered
89 individual's spouse or domestic partner or a person who stood in
90 loco parentis when the covered individual or the covered
91 individual's spouse or domestic partner was a minor child;
92 (iii) A person to whom the covered individual is
93 legally married under the laws of a state or jurisdiction of the
94 United States;
95 (iv) A grandparent or step-grandparent of the
96 covered individual or the covered individual's spouse or the
97 domestic partner;
98 (v) A grandchild or step-grandchild of the covered
99 individual or the covered individual's spouse or domestic partner;
100 (vi) A biological, foster, or adopted sibling or
101 the spouse or domestic partner of the sibling;
102 (vii) A domestic partner registered as such under
103 the laws of a state or political subdivision; or
104 (viii) Any other individual related by blood or
105 whose close association with the covered individual is the
106 equivalent of a family relationship.
107 (m) "Health care provider" means any person licensed
108 under federal law, any state law, or the laws of another country
109 wherein the person practices to provide medical or emergency



110 services, including, but not limited to, doctors, nurses and
111 emergency room personnel, clinical social workers, licensed
112 professional counselors or certified midwives.

113 (n) "Paid family and medical leave" means leave taken
114 from employment, self-employment or availability for employment in
115 connection with family and medical leave insurance benefits under
116 this act.

117 (o) "Qualifying exigency leave" means leave for the
118 family member of a service member for a need arising out of a
119 covered individual's family member's active duty service or notice
120 of an impending call or order to active duty in the United States
121 Armed Forces, including, but not limited to:

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

124 (ii) Making financial or legal arrangements for
125 the service member;

126 (iii) Attending counseling;

127 (iv) Attending military events or ceremonies;

128 (v) Spending time with the service member during
129 rest and recuperation leave;

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

132 (vii) Making arrangements following the death of
133 the service member.



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

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

140 **SECTION 2. Administration.** The Mississippi Department of
141 Employment Security shall administer and implement the provisions
142 of this act.

143 **SECTION 3. Entitlement to paid leave.** (1) Beginning on
144 January 1, 2027, a covered individual has the right to take paid
145 family and medical leave and to receive family and medical leave
146 insurance benefits pursuant to this act if the individual meets
147 one (1) of the following requirements:

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

151 (b) Is caring for a family member with a serious health
152 condition;

153 (c) Has a serious health condition; or

154 (d) Because of any qualifying exigency leave arising
155 out of the deployment of a family member of the covered
156 individual.

157 (2) Benefits are payable to an individual who is not
158 currently employed and has been separated from employment for not



159 more than twenty-six (26) weeks at the start of the individual's
160 paid family and medical leave, but who is a covered individual
161 meeting one (1) of the requirements listed in subsection (1)(a)
162 through (d) of this section.

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

167 **SECTION 4. Amount of family and medical leave insurance**

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

170 (a) The weekly benefit is ninety percent (90%) of a
171 covered individual's average weekly wage; provided, however, that
172 if a covered individual's average weekly wage is less than Thirty
173 Dollars (\$30.00), then the weekly benefit must be Thirty Dollars
174 (\$30.00).

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

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

182 **SECTION 5. Creation of the family and medical leave**

183 **insurance fund.** (1) There is created in the State Treasury the



184 Family and Medical Leave Insurance Fund, referred to in this
185 section as the "fund." Monies in the fund may be used only to pay
186 family and medical leave insurance benefits under this act and to
187 administer the family and medical leave insurance program pursuant
188 to this act. Only the director may authorize expenditures from
189 the fund.

190 (2) Whenever, in the judgment of the State Treasurer, there
191 shall be in the family and medical leave insurance fund an amount
192 of funds in excess of that amount deemed by the State Treasurer to
193 be sufficient to meet the current expenditures properly payable
194 therefrom, the State Treasurer shall have full power to invest,
195 reinvest, manage, contract, sell or exchange investments acquired
196 with such excess funds in the manner prescribed by Section
197 27-105-33. Interest earned on the investment of monies in the
198 fund, and monies remaining in the fund at the end of a fiscal
199 year, remain in the fund and do not revert to the General Fund or
200 another fund.

201 **SECTION 6. Premiums.** (1) The State Treasurer is
202 responsible for determining the amount of premiums necessary to
203 finance the Family and Medical Leave Insurance Program annually,
204 no later than October 1, for the coming calendar year. Beginning
205 on October 1, 2025, the State Treasurer shall set the premium as
206 percentage of employee wages based on sound actuarial principles.



207 (2) Beginning on January 1, 2026, an employee must pay
208 premiums in an amount determined by the State Treasurer under
209 subsection (1) of this section.

210 (3) An employer shall collect the premium amount from each
211 employee and shall remit the premium amount to the State
212 Treasurer, who shall transfer the premiums to the State Treasury
213 for deposit in the Family and Medical Leave Insurance Fund.

214 **SECTION 7. Employment protection.** (1) Any covered
215 individual who exercises the individual's right to family and
216 medical leave shall, upon the expiration of that leave, be
217 entitled to be restored by their employer to the position held by
218 the covered individual when the leave commenced, or to a position
219 with equivalent seniority, status, employment benefits, pay, and
220 other terms and conditions of employment, including fringe
221 benefits and service credits that the covered individual was
222 entitled to at the commencement of leave.

223 (2) During leave taken pursuant to this act, the employer
224 shall maintain any healthcare benefits the covered individual had
225 prior to taking such leave for the duration of the leave as if the
226 covered individual remained in employment continuously from the
227 date the individual commenced the leave until the date the
228 individual returns from paid family and medical leave. However,
229 the covered individual shall continue to pay the covered
230 individual's share of the cost of healthcare benefits as required
231 prior to the commencement of the leave.



232 **SECTION 8. Prohibited acts.** (1) It is unlawful for an
233 employer or another person to interfere with, restrain, or deny
234 the exercise of, or the attempt to exercise, any right protected
235 under this act.

236 (2) An employer, temporary help company, employment agency,
237 employee organization or other person shall not discharge, expel,
238 demote, or otherwise discriminate or take adverse employment
239 action against a person because the person:

240 (a) Files, applies for, or uses benefits provided for
241 under this act;

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

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

245 (d) Testifies, is about to testify, or assists in a
246 proceeding under this act at any time, including the period in
247 which the person receives family and medical leave insurance
248 benefits under this act; or

249 (e) Exercises other rights under this act.

250 (3) It is unlawful for an employer's absence control policy
251 to count paid family and medical leave taken under this act as an
252 absence that may lead to or result in discipline, discharge,
253 demotion, suspension or other adverse action.

254 (4) The protections provided pursuant to this section apply
255 to a person who mistakenly but in good faith alleges a violation
256 of this act.



257 **SECTION 9. Enforcement.** (1) Any employer who violates
258 Section 7 or 8 of this act shall be held liable for damages and
259 such equitable relief as provided under 29 USC Section 2617(a),
260 including that an action to recover such damages or equitable
261 relief may be maintained against any employer who violates Section
262 7 or 8 of this act in the manner prescribed in 29 USC Section
263 2617(a).

264 (2) It shall be the duty of the director to administer this
265 act. The director shall have the power and authority to adopt,
266 amend, or rescind such rules and regulations and to employ such
267 persons, make such expenditures, require such reports, make such
268 investigations, and take such other action as deemed necessary or
269 suitable to that end, and such rules and regulations shall be
270 effective upon publication in the manner, not inconsistent with
271 this act, which the director shall prescribe.

272 **SECTION 10. Coordination of benefits.** (1) (a) Leave taken
273 with family and medical leave insurance benefits under this act
274 that also qualifies as leave under the federal Family and Medical
275 Leave Act of 1993 (FMLA) (29 USC Section 2601 et seq.) shall run
276 concurrently with leave taken under the FMLA.

277 (b) An employer may require that family and medical
278 leave insurance benefit payments made pursuant to this act be made
279 concurrently or otherwise coordinated with payment made or leave
280 allowed under the terms of short-term disability or designated
281 family care leave under a collective bargaining agreement or



282 employer policy. The employer must give employees written notice
283 of this requirement when the employee requests leave under this
284 act, or when the employer acquires knowledge that an employee's
285 leave may be for a qualifying reason under Section 3(a) of this
286 act.

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

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

294 **SECTION 11. Appeals.** (1) Claims for benefits must be made
295 in accordance with regulations the director prescribes.

296 (2) An applicant for family and medical leave insurance
297 benefits who is dissatisfied with any determination of their claim
298 for family and medical leave insurance benefits under this act may
299 appeal the determination within ninety (90) days of receiving
300 notice of the determination in the manner provided in Section
301 71-5-519.

302 **SECTION 12. Erroneous payments and disqualification for**
303 **benefits.** (1) A covered individual may be disqualified from
304 family and medical leave insurance benefits for up to one (1) year
305 if the individual willfully makes a false statement or



306 misrepresentation regarding a material fact, or willfully failed
307 to report a material fact, to obtain benefits under this act.

308 (2) If family and medical leave insurance benefits are paid
309 erroneously or as a result of willful misrepresentation, or if a
310 claim for family and medical leave insurance benefits is rejected
311 after benefits are paid, then the department may seek repayment of
312 benefits from the recipient. The director shall exercise
313 discretion to waive, in whole or in part, the amount of any such
314 payments where the recovery would be against equity and good
315 conscience.

316 **SECTION 13. Elective coverage.** (1) A self-employed person,
317 including an independent contractor, sole proprietor, partner, or
318 joint venturer, may elect coverage under this act for an initial
319 period of not less than three (3) years or a subsequent period of
320 not less than one (1) year immediately following another period of
321 coverage. A self-employed person who elects coverage shall become
322 eligible for family and medical leave insurance benefits
323 immediately when that individual has met the requirements of
324 Section (1)(f)(i) of this act. The self-employed person must file
325 a notice of election in writing with the director, as required by
326 the department. The election becomes effective on the date of
327 filing the notice.

328 (2) A self-employed person who has elected coverage may
329 withdraw from coverage within thirty (30) days after the end of
330 the three-year period of coverage, or at other times as the



331 director may prescribe by rule, by filing written notice with the
332 director, the withdrawal to take effect not sooner than thirty
333 (30) days after filing the notice.

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

338 **SECTION 14. Administration.** (1) The department shall
339 establish and administer a Family and Medical Leave Insurance
340 Program using monies from the family and medical leave insurance
341 fund and pay family and medical leave insurance benefits as
342 specified in this act.

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

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

351 (4) Information contained in the files and records
352 pertaining to an individual under this act are confidential and
353 not open to public inspection under the Mississippi Public Records
354 Act of 1983 in Section 25-61-1 et seq., other than to public
355 employees in the performance of their official duties. However,



356 an individual, or an authorized representative of a an individual,
357 may review the records or receive specific information from the
358 records on the presentation of the signed authorization of the
359 individual.

360 (5) The director may promulgate rules in accordance with the
361 Mississippi Administrative Procedures Law in Section 25-43-1.101
362 et seq., as necessary to implement this act. In promulgating
363 rules, the director shall maintain, to the extent possible,
364 consistency with the rules promulgated to implement the federal
365 Family and Medical Leave Act of 1993 (29 USC 2601 et seq.).

366 **SECTION 15. Income taxes.** If the federal Internal Revenue
367 Service determines that family and medical leave insurance
368 benefits under this act are subject to federal income tax, then
369 the department must advise an individual filing a new claim for
370 family and medical leave insurance benefits, at the time the
371 individual files the claim, that:

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

374 (b) Requirements exist pertaining to estimated tax
375 payments.

376 **SECTION 16. Intermittent or reduced leave schedule.** (1) A
377 covered individual shall be entitled, at the option of the covered
378 individual, to take paid family and medical leave on an
379 intermittent or reduced leave schedule in which all of the leave
380 authorized under this act is not taken sequentially. Family and



381 medical leave insurance benefits for intermittent or reduced leave
382 schedules shall be prorated.

383 (2) The covered individual shall make a reasonable effort to
384 schedule intermittent or reduced leave so as not to disrupt unduly
385 the operations of the employer. The covered individual shall
386 provide the employer with prior notice of the schedule on which
387 the covered individual will be taking leave, to the extent
388 practicable. Leave taken on an intermittent leave schedule shall
389 not result in a reduction of the total amount of leave to which a
390 covered individual is entitled beyond the amount of leave actually
391 taken.

392 **SECTION 17. Reports.** No later than April 1, 2027, and by
393 April 1 of each subsequent year, the department shall report to
394 the Legislature on projected and actual program participation,
395 premium rates, fund balances and outreach efforts.

396 **SECTION 18. Public education campaign.** The department shall
397 conduct a public education campaign to inform workers and
398 employers about the program and the availability of paid family
399 leave and medical leave. The department may use a portion of the
400 funds collected for the paid family and medical leave insurance
401 program in a given year to pay for the public education campaign.
402 Outreach information must be available in English and other
403 languages spoken by more than ten percent (10%) of the state's
404 population.



405 **SECTION 19. Data collection.** The department is encouraged
406 to use state data collection and technology to the extent possible
407 in order to keep the cost of the family and medical leave
408 insurance program down and to integrate the program with existing
409 state policies.

410 **SECTION 20. Notice.** (1) An employer shall provide written
411 notice to each employee upon hiring and each calendar year
412 thereafter. An employer shall also provide written notice to an
413 employee when the employee requests leave under this act, or when
414 the employer acquires knowledge that an employee's leave may be
415 for a qualifying reason under Section 3(a) of this act. The
416 notice must include:

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

420 (b) The amount of family and medical leave insurance
421 benefits;

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

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

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



429 (f) A statement informing the employee whether the
430 employer requires payment pursuant to this act be made
431 concurrently or otherwise coordinated with payment made or leave
432 allowed under the terms of short-term disability or designated
433 family care leave under a collective bargaining agreement or
434 employer policy under Section 10 of this act; and

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

437 (2) An employer shall also display and maintain a poster in
438 a conspicuous place accessible to employees at the employer's
439 place of business that contains the information required by
440 subsection (1) of this section in English, Spanish and any
441 language that is the first language spoken by at least ten percent
442 (10%) of the employer's workforce, as long as the notice has been
443 made publicly available by the by the department. The director
444 may adopt regulations to establish additional requirements
445 concerning the means by which employers provide the notice.

446 **SECTION 21.** This act shall take effect and be in force from
447 and after January 1, 2025.

