

By: Johnson

S.B. No. 1618

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The purpose of this Act is to bring clarity to the laws of this state that paid family leave insurance may 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. Subtitle B, Title 8, Insurance Code, is amended by adding Chapter 1255 to read as follows:

CHAPTER 1255. GROUP FAMILY LEAVE INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1255.001. DEFINITIONS. In this chapter:

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

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

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

2           (B) a legal ward;

3           (C) a child of the insured's spouse;

4           (D) a child with respect to whom the insured is a  
5 party to a suit in which the insured seeks to adopt the child; or

6           (E) a child of a person to whom the insured stands  
7 in loco parentis.

8           (3) "Family leave" means leave taken by an employee  
9 from work for reasons described by Section 1255.102.

10           (4) "Family leave insurance" means an insurance policy  
11 issued through an employer related to a benefit program provided to  
12 an employee to pay for a portion of the employee's income loss due  
13 to family leave taken by the employee.

14           (5) "Family member," in relation to an insured,  
15 includes a dependent, spouse, or parent or any other person defined  
16 as a family member in the family leave insurance policy.

17           (6) "Health care provider" means a person licensed,  
18 certified, or otherwise authorized by the laws of this state to  
19 provide health care services in the ordinary course of business or  
20 practice of a profession.

21           (7) "Parent" means, in relation to an insured:

22           (A) a biological, adoptive, or foster parent;

23           (B) a stepparent;

24           (C) a legal guardian; or

25           (D) a person who stood in loco parentis to the  
26 insured when the insured was a child.

27           (8) "Serious health condition" means an illness,

1 injury, impairment, or physical or mental condition, including  
2 transplantation preparation and recovery from surgery related to  
3 organ or tissue donation, that involves:

4 (A) inpatient care in a hospital, hospice, or  
5 residential health care facility;

6 (B) continuing treatment; or

7 (C) continuing supervision by a health care  
8 provider.

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

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

17 (c) This chapter applies to an insurance company authorized  
18 to write life, health, and accident insurance in this state,  
19 including a stipulated premium company operating under Chapter 884.

20 (d) This chapter does not apply to:

21 (1) a society, company, or other insurer whose  
22 activities are exempt by statute from department regulation and  
23 that is entitled by statute to a certificate from the department  
24 that shows the entity's exempt status;

25 (2) a credit accident and health insurance policy  
26 issued under Chapter 1153;

27 (3) a workers' compensation insurance policy;

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

3           (5) a reinsurance policy or contract;

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

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

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

13           (B) operate to:

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

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

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

23           Sec. 1255.004. APPLICATION OF OTHER LAW; CONFLICTS. (a)  
24 The provisions of Subchapter B, Chapter 1251, governing eligibility  
25 for group accident and health insurance apply to govern the  
26 eligibility of a group for purposes of this chapter to the extent  
27 those provisions do not conflict with this chapter. This chapter

1 prevails over Subchapter B, Chapter 1251, if there is a conflict.

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

6 Sec. 1255.005. RULEMAKING AUTHORITY. The commissioner may  
7 adopt reasonable rules as necessary to implement this chapter.

8 SUBCHAPTER B. MINIMUM POLICY STANDARDS

9 Sec. 1255.101. COMPLIANCE WITH MINIMUM STANDARDS FOR  
10 BENEFITS. A group family leave insurance policy must meet the  
11 minimum standards for benefits as provided by this subchapter.

12 Sec. 1255.102. FAMILY LEAVE BENEFITS. A group family leave  
13 insurance policy may provide benefits for any leave taken by an  
14 insured from work to:

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

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

21 (3) address a qualifying exigency, as interpreted  
22 under the Family and Medical Leave Act of 1993 (29 U.S.C. Section  
23 2612(a)(1)(E)) and 29 C.F.R. Sections 825.126(b)(1)-(8), arising  
24 from the fact that the spouse, dependent, or parent of the insured  
25 is on active duty or has been notified of an impending call or order  
26 to active duty in the armed forces of the United States, including  
27 the National Guard and armed forces reserves;

1           (4) care for a family member described by Subdivision  
2 (3) who is injured in the line of duty; or  
3           (5) take other leave to provide care for a family  
4 member or other family leave as specified in the policy.

5           Sec. 1255.103. EXPLANATION OF COVERED FAMILY LEAVE REASONS.  
6 A group family leave insurance policy must provide the details  
7 regarding and requirements for each covered family leave reason.

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

11           (b) The length of family leave benefits available for a  
12 covered family leave reason may not be less than two weeks during a  
13 period of 52 consecutive calendar weeks.

14           (c) A group family leave insurance policy may calculate the  
15 52 consecutive calendar weeks by any of the following methods:

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

24           Sec. 1255.105. WAITING PERIOD. (a) A group family leave  
25 insurance policy must specify whether there is an unpaid waiting  
26 period.

27           (b) If a group family leave insurance policy contains an

1 unpaid waiting period, the terms of the unpaid waiting period may  
2 include:

3 (1) whether the waiting period runs over a consecutive  
4 calendar day period;

5 (2) whether the waiting period is counted toward the  
6 annual allotment of family leave benefits or is in addition to the  
7 annual allotment of family leave benefits;

8 (3) whether the waiting period must be met only once  
9 per benefit year or must be met for each separate claim for  
10 benefits; and

11 (4) whether the insured may work or receive paid time  
12 off or other compensation by the employer during the waiting  
13 period.

14 Sec. 1255.106. AMOUNT OF FAMILY LEAVE BENEFITS; OTHER  
15 INCOME. (a) A group family leave insurance policy must specify:

16 (1) the amount of benefits that will be paid for  
17 covered family leave reasons;

18 (2) the definition of wages or other income on which  
19 the amount of family leave benefits is based; and

20 (3) the method for calculating those wages or other  
21 income.

22 (b) If the family leave benefits are subject to offsets for  
23 wages or other income received by the insured or for which the  
24 insured may be eligible, the group family leave insurance policy  
25 must specify:

26 (1) which wages or other income may be offset; and

27 (2) the circumstances under which the wages or other

1 income may be offset.

2 Sec. 1255.107. PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR  
3 REDUCTIONS. (a) A group family leave insurance policy that limits,  
4 excludes, or reduces eligibility for family leave benefits under  
5 this chapter must state the limit, exclusion, or reduction in the  
6 policy.

7 (b) Permissible limitations, exclusions, or reductions in  
8 the policy include a limitation, exclusion, or reduction for:

9 (1) a period of family leave for which the required  
10 notice and medical certification have not been provided as  
11 prescribed by the policy;

12 (2) family leave related to a serious health condition  
13 or other harm to a family member brought about by the wilful  
14 intention of the insured;

15 (3) a period of family leave during which the insured  
16 performed work for compensation or profit;

17 (4) a period of family leave for which the insured is  
18 eligible to receive money from the insured's employer or from a fund  
19 to which the employer has contributed;

20 (5) a period of family leave in which the insured is  
21 eligible to receive benefits under another statutory program or  
22 employer-sponsored program, including unemployment insurance  
23 benefits, workers' compensation benefits, statutory disability  
24 benefits, statutory paid leave benefits, or paid time off from the  
25 employer's paid leave policy;

26 (6) a period of family leave beginning before the  
27 insured becomes eligible for family leave benefits under the



1 policy; or

2 (7) periods of family leave during which more than one  
3 person covered under the policy seeks family leave for the same  
4 family member.

5 Sec. 1255.108. CERTIFICATE OF INSURANCE. (a) An insurer  
6 providing family leave insurance shall issue a certificate of  
7 insurance to each employee or member of the insured group.

8 (b) The certificate of insurance must include:

9 (1) a summary of the essential features of the paid  
10 family leave insurance coverage and benefits available to the  
11 insured;

12 (2) the limitations, exclusions, or reductions;

13 (3) the annual and lifetime policy limits; and

14 (4) the person to whom the benefits are payable.

15 (c) An insurer may file a certificate issued to an insured  
16 in this state for a group policy providing family leave insurance  
17 that was delivered or issued for delivery in another state with the  
18 department for informational purposes.

19 (d) An insurer is not required to file or receive approval  
20 under Chapter 1701 for a certificate for a foreign group.

21 SECTION 3. This Act applies only to a family leave insurance  
22 policy, amendment, or rider delivered, issued for delivery, or  
23 renewed on or after January 1, 2024.

24 SECTION 4. This Act takes effect September 1, 2023.