

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2100

By: Bennett

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6 AS INTRODUCED

7 An Act relating to labor; ordering a legislative  
8 referendum pursuant to the Oklahoma Constitution;  
9 creating the Paid Family Leave Act; providing short  
10 title; declaring legislative findings; authorizing  
11 Department of Labor to establish a family temporary  
12 disability insurance program; providing for  
13 eligibility of certain benefits; providing for  
14 maximum amount of benefits; providing for time frame  
15 of benefits; providing for filing of claim for  
16 benefits; defining terms; providing for benefit  
17 period; providing for determination of eligibility;  
18 providing for penalties; authorizing Department to  
19 request certain medical information; authorizing  
20 initial payment of benefits; authorizing Department  
21 to promulgate rules; requiring certain information be  
22 made accessible; providing for certificate of  
23 eligibility; providing for confidentiality of  
24 records; providing for payment and rate of  
contributions by workers; creating a Disability Trust  
Fund for the Department; providing for codification;  
providing ballot title; and directing filing.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma  
Constitution, there is hereby ordered the following legislative  
referendum which shall be filed with the Secretary of State and  
addressed to the Governor of the state, who shall submit the same to

1 the people for their approval or rejection at the next General  
2 Election.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 901 of Title 40, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. This act shall be known and may be cited as the "Paid Family  
7 Leave Act".

8 B. The Legislature finds the following:

9 1. It is in the public benefit to provide family temporary  
10 disability insurance benefits to workers to care for their family  
11 members. The need for family temporary disability insurance  
12 benefits has intensified as the participation of both parents in the  
13 workforce has increased, and the number of single parents in the  
14 workforce has grown. The need for partial wage replacement for  
15 workers taking family care leave will be exacerbated as the  
16 population of those needing care, both children and parents of  
17 workers, increases in relation to the number of working-age adults;

18 2. Developing systems that help families adapt to the competing  
19 interests of work and home not only benefits workers, but also  
20 benefits employers by increasing worker productivity and reducing  
21 employee turnover;

22 3. The majority of workers in this state are unable to take  
23 family care leave because they are unable to afford leave without  
24 pay. When workers do not receive some form of wage replacement

1 during family care leave, families suffer from the worker's loss of  
2 income, increasing the demand on the state unemployment insurance  
3 system and dependence on the state's welfare system; and

4 4. It is the intent of the Legislature to create a family  
5 temporary disability insurance program to help reconcile the demands  
6 of work and family. The family temporary disability insurance  
7 program shall be established by the Department of Labor, and shall  
8 be funded through employee contributions, and shall be administered  
9 in accordance with the policies of the state disability insurance  
10 program created pursuant to this act. Initial and ongoing  
11 administrative costs associated with the family temporary disability  
12 insurance program shall be payable from the Disability Trust Fund.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 902 of Title 40, unless there is  
15 created a duplication in numbering, reads as follows:

16 A. The Department of Labor shall establish a family temporary  
17 disability insurance program. Family temporary disability insurance  
18 shall provide up to twelve (12) weeks of wage replacement benefits  
19 to workers who take time off work to care for a seriously ill child,  
20 spouse, parent, grandparent, grandchild, sibling, or domestic  
21 partner, or to bond with a minor child within one year of the birth  
22 or placement of the child in connection with foster care or  
23 adoption.

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1 B. An individual shall be eligible to receive family temporary  
2 disability insurance benefits equal to sixty-five percent (65%) of  
3 his or her weekly wage amount for each full day during which he or  
4 she is unable to work due to caring for a seriously ill or injured  
5 family member or bonding with a minor child within one year of the  
6 birth or placement of the child in connection with foster care or  
7 adoption.

8 C. The maximum amount payable to an individual during any  
9 disability benefit period for family temporary disability insurance  
10 shall be six (6) times his or her weekly benefit amount, but in no  
11 case shall the total amount of benefits payable be more than the  
12 total wages paid to the individual during his or her disability base  
13 period. If the benefit is not a multiple of One Dollar (\$1.00), it  
14 shall be computed to the next higher multiple of One Dollar (\$1.00).

15 D. No more than twelve (12) weeks of family temporary  
16 disability insurance benefits shall be paid within any twelve-month  
17 period.

18 E. An individual shall file a claim for family temporary  
19 disability insurance benefits not later than the forty-first  
20 consecutive day following the first compensable day with respect to  
21 which the claim is made for benefits, which time shall be extended  
22 by the Department upon a showing of good cause. If a first claim is  
23 not complete, the claim form shall be returned to the claimant for  
24 completion and it shall be completed and returned not later than the

1 tenth consecutive day after the date it was mailed by the Department  
2 to the claimant, except that such time shall be extended by the  
3 Department upon a showing of good cause.

4 SECTION 4. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 903 of Title 40, unless there is  
6 created a duplication in numbering, reads as follows:

7 As used in the Paid Family Leave Act:

8 1. "Care recipient" means the family member who is receiving  
9 care for a serious health condition or the new child with whom the  
10 care provider is bonding;

11 2. "Care provider" means the family member who is providing the  
12 required care for a serious health condition or the family member  
13 who is bonding with the new child;

14 3. "Child" means a biological, adopted, or foster son or  
15 daughter, a stepson or stepdaughter, a legal ward, a son or daughter  
16 of a domestic partner, or the person to whom the employee stands in  
17 loco parentis;

18 4. "Department" means the "Department of Labor";

19 5. "Family care leave" means any of the following:

20 a. leave to bond with a minor child within the first year  
21 of the child's birth or placement in connection with  
22 foster care or adoption, or  
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1           b.    leave to care for a child, parent, grandparent,  
2                    grandchild, sibling, spouse, or domestic partner who  
3                    has a serious health condition;

4           6.    "Family member" means child, parent, grandparent,  
5 grandchild, sibling, spouse, or domestic partner as defined in this  
6 section;

7           7.    "Grandchild" means a child of the employee's child;

8           8.    "Grandparent" means a parent of the employee's parent;

9           9.    "Parent" means a biological, foster, or adoptive parent, a  
10 parent-in-law, a stepparent, a legal guardian, or other person who  
11 stood in loco parentis to the employee when the employee was a  
12 child;

13          10.   "Parent-in-law" means the parent of a spouse or a domestic  
14 partner;

15          11.   "Serious health condition" means an illness, injury,  
16 impairment, or physical or mental condition that involves inpatient  
17 care in a hospital, hospice, or residential health care facility, or  
18 continuing treatment or continuing supervision by a health care  
19 provider;

20          12.   "Sibling" means a person related to another person by  
21 blood, adoption, or affinity through a common biological or legal  
22 parent;

23          13.   "Spouse" means a partner to a lawful marriage;

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1 14. "Valid claim" means any claim for family temporary  
2 disability insurance benefits made in accordance with the provisions  
3 of this code, and any rules and regulations adopted thereunder, if  
4 the individual claiming benefits is unemployed and has been paid the  
5 necessary wages in employment for employers to qualify for benefits  
6 and is caring for a seriously ill family member, or bonding with a  
7 minor child during the first year after the birth or placement of  
8 the child in connection with foster care or adoption; and

9 15. "Twelve-month period", with respect to any individual,  
10 means the three hundred sixty-five (365) consecutive days that begin  
11 with the first day the individual first establishes a valid claim  
12 for family temporary disability benefits.

13 SECTION 5. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 904 of Title 40, unless there is  
15 created a duplication in numbering, reads as follows:

16 A. "Disability benefit period" with respect to any individual  
17 means the period of unemployment beginning with the first day an  
18 individual establishes a valid claim for family temporary disability  
19 insurance benefits to care for a seriously ill family member or to  
20 bond with a minor child during the first year after the birth or  
21 placement of the child in connection with foster care or adoption.

22 B. Periods of family care leave for the same care recipient  
23 within a twelve-month period shall be considered one disability  
24 benefit period.

1 C. Periods of disability for pregnancy and periods of family  
2 care leave for bonding associated with the birth of that child shall  
3 be considered one disability benefit period.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 905 of Title 40, unless there is  
6 created a duplication in numbering, reads as follows:

7 An individual shall be deemed eligible for family temporary  
8 disability insurance benefits equal to sixty-five percent (65%) of  
9 his or her weekly benefit amount on any day in which he or she is  
10 unable to perform his or her regular or customary work because he or  
11 she is bonding with a minor child during the first year after the  
12 birth or placement of the child in connection with foster care or  
13 adoption or caring for a seriously ill child, parent, grandparent,  
14 grandchild, sibling, spouse, or domestic partner, only if the  
15 Department of Labor finds all of the following:

16 1. The individual has made a claim for temporary disability  
17 benefits as required by authorized regulations; and

18 2. The individual has been unable to perform his or her regular  
19 or customary work for a seven-day waiting period during each  
20 disability benefit period, with respect to which waiting period no  
21 family temporary disability insurance benefits are payable; and

22 3. The individual has filed a certificate pursuant to  
23 subsection B of Section 11 of this act.

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1           SECTION 7.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 906 of Title 40, unless there is  
3 created a duplication in numbering, reads as follows:

4           A. An individual shall not be eligible for family temporary  
5 disability insurance benefits with respect to any day that any of  
6 the following apply:

7           1. The individual has received, or is entitled to receive,  
8 unemployment compensation benefits or is under an unemployment  
9 compensation act of any other state or of the federal government; or

10          2. Another family member is ready, willing, able and available  
11 to provide care for the same period of time in a day that the  
12 individual is providing the required care.

13          B. An individual who is entitled to leave under the Family  
14 Medical Leave Act must take family temporary disability insurance  
15 leave concurrent with leave taken under the Family Medical Leave  
16 Act.

17          C. As a condition of an employee's initial receipt of family  
18 temporary disability insurance benefits during any twelve-month  
19 period in which an employee is eligible for these benefits, an  
20 employer may require an employee to take up to two (2) weeks of  
21 earned but unused vacation leave prior to the employee's initial  
22 receipt of these benefits. If an employer requires an employee to  
23 take vacation leave, that portion of the vacation leave that does  
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1 not exceed one (1) week shall be applied to the waiting period  
2 required pursuant to section 5 of this act.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 907 of Title 40, unless there is  
5 created a duplication in numbering, reads as follows:

6 If the Department of Labor finds that any individual falsely  
7 certifies the medical condition of any person in order to obtain  
8 family temporary disability insurance benefits, with the intent to  
9 defraud, whether for the maker or for any other person, the  
10 Department shall assess a penalty against the individual for the  
11 total amount of twenty-five percent (25%) of the benefits paid as a  
12 result of the false certification. In addition, the employee shall  
13 be liable to the Department for any benefits paid as a result of the  
14 false certification. Penalties collected under this section shall  
15 be deposited in the Disability Trust Fund.

16 SECTION 9. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 908 of Title 40, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. The Department of Labor may request additional medical  
20 evidence to supplement the first or any continued claim if the  
21 additional evidence can be procured without additional cost to the  
22 care recipient. The Department may require that the additional  
23 evidence include any or all of the following information:

24 1. Identification of diagnoses;

1        2. Identification of symptoms; and

2        3. A statement setting forth the facts of the care recipient's  
3 serious health condition that warrants the participation of the  
4 employee. The statement shall be completed and signed by any of the  
5 following:

6            a. the physician or practitioner treating the care  
7            recipient,

8            b. the registrar, authorized medical officer, or other  
9            duly authorized official of the hospital or health  
10           facility treating the care recipient, or

11           c. an examining physician or other representative of the  
12           Department.

13        B. The Department may require the care recipient to submit to  
14 reasonable examinations for the purpose of determining all of the  
15 following:

16           1. Whether a serious health condition exists;

17           2. Whether a care provider's participation is warranted; and

18           3. The period of time that the care provider's participation is  
19 warranted.

20        SECTION 10.        NEW LAW        A new section of law to be codified  
21 in the Oklahoma Statutes as Section 909 of Title 40, unless there is  
22 created a duplication in numbering, reads as follows:

23        The Department shall issue the initial payment for family  
24 temporary disability insurance benefits to a monetarily eligible

1 claimant who is otherwise determined eligible by the Department  
2 under applicable law and regulation within fourteen (14) days after  
3 receipt of his or her properly completed disability claim.

4 SECTION 11. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 910 of Title 40, unless there is  
6 created a duplication in numbering, reads as follows:

7 Claims for disability benefits shall be made in accordance with  
8 promulgated rules of the Department of Labor. Each employer shall  
9 post and maintain in places readily accessible to individuals in his  
10 or her service printed statements concerning such regulations and  
11 shall make available to each such individual copies of such printed  
12 statements, regulations or matters relating to claims for disability  
13 benefits as the Department may prescribe. Such printed statements  
14 shall be supplied to each employer by the Department without cost to  
15 the employer.

16 SECTION 12. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 911 of Title 40, unless there is  
18 created a duplication in numbering, reads as follows:

19 A. In accordance with the rules promulgated by the Department  
20 of Labor, a claimant shall establish medical eligibility for each  
21 uninterrupted period of disability by filing a first claim for  
22 disability benefits supported by the certificate of a treating  
23 physician or practitioner that establishes the sickness, injury, or  
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1 pregnancy of the employee, or the condition of the family member  
2 that warrants the care of the employee.

3 B. An employee shall be required to file a certificate to  
4 establish eligibility when taking leave to care for a family member  
5 with a serious health condition. The certificate shall be developed  
6 by the Department. In order to establish medical eligibility of the  
7 serious health condition of the family member that warrants the care  
8 of the employee, the information shall be within the physician's or  
9 practitioner's knowledge and shall be based on a physical  
10 examination and documented medical history of the family member and  
11 shall contain all of the following:

12 1. A diagnosis and diagnostic code prescribed in the  
13 International Classification of Diseases, or, if no diagnosis has  
14 yet been obtained, a detailed statement of symptoms;

15 2. The date, if known, on which the condition commenced;

16 3. The probable duration of the condition;

17 4. An estimate of the amount of time that the physician or  
18 practitioner believes the employee needs to care for the child,  
19 parent, grandparent, grandchild, sibling, spouse, or domestic  
20 partner; and

21 5. A statement that the serious health condition warrants the  
22 participation of the employee to provide care for his or her child,  
23 parent, grandparent, grandchild, sibling, spouse, or domestic  
24 partner. "Warrants the participation of the employee" includes, but

1 is not limited to, providing psychological comfort, and arranging  
2 "third-party" care for the child, parent, grandparent, grandchild,  
3 sibling, spouse, or domestic partner, as well as directly providing,  
4 or participating in, the medical care.

5 C. The Department shall develop a certification form for  
6 bonding that is separate and distinct from the certificate required  
7 in subsection A of this section for an employee taking leave to bond  
8 with a minor child within the first year of the child's birth or  
9 placement in connection with foster care or adoption.

10 D. The first and any continuing claim of an individual who  
11 obtains care and treatment outside this state shall be supported by  
12 a certificate of a treating physician or practitioner duly licensed  
13 or certified by the state or foreign country in which the claimant  
14 is receiving the care and treatment. If a physician or practitioner  
15 licensed by and practicing in a foreign country is under  
16 investigation by the Department for filing false claims and the  
17 Department does not have legal remedies to conduct a criminal  
18 investigation or prosecution in that country, the Department may  
19 suspend the processing of all further certifications until the  
20 physician or practitioner fully cooperates, and continues to  
21 cooperate, with the investigation. A physician or practitioner  
22 licensed by, and practicing in, a foreign country who has been  
23 convicted of filing false claims with the Department may not file a  
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1 certificate in support of a claim for disability benefits for a  
2 period of five (5) years.

3 SECTION 13. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 912 of Title 40, unless there is  
5 created a duplication in numbering, reads as follows:

6 All medical records of the Department obtained pursuant to the  
7 Paid Family Leave Act, except to the extent necessary for the proper  
8 administration of this act, or as provided elsewhere in law shall be  
9 confidential and shall not be published or be open to public  
10 inspection in any manner revealing the identity of the claimant or  
11 family member, or the nature or cause of his or her disability.

12 SECTION 14. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 913 of Title 40, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. Each worker shall pay worker contributions at the rate  
16 determined by the Department of Labor. On or before October 31 of  
17 each calendar year, the Department shall prepare a statement, which  
18 shall be a public record, declaring the rate of worker contributions  
19 for the calendar year and shall notify promptly all employers of  
20 employees covered for family temporary disability insurance.

21 B. The rate of worker contributions shall be established by the  
22 Department.

23 C. There is created in the State Treasury a revolving fund for  
24 the Department of Labor to be designated as the "Disability Trust

1 Fund". The fund shall be a continuing fund, not subject to fiscal  
2 year limitations, and shall consist of all contributions, penalties,  
3 and interest provided for in this act. All monies accruing to the  
4 credit of the fund are hereby appropriated and may be budgeted and  
5 expended by the Department of Labor to perform duties as prescribed  
6 by this act. Expenditures from the fund shall be made upon warrants  
7 issued by the State Treasurer against claims filed as prescribed by  
8 law with the Department of Labor for approval and payment. All  
9 benefits provided for in this act shall be payable from the fund.  
10 All benefits shall be paid in accordance with the rules as the  
11 Department of Labor may prescribe.

12 SECTION 15. The Ballot Title for the proposed act shall be in  
13 the following form:

14 BALLOT TITLE  
15 Legislative Referendum No. \_\_\_\_\_ State Question No. \_\_\_\_\_

16 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

17 This measure creates the Paid Family Leave Act. The measure  
18 establishes a family temporary disability insurance program under  
19 the Oklahoma Department of Labor. The program will allow up to  
20 twelve weeks of wage replacement benefits within a twelve-month  
21 period to workers who take time off to care for a seriously ill  
22 child, spouse, parent, grandparent, grandchild, sibling, or domestic  
23 partner or to care for a newly born or adopted child. The worker  
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1 will be entitled to receive family temporary disability insurance  
2 benefits equal to 65% of their wages.

3 SHALL THE PROPOSAL BE APPROVED?

4 FOR THE PROPOSAL - YES \_\_\_\_\_

5 AGAINST THE PROPOSAL - NO \_\_\_\_\_

6 SECTION 16. The Chief Clerk of the House of Representatives,  
7 immediately after the passage of this act, shall prepare and file  
8 one copy thereof, including the Ballot Title set forth in SECTION 15  
9 hereof, with the Secretary of State and one copy with the Attorney  
10 General.

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12 59-1-6176 LRB 01/11/23

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