

1-1 By: Hull, et al. (Senate Sponsor - Johnson) H.B. No. 1996
 1-2 (In the Senate - Received from the House April 26, 2023;
 1-3 April 26, 2023, read first time and referred to Committee on
 1-4 Business & Commerce; May 19, 2023, reported favorably by the
 1-5 following vote: Yeas 10, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of group family leave insurance issued
 1-22 through an employer to pay for certain losses of income.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. The purpose of this Act is to bring clarity to
 1-25 the laws of this state that paid family leave insurance may be
 1-26 provided by any insurer authorized to write life or health
 1-27 insurance, including disability income insurance, in this state and
 1-28 that family leave insurance is considered a type of disability
 1-29 income insurance.

1-30 SECTION 2. Subtitle B, Title 8, Insurance Code, is amended
 1-31 by adding Chapter 1255 to read as follows:

1-32 CHAPTER 1255. GROUP FAMILY LEAVE INSURANCE

1-33 SUBCHAPTER A. GENERAL PROVISIONS

1-34 Sec. 1255.001. DEFINITIONS. In this chapter:

1-35 (1) "Continuing supervision by a health care provider"
 1-36 includes a period of incapacity that is permanent or long-term due
 1-37 to a condition for which treatment may not be effective and for
 1-38 which the affected individual is not receiving active treatment by
 1-39 a health care provider.

1-40 (2) "Dependent" means an individual who is under 18
 1-41 years of age, or 18 years of age or older and incapable of self-care
 1-42 due to a mental or physical disability, and is, in relation to an
 1-43 insured:

1-44 (A) a biological, adopted, or foster child;

1-45 (B) a legal ward;

1-46 (C) a child of the insured's spouse;

1-47 (D) a child with respect to whom the insured is a
 1-48 party to a suit in which the insured seeks to adopt the child; or

1-49 (E) a child of a person to whom the insured stands
 1-50 in loco parentis.

1-51 (3) "Family leave" means leave taken by an employee
 1-52 from work for reasons described by Section 1255.102.

1-53 (4) "Family leave insurance" means an insurance policy
 1-54 issued through an employer related to a benefit program provided to
 1-55 an employee to pay for a portion of the employee's income loss due
 1-56 to family leave taken by the employee.

1-57 (5) "Family member," in relation to an insured,
 1-58 includes a dependent, spouse, or parent or any other person defined
 1-59 as a family member in the family leave insurance policy.

1-60 (6) "Health care provider" means a person licensed,
 1-61 certified, or otherwise authorized by the laws of this state to

2-1 provide health care services in the ordinary course of business or
 2-2 practice of a profession.
 2-3 (7) "Parent" means, in relation to an insured:
 2-4 (A) a biological, adoptive, or foster parent;
 2-5 (B) a stepparent;
 2-6 (C) a legal guardian; or
 2-7 (D) a person who stood in loco parentis to the
 2-8 insured when the insured was a child.
 2-9 (8) "Serious health condition" means an illness,
 2-10 injury, impairment, or physical or mental condition, including
 2-11 transplantation preparation and recovery from surgery related to
 2-12 organ or tissue donation, that involves:
 2-13 (A) inpatient care in a hospital, hospice, or
 2-14 residential health care facility;
 2-15 (B) continuing treatment; or
 2-16 (C) continuing supervision by a health care
 2-17 provider.
 2-18 Sec. 1255.002. APPLICABILITY OF CHAPTER. (a) This chapter
 2-19 applies only to a family leave insurance policy, amendment, or
 2-20 rider to a group disability policy delivered or issued for delivery
 2-21 in this state by a life, health, and accident insurance company.
 2-22 (b) Notwithstanding Chapter 1701 and except as provided by
 2-23 Section 1255.108, this chapter does not apply to a certificate of
 2-24 family leave insurance delivered to a resident in this state if the
 2-25 group policy was delivered or issued for delivery in another state.
 2-26 (c) This chapter applies to an insurance company authorized
 2-27 to write life, health, and accident insurance in this state,
 2-28 including a stipulated premium company operating under Chapter 884.
 2-29 (d) This chapter does not apply to:
 2-30 (1) a society, company, or other insurer whose
 2-31 activities are exempt by statute from department regulation and
 2-32 that is entitled by statute to a certificate from the department
 2-33 that shows the entity's exempt status;
 2-34 (2) a credit accident and health insurance policy
 2-35 issued under Chapter 1153;
 2-36 (3) a workers' compensation insurance policy;
 2-37 (4) a liability insurance policy, with or without
 2-38 supplementary expense coverage;
 2-39 (5) a reinsurance policy or contract;
 2-40 (6) a blanket or group insurance policy, except as
 2-41 otherwise provided by this chapter; or
 2-42 (7) a life insurance endowment or annuity contract, or
 2-43 a contract supplemental to a life insurance endowment or annuity
 2-44 contract, if the contract or supplemental contract contains only
 2-45 provisions relating to accident and health insurance that:
 2-46 (A) provide additional benefits in case of
 2-47 accidental death, accidental dismemberment, or accidental loss of
 2-48 sight; or
 2-49 (B) operate to:
 2-50 (i) safeguard the contract or supplemental
 2-51 contract against lapse; or
 2-52 (ii) give a special surrender value, a
 2-53 special benefit, or an annuity if the insured or annuitant becomes
 2-54 totally and permanently disabled, as defined by the contract or
 2-55 supplemental contract.
 2-56 Sec. 1255.003. CONSIDERATION AS DISABILITY INCOME
 2-57 INSURANCE. A family leave insurance policy is considered a type of
 2-58 disability income insurance for all purposes under this code.
 2-59 Sec. 1255.004. APPLICATION OF OTHER LAW; CONFLICTS. (a)
 2-60 The provisions of Subchapter B, Chapter 1251, governing eligibility
 2-61 for group accident and health insurance apply to govern the
 2-62 eligibility of a group for purposes of this chapter to the extent
 2-63 those provisions do not conflict with this chapter. This chapter
 2-64 prevails over Subchapter B, Chapter 1251, if there is a conflict.
 2-65 (b) Notwithstanding any other law, the law of the state in
 2-66 which the group or master policy providing family leave insurance
 2-67 is delivered or issued for delivery governs disputes between the
 2-68 insurer, group policyholder, and certificate holder.
 2-69 Sec. 1255.005. RULEMAKING AUTHORITY. The commissioner may

3-1 adopt reasonable rules as necessary to implement this chapter.
 3-2 SUBCHAPTER B. MINIMUM POLICY STANDARDS
 3-3 Sec. 1255.101. COMPLIANCE WITH MINIMUM STANDARDS FOR
 3-4 BENEFITS. A group family leave insurance policy must meet the
 3-5 minimum standards for benefits as provided by this subchapter.
 3-6 Sec. 1255.102. FAMILY LEAVE BENEFITS. A group family leave
 3-7 insurance policy may provide benefits for any leave taken by an
 3-8 insured from work to:
 3-9 (1) participate in providing care, including physical
 3-10 or psychological care, for a family member of the insured made
 3-11 necessary by a serious health condition of the family member;
 3-12 (2) bond with the insured's child during the first 12
 3-13 months after the child's birth, or the first 12 months after the
 3-14 placement of the child for adoption or foster care with the insured;
 3-15 (3) address a qualifying exigency, as interpreted
 3-16 under the Family and Medical Leave Act of 1993 (29 U.S.C. Section
 3-17 2612(a)(1)(E)) and 29 C.F.R. Sections 825.126(b)(1)-(8), arising
 3-18 from the fact that the spouse, dependent, or parent of the insured
 3-19 is on active duty or has been notified of an impending call or order
 3-20 to active duty in the armed forces of the United States, including
 3-21 the National Guard and armed forces reserves;
 3-22 (4) care for a family member described by Subdivision
 3-23 (3) who is injured in the line of duty; or
 3-24 (5) take other leave to provide care for a family
 3-25 member or other family leave as specified in the policy.
 3-26 Sec. 1255.103. EXPLANATION OF COVERED FAMILY LEAVE REASONS.
 3-27 A group family leave insurance policy must provide the details
 3-28 regarding and requirements for each covered family leave reason.
 3-29 Sec. 1255.104. BENEFIT PERIOD. (a) A group family leave
 3-30 insurance policy must establish the length of family leave benefits
 3-31 that are available for each covered family leave reason.
 3-32 (b) The length of family leave benefits available for a
 3-33 covered family leave reason may not be less than two weeks during a
 3-34 period of 52 consecutive calendar weeks.
 3-35 (c) A group family leave insurance policy may calculate the
 3-36 52 consecutive calendar weeks by any of the following methods:
 3-37 (1) a calendar year;
 3-38 (2) a fixed period starting on a particular date,
 3-39 including an effective or anniversary date;
 3-40 (3) the period measured forward from the insured's
 3-41 first day of family leave;
 3-42 (4) a rolling period measured from the insured's first
 3-43 day of family leave; or
 3-44 (5) any other method that is specified in the policy.
 3-45 Sec. 1255.105. WAITING PERIOD. (a) A group family leave
 3-46 insurance policy must specify whether there is an unpaid waiting
 3-47 period.
 3-48 (b) If a group family leave insurance policy contains an
 3-49 unpaid waiting period, the terms of the unpaid waiting period may
 3-50 include:
 3-51 (1) whether the waiting period runs over a consecutive
 3-52 calendar day period;
 3-53 (2) whether the waiting period is counted toward the
 3-54 annual allotment of family leave benefits or is in addition to the
 3-55 annual allotment of family leave benefits;
 3-56 (3) whether the waiting period must be met only once
 3-57 per benefit year or must be met for each separate claim for
 3-58 benefits; and
 3-59 (4) whether the insured may work or receive paid time
 3-60 off or other compensation by the employer during the waiting
 3-61 period.
 3-62 Sec. 1255.106. AMOUNT OF FAMILY LEAVE BENEFITS; OTHER
 3-63 INCOME. (a) A group family leave insurance policy must specify:
 3-64 (1) the amount of benefits that will be paid for
 3-65 covered family leave reasons;
 3-66 (2) the definition of wages or other income on which
 3-67 the amount of family leave benefits is based; and
 3-68 (3) the method for calculating those wages or other
 3-69 income.

4-1 (b) If the family leave benefits are subject to offsets for
4-2 wages or other income received by the insured or for which the
4-3 insured may be eligible, the group family leave insurance policy
4-4 must specify:

- 4-5 (1) which wages or other income may be offset; and
- 4-6 (2) the circumstances under which the wages or other
4-7 income may be offset.

4-8 Sec. 1255.107. PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR
4-9 REDUCTIONS. (a) A group family leave insurance policy that limits,
4-10 excludes, or reduces eligibility for family leave benefits under
4-11 this chapter must state the limit, exclusion, or reduction in the
4-12 policy.

4-13 (b) Permissible limitations, exclusions, or reductions in
4-14 the policy include a limitation, exclusion, or reduction for:

4-15 (1) a period of family leave for which the required
4-16 notice and medical certification have not been provided as
4-17 prescribed by the policy;

4-18 (2) family leave related to a serious health condition
4-19 or other harm to a family member brought about by the wilful
4-20 intention of the insured;

4-21 (3) a period of family leave during which the insured
4-22 performed work for compensation or profit;

4-23 (4) a period of family leave for which the insured is
4-24 eligible to receive money from the insured's employer or from a fund
4-25 to which the employer has contributed;

4-26 (5) a period of family leave in which the insured is
4-27 eligible to receive benefits under another statutory program or
4-28 employer-sponsored program, including unemployment insurance
4-29 benefits, workers' compensation benefits, statutory disability
4-30 benefits, statutory paid leave benefits, or paid time off from the
4-31 employer's paid leave policy;

4-32 (6) a period of family leave beginning before the
4-33 insured becomes eligible for family leave benefits under the
4-34 policy; or

4-35 (7) periods of family leave during which more than one
4-36 person covered under the policy seeks family leave for the same
4-37 family member.

4-38 Sec. 1255.108. CERTIFICATE OF INSURANCE. (a) An insurer
4-39 providing family leave insurance shall issue a certificate of
4-40 insurance to each employee or member of the insured group.

4-41 (b) The certificate of insurance must include:

4-42 (1) a summary of the essential features of the paid
4-43 family leave insurance coverage and benefits available to the
4-44 insured;

4-45 (2) the limitations, exclusions, or reductions;

4-46 (3) the annual and lifetime policy limits; and

4-47 (4) the person to whom the benefits are payable.

4-48 (c) An insurer may file a certificate issued to an insured
4-49 in this state for a group policy providing family leave insurance
4-50 that was delivered or issued for delivery in another state with the
4-51 department for informational purposes.

4-52 (d) An insurer is not required to file or receive approval
4-53 under Chapter 1701 for a certificate for a foreign group.

4-54 SECTION 3. This Act applies only to a family leave insurance
4-55 policy, amendment, or rider delivered, issued for delivery, or
4-56 renewed on or after January 1, 2024.

4-57 SECTION 4. This Act takes effect September 1, 2023.

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