

BILL ANALYSIS

H.B. 1996
By: Hull
Insurance
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to the U.S. Bureau of Labor Statistics, 47 percent of full-time and 16 percent of part-time civilian workers in the U.S. are covered by some form of paid medical leave through their employer. Paid medical leave benefits in the form of disability income insurance have been popular employee benefits 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. As a growing number of employers compete to recruit, retain, and support employees, the concept of an optional paid family leave benefit is growing as well. An existing insurance product, short-term disability income insurance, can only be used for one's own medical leave. However, family leave insurance, if explicitly authorized as a type of insurance product available for employers, would allow employees to select this coverage if they so choose. Using the disability insurance framework, H.B. 1996 seeks to provide this option by providing for the regulation of family leave insurance policies issued through an employer that can be used to provide fully insured paid family leave benefits for employees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 of this bill.

ANALYSIS

H.B. 1996 amends the Insurance Code to provide for the regulation of group family leave insurance, which is an insurance policy issued through an employer related to a benefit program provided to an employee to pay for a portion of the employee's income loss due to family leave taken by the employee. The bill establishes that its purpose is to clarify state law with regard to the authorized provision of paid family leave insurance by an insurer authorized to write life or health insurance, including disability income insurance, and the consideration of paid family leave insurance as a type of disability income insurance. The bill requires a group family leave insurance policy to meet the minimum standards for benefits prescribed by the bill.

H.B. 1996 authorizes a group family leave insurance policy to provide benefits for any leave taken by an insured from work to do the following:

- participate in providing care, including physical or psychological care, for the insured's dependent, spouse, or parent, or another person defined as a family member in the policy, that is made necessary by the family member's serious health condition, defined by the bill, among other terms, as an illness, injury, impairment, or physical or mental

condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves the following:

- inpatient care in a hospital, hospice, or residential health care facility;
- continuing treatment; or
- continuing supervision by a health care provider;
- 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;
- address a qualifying exigency, as interpreted under the federal Family and Medical Leave Act of 1993 and related federal regulations, arising from the fact that the insured's spouse, dependent, or parent is on active duty or has been notified of an impending call or order to active duty in the U.S. armed forces, including the National Guard and armed forces reserves;
- care for such an active duty family member who is injured in the line of duty; or
- take other leave to provide care for a family member or other family leave as specified in the policy.

The bill requires a policy to provide the details regarding and requirements for each covered family leave reason and to establish the length of family leave benefits that are available for each covered reason. The bill prohibits the length of the covered benefits from being less than two weeks during a period of 52 consecutive calendar weeks and establishes the methods by which a policy may calculate the 52 consecutive calendar weeks.

H.B. 1996 requires a group family leave insurance policy to specify whether there is an unpaid waiting period and lists certain authorized terms of a policy's unpaid waiting period. The bill requires a policy to specify the amount of benefits that will be paid for covered family leave reasons, the definition of wages or other income on which the benefit amount is based, and the method for calculating those wages or other income. The bill additionally requires a policy, if its benefits are subject to offsets for wages or other income received by the insured or for which the insured may be eligible, to specify which wages or other income may be offset and the circumstances under which the wages or other income may be offset.

H.B. 1996 requires a group family leave insurance policy that limits, excludes, or reduces eligibility for family leave benefits to state the limit, exclusion, or reduction in the policy. The bill specifies that permissible limitations, exclusions, or reductions include those relating to the following:

- a period of family leave for which the required notice and medical certification have not been provided as prescribed by the policy;
- family leave related to a serious health condition or other harm to a family member brought about by the insured's wilful intention;
- a period of family leave during which the insured performed work for compensation or profit;
- 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;
- 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;
- a period of family leave beginning before the insured becomes eligible for family leave benefits under the policy; or
- periods of family leave during which more than one person covered under the policy seeks family leave for the same family member.

H.B. 1996 requires an insurer providing family leave insurance to issue to each employee or member of the insured group a certificate of insurance that includes the following information:

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

The bill authorizes an insurer to file a certificate issued to an insured in Texas for a group policy providing family leave insurance that was delivered or issued for delivery in another state with the Texas Department of Insurance (TDI) for informational purposes. An insurer expressly is not required to file with TDI or receive approval from the commissioner of insurance for a certificate for a foreign group.

H.B. 1996 applies only to a family leave insurance policy, amendment, or rider to a group disability policy delivered, issued for delivery, or renewed in Texas by a life, health, and accident insurance company, including a stipulated premium insurance company, on or after January 1, 2024. The bill establishes exceptions to that applicability and clarifies that its provisions do not apply to a certificate of family leave insurance delivered to a Texas resident if the group policy was delivered or issued for delivery in another state, except as expressly provided in the bill's certificate-related provisions. The bill establishes that a family leave insurance policy is considered a type of disability income insurance for all purposes under the Insurance Code.

H.B. 1996 establishes that statutory provisions governing eligibility for group accident and health insurance apply to govern the eligibility of a group for family leave insurance under the bill to the extent those provisions do not conflict with the bill's provisions. The bill's provisions prevail over the statutory provisions if there is a conflict. The bill also establishes 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.

H.B. 1996 authorizes the commissioner of insurance to adopt reasonable rules as necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2023.