

BILL ANALYSIS

Senate Research Center
88R8310 CJD-F

H.B. 1996
By: Hull et al. (Johnson)
Business & Commerce
5/16/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Paid medical leave benefits in the form of disability income insurance have been a popular employee benefit for decades. Employers provide this insurance so an employee can replace a percentage of their salary while they are recovering from a serious illness or injury and are unable to work. Paid family leave benefits, for an employee caring for a newborn or an ill family member, are a newer concept. As a growing number of employers compete to recruit, retain, and support employees who need to take time away from work, the concept of an optional paid family leave benefit is growing.

H.B. 1996 would allow state regulators to approve policies for a private sector option for paid family leave, building on insurers' short-term disability income insurance framework already in place.

H.B. 1996 allows for the approval by state regulators of insurance policies that can be used to provide fully insured paid family leave benefits for employees through optional employer-sponsored group insurance coverage or voluntarily purchased employee policies.

Key Provisions:

- H.B. 1996 amends Subtitle B, Title 8, Insurance Code, by adding Chapter 1255, which authorizes private insurance policies for paid family leave.

Support:

Texas Association of Life and Health Insurers (TALHI)

H.B. 1996 amends current law relating to the regulation of group family leave insurance issued through an employer to pay for certain losses of income.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to commissioner of insurance in SECTION 2 (Section 1255.005, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the purpose of this Act is to bring clarity to the laws of this state that paid family leave insurance is authorized to be provided by any insurer authorized to write life or health insurance, including disability income insurance, in this state and that family leave insurance is considered a type of disability income insurance.

SECTION 2. Amends Subtitle B, Title 8, Insurance Code, by adding Chapter 1255, as follows:

CHAPTER 1255. GROUP FAMILY LEAVE INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1255.001. DEFINITIONS. Defines "continuing supervision by a health care provider," "dependent," "family leave," "family leave insurance," "family member," "health care provider," "parent," and "serious health condition."

Sec. 1255.002. APPLICABILITY OF CHAPTER. (a) Provides that this chapter applies only to a family leave insurance policy, amendment, or rider to a group disability policy delivered or issued for delivery in this state by a life, health, and accident insurance company.

(b) Provides that this chapter does not apply to a certificate of family leave insurance delivered to a resident in this state if the group policy was delivered or issued for delivery in another state, notwithstanding Chapter 1701 (Policy Forms) and except as provided by Section 1255.108.

(c) Provides that this chapter applies to an insurance company authorized to write life, health, and accident insurance in this state, including a stipulated premium company operating under Chapter 884 (Stipulated Premium Insurance Companies).

(d) Provides that this chapter does not apply to:

(1) a society, company, or other insurer whose activities are exempt by statute from Texas Department of Insurance (TDI) regulation and that is entitled by statute to a certificate from TDI that shows the entity's exempt status;

(2) a credit accident and health insurance policy issued under Chapter 1153 (Credit Life Insurance and Credit Accident and Health Insurance);

(3) a workers' compensation insurance policy;

(4) a liability insurance policy, with or without supplementary expense coverage;

(5) a reinsurance policy or contract;

(6) a blanket or group insurance policy, except as otherwise provided by this chapter; or

(7) a life insurance endowment or annuity contract, or a contract supplemental to a life insurance endowment or annuity contract, if the contract or supplemental contract contains only provisions relating to accident and health insurance that:

(A) provide additional benefits in case of accidental death, accidental dismemberment, or accidental loss of sight; or

(B) operate to:

(i) safeguard the contract or supplemental contract against lapse; or

(ii) give a special surrender value, a special benefit, or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

Sec. 1255.003. CONSIDERATION AS DISABILITY INCOME INSURANCE. Provides that a family leave insurance policy is considered a type of disability income insurance for all purposes under this code.

Sec. 1255.004. APPLICATION OF OTHER LAW; CONFLICTS. (a) Provides that the provisions of Subchapter B (Group Accident and Health Insurance: Eligible Policyholders), Chapter 1251, governing eligibility for group accident and health insurance apply to govern the eligibility of a group for purposes of this chapter to the extent those provisions do not conflict with this chapter. Provides that this chapter prevails over Subchapter B, Chapter 1251, if there is a conflict.

(b) Provides that the law of the state in which the group or master policy providing family leave insurance is delivered or issued for delivery governs disputes between the insurer, group policyholder, and certificate holder, notwithstanding any other law.

Sec. 1255.005. RULEMAKING AUTHORITY. Authorizes the commissioner of insurance to adopt reasonable rules as necessary to implement this chapter.

SUBCHAPTER B. MINIMUM POLICY STANDARDS

Sec. 1255.101. COMPLIANCE WITH MINIMUM STANDARDS FOR BENEFITS. Requires that a group family leave insurance policy meet the minimum standards for benefits as provided by this subchapter.

Sec. 1255.102. FAMILY LEAVE BENEFITS. Authorizes a group family leave insurance policy to provide benefits for any leave taken by an insured from work to:

(1) participate in providing care, including physical or psychological care, for a family member of the insured made necessary by a serious health condition of the family member;

(2) bond with the insured's child during the first 12 months after the child's birth, or the first 12 months after the placement of the child for adoption or foster care with the insured;

(3) address a qualifying exigency, as interpreted under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2612(a)(1)(E)) and 29 C.F.R. Sections 825.126(b)(1)-(8), arising from the fact that the spouse, dependent, or parent of the insured is on active duty or has been notified of an impending call or order to active duty in the armed forces of the United States, including the National Guard and armed forces reserves;

(4) care for a family member described by Subdivision (3) who is injured in the line of duty; or

(5) take other leave to provide care for a family member or other family leave as specified in the policy.

Sec. 1255.103. EXPLANATION OF COVERED FAMILY LEAVE REASONS. Requires a group family leave insurance policy to provide the details regarding and requirements for each covered family leave reason.

Sec. 1255.104. BENEFIT PERIOD. (a) Requires that a group family leave insurance policy establish the length of family leave benefits that are available for each covered family leave reason.

(b) Prohibits the length of family leave benefits available for a covered family leave reason from being less than two weeks during a period of 52 consecutive calendar weeks.

(c) Authorizes a group family leave insurance policy to calculate the 52 consecutive calendar weeks by any of the following methods:

- (1) a calendar year;
- (2) a fixed period starting on a particular date, including an effective or anniversary date;
- (3) the period measured forward from the insured's first day of family leave;
- (4) a rolling period measured from the insured's first day of family leave; or
- (5) any other method that is specified in the policy.

Sec. 1255.105. WAITING PERIOD. (a) Requires that a group family leave insurance policy specify whether there is an unpaid waiting period.

(b) Authorizes the terms of the unpaid waiting period, if a group family leave insurance policy contains an unpaid waiting period, to include:

- (1) whether the waiting period runs over a consecutive calendar day period;
- (2) whether the waiting period is counted toward the annual allotment of family leave benefits or is in addition to the annual allotment of family leave benefits;
- (3) whether the waiting period is required to be met only once per benefit year or is required to be met for each separate claim for benefits; and
- (4) whether the insured is authorized to work or receive paid time off or other compensation by the employer during the waiting period.

Sec. 1255.106. AMOUNT OF FAMILY LEAVE BENEFITS; OTHER INCOME. (a) Requires that a group family leave insurance policy specify:

- (1) the amount of benefits that will be paid for covered family leave reasons;
- (2) the definition of wages or other income on which the amount of family leave benefits is based; and
- (3) the method for calculating those wages or other income.

(b) Requires that the group family leave insurance policy, if the family leave benefits are subject to offsets for wages or other income received by the insured or for which the insured is authorized to be eligible, specify:

- (1) which wages or other income is authorized to be offset; and
- (2) the circumstances under which the wages or other income is authorized to be offset.

Sec. 1255.107. PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS. (a) Requires a group family leave insurance policy that limits, excludes, or reduces eligibility for family leave benefits under this chapter to state the limit, exclusion, or reduction in the policy.

(b) Provides that permissible limitations, exclusions, or reductions in the policy include a limitation, exclusion, or reduction for:

- (1) a period of family leave for which the required notice and medical certification have not been provided as prescribed by the policy;
- (2) family leave related to a serious health condition or other harm to a family member brought about by the willful intention of the insured;
- (3) a period of family leave during which the insured performed work for compensation or profit;
- (4) a period of family leave for which the insured is eligible to receive money from the insured's employer or from a fund to which the employer has contributed;
- (5) a period of family leave in which the insured is eligible to receive benefits under another statutory program or employer-sponsored program, including unemployment insurance benefits, workers' compensation benefits, statutory disability benefits, statutory paid leave benefits, or paid time off from the employer's paid leave policy;
- (6) a period of family leave beginning before the insured becomes eligible for family leave benefits under the policy; or
- (7) periods of family leave during which more than one person covered under the policy seeks family leave for the same family member.

Sec. 1255.108. CERTIFICATE OF INSURANCE. (a) Requires an insurer providing family leave insurance to issue a certificate of insurance to each employee or member of the insured group.

(b) Requires that the certificate of insurance include:

- (1) a summary of the essential features of the paid family leave insurance coverage and benefits available to the insured;
- (2) the limitations, exclusions, or reductions;
- (3) the annual and lifetime policy limits; and
- (4) the person to whom the benefits are payable.

(c) Authorizes an insurer to file a certificate issued to an insured in this state for a group policy providing family leave insurance that was delivered or issued for delivery in another state with TDI for informational purposes.

(d) Provides that an insurer is not required to file or receive approval under Chapter 1701 for a certificate for a foreign group.

SECTION 3. Makes application of this Act prospective to January 1, 2024.

SECTION 4. Effective date: September 1, 2023.