

By Senator Yarborough

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1                                   A bill to be entitled  
2       An act relating to paid family leave insurance;  
3       providing a short title; amending s. 624.406, F.S.;  
4       authorizing life insurers to transact paid family  
5       leave insurance; amending s. 624.6011, F.S.; revising  
6       the definition of the term "kinds of insurance" to  
7       include paid family leave insurance; creating s.  
8       624.6086, F.S.; defining terms; creating s. 627.445,  
9       F.S.; providing a short title; providing legislative  
10      findings and intent; defining terms; specifying  
11      circumstances under which family leave benefits may be  
12      provided; requiring paid family leave insurance  
13      policies to specify details and requirements with  
14      regard to covered family leave reasons; specifying  
15      requirements for policies relating to benefit periods,  
16      waiting periods, benefit amounts and certain offsets,  
17      and the payment of benefits; providing that  
18      eligibility for family leave benefits may be limited,  
19      excluded, or reduced but must be specified in the  
20      policy; specifying permissible limitations,  
21      exclusions, and reductions; providing applicable  
22      provisions for calculating rates; specifying the means  
23      by which a policy may offer family leave benefits;  
24      authorizing the Financial Services Commission to adopt  
25      rules; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. This act may be cited as the "Florida Paid

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30 Family Leave Insurance Act.”

31 Section 2. Subsection (1) of section 624.406, Florida  
32 Statutes, is amended to read:

33 624.406 Combinations of insuring powers, one insurer.—An  
34 insurer which otherwise qualifies therefor may be authorized to  
35 transact any one kind or combination of kinds of insurance as  
36 defined in part V except:

37 (1) A life insurer may also grant annuities, but shall not  
38 be authorized to transact any other kind of insurance except  
39 health insurance, disability income insurance, paid family leave  
40 insurance, excess coverage for health maintenance organizations,  
41 or excess insurance, specific and aggregate, for self-insurers  
42 of a plan of health insurance and multiple-employer welfare  
43 arrangements.

44 Section 3. Subsection (8) is added to section 624.6011,  
45 Florida Statutes, to read:

46 624.6011 “Kinds of insurance” defined.—Insurance shall be  
47 classified into the following “kinds of insurance”:

48 (8) Paid family leave.

49 Section 4. Section 624.6086, Florida Statutes, is created  
50 to read:

51 624.6086 “Paid family leave insurance” defined.—

52 (1) “Paid family leave insurance” is insurance issued to an  
53 employer which is related to a benefit program provided to an  
54 employee to pay for a percentage or portion of the employee’s  
55 income loss due to:

56 (a) The birth of a child or adoption of a child by the  
57 employee;

58 (b) Placement of a child with the employee for foster care;

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59 (c) Care of the employee's family member who has a serious  
60 health condition; or

61 (d) Circumstances arising out of the fact that the  
62 employee's family member who is a servicemember is on active  
63 duty or has been notified of an impending call or order to  
64 active duty.

65 (2) Family leave insurance may be written as an amendment  
66 or a rider to a group disability income policy, included in a  
67 group disability income policy, or written as a separate group  
68 insurance policy purchased by an employer.

69 (3) As used in this section, the terms "child," "family  
70 leave," and "family member" have the same meanings as provided  
71 in s. 627.445(3).

72 Section 5. Section 627.445, Florida Statutes, is created to  
73 read:

74 627.445 Paid family leave insurance.-

75 (1) SHORT TITLE.-This section may be cited as the "Paid  
76 Family Leave Income Replacement Benefits Act."

77 (2) LEGISLATIVE FINDINGS AND INTENT.-The Legislature  
78 intends to provide the workers of this family-friendly state  
79 with access to paid family leave insurance to encourage an  
80 entrepreneurial atmosphere, to encourage economic growth, and to  
81 promote a healthy business climate. Many workers need to take  
82 time off work for family reasons, including bonding with a new  
83 child or caring for an ill family member. Increasingly,  
84 employers in this state want to make paid leave benefits  
85 available to workers who need time off for these reasons.  
86 Employers recognize workers will be healthier and more  
87 productive when able to take care of family responsibilities

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88 without a complete loss of income, and employers believe that  
89 offering paid family leave benefits to their employees will  
90 improve recruitment opportunities and reduce turnover in the  
91 workplace. Disability insurers currently offer income  
92 replacement benefits to workers who need time off from work  
93 because of their own disabling medical condition. Disability  
94 insurers have extensive experience, claims staff, systems, and  
95 expertise that can be used to provide fully insured paid family  
96 leave benefits for employees, either through employer-sponsored  
97 group insurance policies or voluntarily purchased employee  
98 policies. It is in the best interests of this state's workers  
99 and employers to permit disability insurers to expand their  
100 fully insured benefits in this state to include paid family  
101 leave benefits.

102 (3) DEFINITIONS.—As used in this section, the term:

103 (a) "Armed Forces of the United States" includes members of  
104 the National Guard and the reserves.

105 (b) "Child" means a person who is:

106 1. Under 18 years of age, or 18 years of age or older and  
107 incapable of self-care because of a mental or physical  
108 disability; and

109 2. A biological, adopted, or foster son or daughter; a  
110 stepson or stepdaughter; a legal ward; or a son or daughter of a  
111 person to whom the employee stands in loco parentis.

112 (c) "Family leave" is any leave taken by an employee from  
113 work for any of the reasons specified in subsection (4).

114 (d) "Family member" includes a child, spouse, or parent, or  
115 other person defined as a family member in the policy.

116 (e) "Health care provider" means any physician, hospital,

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117 or other institution, organization, or person that furnishes  
118 health care services and is licensed or otherwise authorized to  
119 practice in this state.

120 (f) "Parent" means a biological, foster, or adoptive  
121 parent; a stepparent; a legal guardian; or other person who  
122 stood in loco parentis to the employee when the employee was a  
123 child.

124 (g) "Serious health condition" means an illness, injury,  
125 impairment, or physical or mental condition, including  
126 transplantation preparation and recovery from surgery related to  
127 organ or tissue donation, which involves inpatient care in a  
128 hospital, hospice, or residential health care facility;  
129 continuing treatment; or continuing supervision by a health care  
130 provider as defined in the policy. Continuing supervision by a  
131 health care provider includes a period of incapacity which is  
132 permanent or long-term due to a condition for which treatment  
133 may not be effective and where the family member need not be  
134 receiving active treatment by a health care provider.

135 (4) FAMILY LEAVE BENEFITS.—Family leave benefits may be  
136 provided for any leave taken by an employee from work to:

137 (a) Participate in providing care, including physical or  
138 psychological care, for a family member of the employee made  
139 necessary by a serious health condition of the family member;

140 (b) Bond with the employee's child during the first 12  
141 months after the child's birth or the first 12 months after the  
142 placement of the child for adoption by or foster care with the  
143 employee;

144 (c) Address a qualifying exigency as interpreted under the  
145 Family and Medical Leave Act of 1993, 29 U.S.C. s. 2612(a)(1)(E)

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146 and 29 C.F.R. s. 825.126(a)(1)-(8), arising out of the fact that  
147 the spouse, child, or parent of the employee is on active duty  
148 or has been notified of an impending call or order to active  
149 duty, in the Armed Forces of the United States;

150 (d) Care for a family servicemember injured in the line of  
151 duty; or

152 (e) Take other leave to provide care for a family member or  
153 other family leave as specified in the policy.

154 (5) EXPLANATION OF FAMILY LEAVE REASONS.—The policy must  
155 specify details and requirements with regard to each of the  
156 covered family leave reasons.

157 (6) BENEFIT PERIOD.—The policy must specify the length of  
158 family leave benefits available for each covered family leave  
159 reason, which may not be less than 2 weeks during a period of 52  
160 consecutive calendar weeks. For purposes of this subsection, 52  
161 consecutive calendar weeks may be calculated by:

162 (a) A calendar year;

163 (b) Any fixed period starting on a particular date, such as  
164 the effective or anniversary date;

165 (c) The period measured forward from the employee's first  
166 day of family leave;

167 (d) A rolling period measured by looking back from the  
168 employee's first day of family leave; or

169 (e) Any other method specified in the policy.

170 (7) WAITING PERIOD.—The policy must specify whether there  
171 is an unpaid waiting period, and if so, the terms and conditions  
172 of the unpaid waiting period, which may include, but are not  
173 limited to, whether:

174 (a) The waiting period runs over a consecutive calendar day

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175 period;

176 (b) The waiting period is counted toward the annual  
177 allotment of family leave benefits or is in addition to the  
178 annual allotment of family leave benefits;

179 (c) The waiting period must be met only once per benefit  
180 year or must be met for each separate claim for benefits; and

181 (d) The employee may work or receive paid time off or other  
182 compensation by the employer during the waiting period.

183 (8) AMOUNT OF FAMILY LEAVE BENEFITS; OTHER INCOME.—

184 (a) The policy must specify:

185 1. The amount of benefits that will be paid for covered  
186 family reasons;

187 2. The definition of the wages or other income upon which  
188 the amount of family leave benefits will be issued; and

189 3. How such wages or other income will be calculated.

190 (b) If the family leave benefits are subject to offsets for  
191 wages or other income received or for which the insured may be  
192 eligible, the policy must specify all such wages or other income  
193 that may be set off and the circumstances under which it may be  
194 offset.

195 (9) PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS.—

196 Eligibility for family leave benefits under this section may be  
197 limited, excluded, or reduced, but any limitation, exclusion, or  
198 reduction must be specified in the policy. Permissible  
199 limitations, exclusions, or reductions may include, but are not  
200 limited to, any of the following reasons:

201 (a) For any period of family leave wherein the required  
202 notice and medical certification as prescribed in the policy has  
203 not been provided;

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204 (b) For any family leave related to a serious health  
205 condition or other harm to a family member brought about by the  
206 willful intention of the employee;

207 (c) For any period of family leave during which the  
208 employee performed work for remuneration or profit;

209 (d) For any period of family leave for which the employee  
210 is eligible to receive from his or her employer, or from a fund  
211 to which the employer has contributed, remuneration or  
212 maintenance;

213 (e) For any period of family leave in which the employee is  
214 eligible to receive benefits under any other statutory program  
215 or employer-sponsored program, including, but not limited to,  
216 unemployment insurance benefits, workers' compensation benefits,  
217 statutory disability benefits, statutory paid leave benefits, or  
218 any paid time off or employer's paid leave policy;

219 (f) For any period of family leave commencing before the  
220 employee becomes eligible for family leave benefits under the  
221 policy; or

222 (g) For periods of family leave where more than one person  
223 seeks family leave for the same family member.

224 (10) PAYMENT OF FAMILY LEAVE BENEFITS.—Family leave  
225 benefits provided under this section must be paid periodically  
226 and promptly, except as to a contested period of family leave  
227 and subject to any of the limitations, exclusions, or reductions  
228 under subsection (9).

229 (11) INSURANCE POLICY.—

230 (a) Rates for policies or riders providing paid family  
231 leave benefits must be calculated pursuant to s. 627.062.

232 (b) A policy issued pursuant to this section may offer



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233 coverage for paid family leave benefits or may offer paid family  
234 leave benefits as a rider to a policy of disability income  
235 insurance.

236 (12) RULEMAKING.—The commission may adopt rules to  
237 administer this section.

238 Section 6. This act shall take effect upon becoming a law.