

SENATE BILL 275

K3
SB 211/21 – FIN

2lr0702
CF HB 8

By: **Senators Hayes and Benson**

Introduced and read first time: January 18, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Family and Medical Leave Insurance Program –**
3 **Establishment**
4 **(Time to Care Act of 2022)**

5 FOR the purpose of establishing the Family and Medical Leave Insurance Program in the
6 Maryland Department of Labor to provide certain benefits to individuals who take
7 leave from employment for certain purposes; establishing the Family and Medical
8 Leave Insurance Fund as a special, nonlapsing fund; requiring, beginning on a
9 certain date, certain employees, employers, and self-employed individuals to
10 contribute to the Fund in a certain manner; requiring the Department, under certain
11 circumstances, to deduct and withhold a certain amount from benefits paid;
12 authorizing certain employees to bring a certain action against certain employers for
13 certain violations of this Act under certain circumstances; requiring the Secretary of
14 Labor to establish a system of appeals for certain covered individuals; requiring that
15 certain judicial review be allowed after a certain aggrieved party has exhausted
16 certain administrative remedies; requiring interest earnings of the Fund to be
17 credited to the Fund; and generally relating to the Family and Medical Leave
18 Insurance Program.

19 BY adding to

20 Article – Labor and Employment
21 Section 8.3–101 through 8.3–1001 to be under the new title “Title 8.3. Family and
22 Medical Leave Insurance Program”
23 Annotated Code of Maryland
24 (2016 Replacement Volume and 2021 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – State Finance and Procurement
27 Section 6–226(a)(2)(i)
28 Annotated Code of Maryland
29 (2021 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)144. and 145.
4 Annotated Code of Maryland
5 (2021 Replacement Volume)

6 BY adding to
7 Article – State Finance and Procurement
8 Section 6–226(a)(2)(ii)146.
9 Annotated Code of Maryland
10 (2021 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Labor and Employment**

14 **TITLE 8.3. FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**

15 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

16 **8.3–101.**

17 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (B) “APPLICATION YEAR” MEANS THE 12–MONTH PERIOD BEGINNING ON
20 THE FIRST DAY OF THE CALENDAR WEEK IN WHICH A COVERED INDIVIDUAL FILES
21 AN APPLICATION FOR BENEFITS.

22 (C) “BENEFITS” MEANS THE MONEY PAYABLE UNDER THIS TITLE TO A
23 COVERED INDIVIDUAL.

24 (D) “COVERED EMPLOYEE” MEANS AN EMPLOYEE WHO HAS WORKED AT
25 LEAST 680 HOURS OVER THE 12–MONTH PERIOD IMMEDIATELY PRECEDING THE
26 DATE ON WHICH LEAVE IS TO BEGIN.

27 (E) “COVERED INDIVIDUAL” MEANS A COVERED EMPLOYEE OR A
28 SELF–EMPLOYED INDIVIDUAL WHO ELECTS TO PARTICIPATE IN THE PROGRAM
29 UNDER § 8.3–201 OF THIS TITLE.

30 (F) “DEPARTMENT” MEANS THE MARYLAND DEPARTMENT OF LABOR.

31 (G) “EMPLOYER” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT

1 EMPLOYS AT LEAST ONE INDIVIDUAL IN THE STATE.

2 (H) "FAMILY MEMBER" MEANS:

3 (1) A BIOLOGICAL CHILD, AN ADOPTED CHILD, A FOSTER CHILD, OR A
4 STEPCHILD OF THE COVERED INDIVIDUAL;

5 (2) A CHILD FOR WHOM THE COVERED INDIVIDUAL HAS LEGAL OR
6 PHYSICAL CUSTODY OR GUARDIANSHIP;

7 (3) A CHILD FOR WHOM THE COVERED INDIVIDUAL STANDS IN LOCO
8 PARENTIS, REGARDLESS OF THE CHILD'S AGE;

9 (4) A BIOLOGICAL PARENT, AN ADOPTIVE PARENT, A FOSTER PARENT,
10 OR A STEPPARENT OF THE COVERED INDIVIDUAL OR OF THE COVERED INDIVIDUAL'S
11 SPOUSE;

12 (5) THE LEGAL GUARDIAN OF THE COVERED INDIVIDUAL OR THE
13 WARD OF THE COVERED INDIVIDUAL OR OF THE COVERED INDIVIDUAL'S SPOUSE;

14 (6) AN INDIVIDUAL WHO ACTED AS A PARENT OR STOOD IN LOCO
15 PARENTIS TO THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S SPOUSE
16 WHEN THE COVERED INDIVIDUAL OR THE COVERED INDIVIDUAL'S SPOUSE WAS A
17 MINOR;

18 (7) THE SPOUSE OF THE COVERED INDIVIDUAL;

19 (8) A BIOLOGICAL GRANDPARENT, AN ADOPTED GRANDPARENT, A
20 FOSTER GRANDPARENT, OR A STEPGRANDPARENT OF THE COVERED INDIVIDUAL;

21 (9) A BIOLOGICAL GRANDCHILD, AN ADOPTED GRANDCHILD, A
22 FOSTER GRANDCHILD, OR A STEPGRANDCHILD OF THE COVERED INDIVIDUAL; OR

23 (10) A BIOLOGICAL SIBLING, AN ADOPTED SIBLING, A FOSTER SIBLING,
24 OR A STEPSIBLING OF THE COVERED INDIVIDUAL.

25 (I) "FUND" MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE FUND
26 ESTABLISHED UNDER § 8.3-501 OF THIS TITLE.

27 (J) "GOVERNMENTAL ENTITY" HAS THE MEANING STATED IN § 8-101 OF
28 THIS ARTICLE.

29 (K) "NEXT OF KIN" MEANS THE NEAREST BLOOD RELATIVE.

1 **(L) “PROGRAM” MEANS THE FAMILY AND MEDICAL LEAVE INSURANCE**
2 **PROGRAM ESTABLISHED UNDER § 8.3–301 OF THIS TITLE.**

3 **(M) “QUALIFYING EXIGENCY” MEANS ANY OF THE FOLLOWING REASONS**
4 **FOR WHICH LEAVE MAY BE NEEDED BY A FAMILY MEMBER OF A SERVICE MEMBER:**

5 **(1) BECAUSE THE SERVICE MEMBER HAS RECEIVED NOTICE OF**
6 **DEPLOYMENT WITHIN 7 DAYS BEFORE THE DEPLOYMENT IS TO BEGIN;**

7 **(2) TO ATTEND MILITARY EVENTS AND RELATED ACTIVITIES**
8 **INCLUDING FAMILY SUPPORT PROGRAMS RELATED TO THE ACTIVE DUTY OF THE**
9 **SERVICE MEMBER;**

10 **(3) TO ARRANGE, PROVIDE, OR ATTEND CHILD CARE OR SCHOOL**
11 **ACTIVITIES ONLY WHEN THE SERVICE MEMBER IS ON ACTIVE DUTY CALL OR ACTIVE**
12 **DUTY STATUS;**

13 **(4) TO MAKE FINANCIAL AND LEGAL ARRANGEMENTS FOR THE**
14 **SERVICE MEMBER’S ABSENCE OR BECAUSE OF THE ABSENCE;**

15 **(5) TO ATTEND COUNSELING THAT:**

16 **(i) IS NEEDED DUE TO THE ACTIVE DUTY OR CALL TO ACTIVE**
17 **DUTY STATUS OF THE SERVICE MEMBER; AND**

18 **(ii) IS PROVIDED BY AN INDIVIDUAL WHO IS NOT A LICENSED**
19 **HEALTH CARE PROVIDER;**

20 **(6) TO SPEND UP TO 15 CALENDAR DAYS WITH A SERVICE MEMBER**
21 **WHO IS ON SHORT-TERM TEMPORARY REST AND RECUPERATION LEAVE DURING**
22 **THE PERIOD OF DEPLOYMENT;**

23 **(7) TO ATTEND POSTDEPLOYMENT ACTIVITIES INCLUDING**
24 **REINTEGRATION SERVICES FOR A PERIOD OF 90 DAYS IMMEDIATELY FOLLOWING**
25 **THE TERMINATION OF ACTIVE STATUS;**

26 **(8) TO ATTEND TO MATTERS RELATED TO THE DEATH OF THE**
27 **SERVICE MEMBER WHILE ON ACTIVE DUTY STATUS;**

28 **(9) TO ARRANGE FOR OR PROVIDE ALTERNATIVE CARE FOR A PARENT**
29 **OF THE SERVICE MEMBER WHEN THE PARENT IS INCAPABLE OF SELF-CARE AND THE**
30 **COVERED ACTIVE DUTY OR CALL TO ACTIVE DUTY NECESSITATES A CHANGE; OR**

1 **(10) BECAUSE OF ANY OTHER ISSUES THAT ARISE OUT OF ACTIVE DUTY**
2 **OR A CALL TO ACTIVE DUTY THAT AN EMPLOYER AND COVERED EMPLOYEE AGREE**
3 **SHOULD BE COVERED.**

4 **(N) “SECRETARY” MEANS THE SECRETARY OF LABOR.**

5 **(O) (1) “SERIOUS HEALTH CONDITION” MEANS AN ILLNESS, AN INJURY,**
6 **AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION THAT INVOLVES:**

7 **(I) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL**
8 **HEALTH CARE FACILITY;**

9 **(II) CONTINUED TREATMENT BY A LICENSED HEALTH CARE**
10 **PROVIDER; OR**

11 **(III) CONTINUED TREATMENT OR SUPERVISION AT HOME BY A**
12 **LICENSED HEALTH CARE PROVIDER OR OTHER COMPETENT INDIVIDUAL UNDER**
13 **THE SUPERVISION OF A LICENSED HEALTH CARE PROVIDER.**

14 **(2) “SERIOUS HEALTH CONDITION” INCLUDES AN ILLNESS, AN**
15 **INJURY, AN IMPAIRMENT, OR A PHYSICAL OR MENTAL CONDITION DESCRIBED IN**
16 **PARAGRAPH (1) OF THIS SUBSECTION THAT CONTINUES OVER AN EXTENDED**
17 **PERIOD OF TIME AND REQUIRES INTERMITTENT TREATMENT.**

18 **(P) “SERVICE MEMBER” MEANS AN INDIVIDUAL WHO IS AN ACTIVE DUTY OR**
19 **FORMER MEMBER OF:**

20 **(1) THE UNITED STATES ARMED FORCES;**

21 **(2) A RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES;**

22 **OR**

23 **(3) THE NATIONAL GUARD OF ANY STATE.**

24 **(Q) “TREATMENT” INCLUDES:**

25 **(1) EXAMINATIONS OR TESTING TO DETERMINE THE EXTENT TO**
26 **WHICH A SERIOUS HEALTH CONDITION EXISTS OR PERSISTS;**

27 **(2) ONGOING OR PERIODIC EVALUATIONS OF THE SERIOUS HEALTH**
28 **CONDITION; AND**

1 **(3) ACTUAL TREATMENT BY A HEALTH CARE PROVIDER.**

2 **8.3-102.**

3 **(A) THIS SECTION DOES NOT APPLY TO THE DISCLOSURE OF INFORMATION**
4 **TO:**

5 **(1) A PUBLIC EMPLOYEE IN THE PERFORMANCE OF THE PUBLIC**
6 **EMPLOYEE'S OFFICIAL DUTIES;**

7 **(2) THE INDIVIDUAL TO WHOM THE INFORMATION RELATES; OR**

8 **(3) IF AN AUTHORIZED REPRESENTATIVE HAS THE SIGNED**
9 **AUTHORIZATION OF THE INDIVIDUAL TO WHOM THE INFORMATION RELATES, THE**
10 **AUTHORIZED REPRESENTATIVE.**

11 **(B) AN EMPLOYEE OF THE DEPARTMENT MAY NOT DISCLOSE INFORMATION**
12 **RELATING TO AN INDIVIDUAL WHO HAS APPLIED FOR OR RECEIVED BENEFITS**
13 **UNDER THIS TITLE.**

14 **SUBTITLE 2. SCOPE OF TITLE.**

15 **8.3-201.**

16 **(A) (1) A SELF-EMPLOYED INDIVIDUAL MAY ELECT TO PARTICIPATE IN**
17 **THE PROGRAM BY FILING A WRITTEN NOTICE OF ELECTION WITH THE SECRETARY**
18 **IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.**

19 **(2) AN ELECTION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION**
20 **BECOMES EFFECTIVE ON THE DATE THE WRITTEN NOTICE IS FILED.**

21 **(B) (1) IF A SELF-EMPLOYED INDIVIDUAL ELECTS TO PARTICIPATE IN**
22 **THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION, THE INDIVIDUAL SHALL**
23 **PARTICIPATE FOR AN INITIAL PERIOD OF NOT LESS THAN 3 YEARS.**

24 **(2) ONCE THE INITIAL PARTICIPATION PERIOD EXPIRES, THE**
25 **SELF-EMPLOYED INDIVIDUAL MAY RENEW PARTICIPATION IN THE PROGRAM FOR A**
26 **PERIOD OF NOT LESS THAN 1 YEAR.**

27 **(3) IF THE SELF-EMPLOYED INDIVIDUAL DOES NOT WISH TO RENEW**
28 **PARTICIPATION IN THE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION,**
29 **WITHIN 30 DAYS BEFORE THE PARTICIPATION PERIOD EXPIRES, THE**
30 **SELF-EMPLOYED INDIVIDUAL SHALL NOTIFY THE SECRETARY IN WRITING OF THE**

1 SELF-EMPLOYED INDIVIDUAL'S WITHDRAWAL FROM THE PROGRAM.

2 (C) DURING THE PERIOD A SELF-EMPLOYED INDIVIDUAL PARTICIPATES IN
3 THE PROGRAM, THE SELF-EMPLOYED INDIVIDUAL SHALL PAY THE CONTRIBUTION
4 REQUIRED UNDER § 8.3-601 OF THIS TITLE.

5 8.3-202.

6 THIS TITLE MAY NOT BE CONSTRUED TO DIMINISH AN EMPLOYER'S
7 OBLIGATION TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN
8 EMPLOYER POLICY THAT ALLOWS AN EMPLOYEE TO TAKE LEAVE FOR A LONGER
9 PERIOD OF TIME THAN THE EMPLOYEE WOULD BE ABLE TO RECEIVE BENEFITS
10 UNDER THIS TITLE.

11 8.3-203.

12 (A) AN EMPLOYEE'S RIGHT TO BENEFITS UNDER THIS TITLE MAY NOT BE
13 DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO OR
14 RENEWED OR BY AN EMPLOYER POLICY ADOPTED OR RETAINED ON OR AFTER JUNE
15 1, 2022.

16 (B) AN AGREEMENT TO WAIVE THE EMPLOYEE'S RIGHTS UNDER THIS TITLE
17 IS VOID AS AGAINST PUBLIC POLICY.

18 SUBTITLE 3. ESTABLISHMENT OF PROGRAM.

19 8.3-301.

20 THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM IN THE
21 DEPARTMENT.

22 8.3-302.

23 THE PURPOSE OF THE PROGRAM IS TO PROVIDE TEMPORARY BENEFITS TO A
24 COVERED INDIVIDUAL WHO IS TAKING LEAVE FROM EMPLOYMENT:

25 (1) TO CARE FOR A CHILD DURING THE FIRST YEAR AFTER THE
26 CHILD'S BIRTH OR AFTER THE PLACEMENT OF THE CHILD THROUGH FOSTER CARE,
27 KINSHIP CARE, OR ADOPTION;

28 (2) TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH
29 CONDITION;

1 **(3) BECAUSE THE COVERED INDIVIDUAL HAS A SERIOUS HEALTH**
2 **CONDITION THAT RESULTS IN THE COVERED INDIVIDUAL BEING UNABLE TO**
3 **PERFORM THE FUNCTIONS OF THE COVERED INDIVIDUAL'S POSITION;**

4 **(4) TO CARE FOR A SERVICE MEMBER WHO IS THE COVERED**
5 **INDIVIDUAL'S NEXT OF KIN; OR**

6 **(5) BECAUSE THE COVERED INDIVIDUAL HAS A QUALIFYING**
7 **EXIGENCY ARISING OUT OF THE DEPLOYMENT OF A SERVICE MEMBER WHO IS A**
8 **FAMILY MEMBER OF THE COVERED INDIVIDUAL.**

9 **SUBTITLE 4. ADMINISTRATION.**

10 **8.3-401.**

11 **THIS TITLE SHALL BE ADMINISTERED UNDER THE SUPERVISION OF THE**
12 **SECRETARY.**

13 **8.3-402.**

14 **THE SECRETARY MAY DELEGATE TO AN EMPLOYEE OF THE DEPARTMENT ANY**
15 **POWER OR DUTY THAT IS REASONABLE AND PROPER FOR THE ADMINISTRATION OF**
16 **THIS TITLE.**

17 **8.3-403.**

18 **(A) THE SECRETARY SHALL:**

19 **(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ADOPT**
20 **REGULATIONS NECESSARY TO CARRY OUT THIS TITLE;**

21 **(2) ESTABLISH PROCEDURES AND FORMS FOR FILING CLAIMS FOR**
22 **BENEFITS, INCLUDING:**

23 **(I) PROCEDURES FOR NOTIFYING AN EMPLOYER WITHIN 5**
24 **BUSINESS DAYS AFTER AN EMPLOYEE OF THE EMPLOYER FILES A CLAIM FOR**
25 **BENEFITS UNDER THIS TITLE; AND**

26 **(II) NOTICES OF ELECTIONS BY SELF-EMPLOYED INDIVIDUALS**
27 **FOR BENEFITS UNDER § 8.3-201 OF THIS TITLE;**

28 **(3) USE INFORMATION-SHARING AND INTEGRATION TECHNOLOGY TO**
29 **FACILITATE THE DISCLOSURE OF RELEVANT INFORMATION OR RECORDS NEEDED**

1 FOR THE ADMINISTRATION OF THIS TITLE; AND

2 (4) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CARRY OUT A
3 PUBLIC EDUCATION PROGRAM.

4 (B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1) OF THIS
5 SECTION SHALL BE CONSISTENT WITH REGULATIONS ADOPTED TO IMPLEMENT THE
6 FEDERAL FAMILY AND MEDICAL LEAVE ACT AND ANY RELEVANT STATE LAWS TO
7 THE EXTENT THAT THE ADOPTED REGULATIONS DO NOT CONFLICT WITH THIS
8 TITLE.

9 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED
10 INDIVIDUAL UNDER § 8.3-302(2), (3), (4), OR (5) OF THIS TITLE SHALL PROVIDE
11 CERTIFICATION FOR A CLAIM FOR BENEFITS UNDER THIS TITLE.

12 (2) A CERTIFICATION FOR A CLAIM FOR BENEFITS FOR A COVERED
13 INDIVIDUAL UNDER § 8.3-302(2), (3), OR (4) OF THIS TITLE SHALL INCLUDE:

14 (I) THE DATE ON WHICH THE SERIOUS HEALTH CONDITION OF
15 THE FAMILY MEMBER, COVERED INDIVIDUAL, OR SERVICE MEMBER COMMENCED;

16 (II) THE PROBABLE DURATION OF THE SERIOUS HEALTH
17 CONDITION;

18 (III) THE APPROPRIATE FACTS RELATED TO THE SERIOUS
19 HEALTH CONDITION WITHIN THE KNOWLEDGE OF THE LICENSED HEALTH CARE
20 PROVIDER;

21 (IV) 1. FOR A CLAIM FOR BENEFITS UNDER § 8.3-302(2) OF
22 THIS TITLE, A STATEMENT THAT THE COVERED INDIVIDUAL NEEDS TO CARE FOR A
23 FAMILY MEMBER AND AN ESTIMATE OF THE AMOUNT OF TIME REQUIRED TO
24 PROVIDE THE CARE; OR

25 2. FOR A CLAIM FOR BENEFITS UNDER § 8.3-302(3) OF
26 THIS TITLE, A STATEMENT THAT THE COVERED INDIVIDUAL IS UNABLE TO PERFORM
27 THE FUNCTIONS OF THE COVERED INDIVIDUAL'S POSITION; AND

28 (V) FOR A CERTIFICATION FOR INTERMITTENT LEAVE, THE
29 EXPECTED DATES AND DURATION OF THE LEAVE.

30 (3) THE SECRETARY SHALL ESTABLISH STANDARDS IN REGULATION
31 FOR THE CERTIFICATION OF CLAIMS FOR BENEFITS UNDER § 8.3-302(5) OF THIS
32 TITLE.

1 (D) (1) THE SECRETARY MAY USE A PORTION OF THE FUNDS PAID UNDER
2 § 8.3-601 OF THIS TITLE OR OTHER AVAILABLE FUNDING TO PAY FOR AND CARRY
3 OUT THE REQUIREMENTS UNDER SUBSECTION (A)(4) OF THIS SECTION.

4 (2) MATERIALS USED IN THE PUBLIC EDUCATION PROGRAM
5 REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL BE MADE AVAILABLE
6 IN ENGLISH AND SPANISH.

7 8.3-404.

8 (A) TO ENFORCE THIS TITLE, THE SECRETARY MAY:

9 (1) CONDUCT AN INVESTIGATION UNDER THIS TITLE, ON THE
10 SECRETARY'S OWN INITIATIVE OR ON RECEIPT OF A WRITTEN COMPLAINT;

11 (2) ADMINISTER AN OATH;

12 (3) CERTIFY TO AN OFFICIAL ACT;

13 (4) TAKE A DEPOSITION;

14 (5) ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO
15 TESTIFY OR THE PRODUCTION OF BOOKS, CORRESPONDENCE, MEMORANDA,
16 PAPERS, OR OTHER RECORDS; AND

17 (6) BRING A CIVIL ACTION IN THE COUNTY WHERE THE VIOLATION
18 ALLEGEDLY OCCURRED.

19 (B) (1) A SUBPOENA ISSUED UNDER SUBSECTION (A)(5) OF THIS SECTION
20 SHALL BE SERVED IN ANY MANNER IN WHICH A SUBPOENA OF A COURT MAY BE
21 SERVED.

22 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
23 SUBSECTION (A)(5) OF THIS SECTION ON A COMPLAINT FILED BY THE SECRETARY,
24 THE CIRCUIT COURT FOR THE COUNTY WHERE THE INVESTIGATION IS BEING
25 CONDUCTED OR WHERE THE PERSON RESIDES, IS PRESENT, OR TRANSACTS
26 BUSINESS MAY ISSUE AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA OR
27 COMPELLING TESTIMONY.

28 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
29 PERSON MAY NOT BE EXCUSED FROM COMPLYING WITH A SUBPOENA ISSUED UNDER
30 SUBSECTION (A)(5) OF THIS SECTION ON THE GROUND THAT THE EVIDENCE OR

1 TESTIMONY REQUIRED MAY TEND TO INCRIMINATE THE PERSON OR SUBJECT THE
2 PERSON TO A FORFEITURE OR PENALTY.

3 (II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF
4 THIS SUBPARAGRAPH, AFTER CLAIMING THE PRIVILEGE AGAINST
5 SELF-INCRIMINATION, A PERSON MAY NOT BE PROSECUTED OR SUBJECTED TO ANY
6 FORFEITURE OR PENALTY BECAUSE OF ANY MATTER, THING, OR TRANSACTION
7 ABOUT WHICH THE PERSON IS COMPELLED TO PRODUCE EVIDENCE OR TESTIFY.

8 2. IF THE PERSON COMMITS PERJURY WHILE GIVING
9 TESTIMONY, THE PERSON IS SUBJECT TO PROSECUTION FOR THAT OFFENSE.

10 **8.3-405.**

11 IN A CIVIL ACTION TO ENFORCE THIS TITLE, THE SECRETARY AND THE STATE
12 MAY BE REPRESENTED BY:

13 (1) THE ATTORNEY GENERAL; OR

14 (2) ANY QUALIFIED ATTORNEY WHO:

15 (I) IS A SALARIED EMPLOYEE OF THE SECRETARY; AND

16 (II) ON RECOMMENDATION OF THE ATTORNEY GENERAL, IS
17 DESIGNATED TO REPRESENT THE SECRETARY OR THE BOARD OF APPEALS AND THE
18 STATE.

19 **8.3-406.**

20 (A) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE SECRETARY SHALL
21 SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE
22 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANNUAL REPORT ON THE
23 ADMINISTRATION AND OPERATION OF THIS TITLE DURING THE IMMEDIATELY
24 PRECEDING FISCAL YEAR.

25 (B) THE ANNUAL REPORT SHALL INCLUDE INFORMATION REGARDING:

26 (1) PROJECTED AND ACTUAL PROGRAM PARTICIPATION RATES;

27 (2) CONTRIBUTION RATES;

28 (3) PROJECTED AND ACTUAL FUND BALANCES;

- 1 **(4) PUBLIC OUTREACH AND TECHNICAL ASSISTANCE EFFORTS;**
- 2 **(5) ALL ENFORCEMENT EFFORTS;**
- 3 **(6) THE NUMBER AND STATUS OF COMPLAINTS UNDER SUBTITLE 9 OF**
4 **THIS TITLE; AND**
- 5 **(7) THE COST OF ADMINISTERING THE PROGRAM.**

6 **SUBTITLE 5. THE FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

7 **8.3-501.**

8 **THERE IS A FAMILY AND MEDICAL LEAVE INSURANCE FUND.**

9 **8.3-502.**

- 10 **(A) THE SECRETARY SHALL ADMINISTER THE FUND.**
- 11 **(B) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO**
12 **§ 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**
- 13 **(C) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE**
14 **COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

15 **8.3-503.**

- 16 **(A) THE FUND CONSISTS OF:**
- 17 **(1) EMPLOYEE CONTRIBUTIONS;**
- 18 **(2) SELF-EMPLOYED INDIVIDUAL CONTRIBUTIONS;**
- 19 **(3) EMPLOYER CONTRIBUTIONS;**
- 20 **(4) MONEY PAID TO THE FUND FOR THE PURPOSE OF REIMBURSING**
21 **THE SECRETARY UNDER § 8.3-902 OF THIS TITLE FOR BENEFITS PAID IN ERROR;**
- 22 **(5) INTEREST EARNED ON MONEY IN THE FUND; AND**
- 23 **(6) MONEY RECEIVED FOR THE FUND FROM ANY OTHER SOURCE.**
- 24 **(B) MONEY IN THE FUND MAY BE COMMINGLED.**

1 (C) THE FUND MAY BE USED ONLY FOR THE PURPOSES OF THIS TITLE.

2 8.3-504.

3 (A) (1) THE STATE TREASURER IS CUSTODIAN OF THE FUND.

4 (2) THE STATE TREASURER SHALL MANAGE THE FUND IN
5 ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS.

6 (B) UNDER THE DIRECTION OF THE SECRETARY, THE STATE TREASURER
7 SHALL ESTABLISH THE FUND ACCOUNT IN ANY FINANCIAL INSTITUTION IN WHICH
8 THE GENERAL FUND OF THE STATE MAY BE DEPOSITED.

9 (C) ON RECEIPT OF ANY MONEY PAYABLE TO THE FUND, THE SECRETARY
10 SHALL ENSURE IMMEDIATE DEPOSIT OF THE MONEY INTO THE FUND ACCOUNT AS
11 REQUIRED BY THE STATE TREASURER.

12 (D) IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS,
13 MONEY IN THE FUND ACCOUNT:

14 (1) SHALL BE USED TO PAY BENEFITS UNDER THIS TITLE; AND

15 (2) MAY BE USED TO PAY FOR:

16 (I) THE PUBLIC EDUCATION PROGRAM; AND

17 (II) ANY COSTS ASSOCIATED WITH THE INITIAL
18 IMPLEMENTATION AND ONGOING ADMINISTRATION OF THIS TITLE.

19 8.3-505.

20 A CHECK THAT THE STATE TREASURER ISSUES TO PAY BENEFITS OR
21 REFUNDS SHALL:

22 (1) BE ISSUED ONLY ON A WARRANT SIGNED BY THE SECRETARY;

23 (2) BEAR THE SIGNATURE OF THE STATE TREASURER; AND

24 (3) BE COUNTERSIGNED BY AN AUTHORIZED AGENT.

25 8.3-506.

1 (II) PROVIDE THE EMPLOYER WITH REASONABLE AND
2 PRACTICABLE PRIOR NOTICE OF THE REASON FOR WHICH THE INTERMITTENT
3 LEAVE IS NECESSARY.

4 (3) IF LEAVE IS TAKEN ON AN INTERMITTENT LEAVE SCHEDULE, AN
5 EMPLOYER MAY NOT REDUCE THE TOTAL AMOUNT OF LEAVE TO WHICH THE
6 COVERED INDIVIDUAL IS ENTITLED BEYOND THE AMOUNT OF LEAVE ACTUALLY
7 TAKEN.

8 **8.3-702.**

9 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
10 COVERED INDIVIDUAL MAY NOT RECEIVE MORE THAN 12 WEEKS OF BENEFITS IN AN
11 APPLICATION YEAR.

12 (2) A COVERED INDIVIDUAL MAY RECEIVE AN ADDITIONAL 12 WEEKS
13 OF BENEFITS IF THE COVERED INDIVIDUAL DURING THE SAME APPLICATION YEAR:

14 (I) RECEIVED BENEFITS BECAUSE THE COVERED INDIVIDUAL
15 WAS ELIGIBLE FOR BENEFITS UNDER § 8.3-701(A)(3) OF THIS SUBTITLE; AND

16 (II) BECOMES ELIGIBLE FOR BENEFITS UNDER §
17 8.3-701(A)(1), (2), (4), OR (5) OF THIS SUBTITLE.

18 (B) IF A COVERED INDIVIDUAL TAKES LEAVE FOR WHICH THE COVERED
19 INDIVIDUAL IS RECEIVING BENEFITS UNDER THIS TITLE, THE LEAVE SHALL RUN
20 CONCURRENTLY WITH ELIGIBLE LEAVE THAT MAY BE TAKEN BY THE COVERED
21 INDIVIDUAL UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT.

22 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
23 AN INDIVIDUAL RECEIVING BENEFITS UNDER TITLE 8 OF THIS ARTICLE OR WAGE
24 REPLACEMENT BENEFITS UNDER TITLE 9 OF THIS ARTICLE IS NOT ELIGIBLE TO
25 RECEIVE BENEFITS UNDER THIS TITLE.

26 (2) AN INDIVIDUAL RECEIVING COMPENSATION FOR A PERMANENT
27 PARTIAL DISABILITY UNDER TITLE 9 OF THIS ARTICLE MAY BE ELIGIBLE FOR
28 BENEFITS UNDER THIS TITLE.

29 **8.3-703.**

30 (A) AN EMPLOYER MAY ALLOW A COVERED INDIVIDUAL TO USE PAID
31 VACATION, PAID SICK LEAVE, OR OTHER PAID TIME OFF UNDER AN EMPLOYER

1 POLICY IN ADDITION TO THE BENEFITS AVAILABLE UNDER THIS TITLE TO REPLACE
2 THE COVERED INDIVIDUAL'S WAGES UP TO 100% OF THE COVERED INDIVIDUAL'S
3 WEEKLY WAGE DURING THE PERIOD OF LEAVE FOR WHICH BENEFITS ARE RECEIVED
4 UNDER THIS TITLE.

5 (B) AN EMPLOYER CONTRIBUTING TO THE FUND MAY REQUIRE A COVERED
6 INDIVIDUAL WHO RECEIVES BENEFITS UNDER THIS TITLE TO USE THOSE BENEFITS
7 CONCURRENTLY WITH FAMILY OR MEDICAL LEAVE BENEFITS PROVIDED UNDER AN
8 EMPLOYER POLICY.

9 8.3-704.

10 (A) FOR THE PURPOSES OF THIS SECTION:

11 (1) THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE SHALL BE
12 CALCULATED AS THE TOTAL WAGES RECEIVED BY THE COVERED INDIVIDUAL OVER
13 THE LAST 680 HOURS FOR WHICH THE COVERED INDIVIDUAL WAS PAID DIVIDED BY
14 THE NUMBER OF WEEKS WORKED; AND

15 (2) THE STATE AVERAGE WEEKLY WAGE SHALL BE THE WAGE
16 CALCULATED UNDER § 9-603 OF THIS ARTICLE.

17 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE WEEKLY
18 BENEFIT AMOUNT PAYABLE TO A COVERED INDIVIDUAL UNDER THIS TITLE SHALL
19 BE:

20 (I) IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE IS
21 65% OR LESS OF THE STATE AVERAGE WEEKLY WAGE, 90% OF THE COVERED
22 INDIVIDUAL'S AVERAGE WEEKLY WAGE;

23 (II) IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE IS
24 GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE, THE SUM OF:

25 1. 90% OF THE COVERED INDIVIDUAL'S AVERAGE
26 WEEKLY WAGE UP TO 65% OF THE STATE AVERAGE WEEKLY WAGE; AND

27 2. 50% OF THE COVERED INDIVIDUAL'S AVERAGE
28 WEEKLY WAGE THAT IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE;
29 OR

30 (III) IF THE COVERED INDIVIDUAL IS TAKING PARTIALLY PAID
31 LEAVE, THE LESSER OF:

1 1. THE AMOUNT REQUIRED TO MAKE UP THE
2 DIFFERENCE BETWEEN THE WAGES PAID TO THE COVERED INDIVIDUAL WHILE THE
3 COVERED INDIVIDUAL IS TAKING PARTIALLY PAID LEAVE AND THE FULL WAGES
4 NORMALLY PAID TO THE COVERED INDIVIDUAL; AND

5 2. IF THE COVERED INDIVIDUAL'S AVERAGE WEEKLY
6 WAGE IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE, THE SUM OF:

7 A. 90% OF THE COVERED INDIVIDUAL'S AVERAGE
8 WEEKLY WAGE UP TO 65% OF THE STATE AVERAGE WEEKLY WAGE; AND

9 B. 50% OF THE COVERED INDIVIDUAL'S AVERAGE
10 WEEKLY WAGE THAT IS GREATER THAN 65% OF THE STATE AVERAGE WEEKLY WAGE.

11 (2) THE WEEKLY BENEFIT AMOUNT PAYABLE UNDER PARAGRAPH (1)
12 OF THIS SUBSECTION:

13 (I) SHALL BE AT LEAST \$50; AND

14 (II) MAY NOT EXCEED:

15 1. FOR THE 12-MONTH PERIOD BEGINNING JULY 1,
16 2024, \$1,000; AND

17 2. FOR THE 12-MONTH PERIOD BEGINNING JULY 1,
18 2025, AND EACH SUBSEQUENT 12-MONTH PERIOD, THE AMOUNT DETERMINED AND
19 ANNOUNCED BY THE SECRETARY UNDER PARAGRAPH (3) OF THIS SUBSECTION.

20 (3) (I) IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS
21 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE
22 WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV METROPOLITAN AREA
23 OR A SUCCESSOR INDEX PUBLISHED BY THE FEDERAL BUREAU OF LABOR
24 STATISTICS.

25 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS
26 PARAGRAPH, FOR THE 12-MONTH PERIOD BEGINNING JULY 1, 2025, AND EACH
27 SUBSEQUENT 12-MONTH PERIOD, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL
28 BE INCREASED BY THE AMOUNT, ROUNDED TO THE NEAREST CENT, THAT EQUALS
29 THE PRODUCT OF:

30 1. THE MAXIMUM WEEKLY BENEFIT AMOUNT IN EFFECT
31 FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD; AND

1 **2. THE ANNUAL PERCENTAGE GROWTH IN THE**
2 **CONSUMER PRICE INDEX FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD,**
3 **AS DETERMINED BY THE SECRETARY UNDER SUBPARAGRAPH (III)1 OF THIS**
4 **PARAGRAPH.**

5 **(III) BEGINNING MARCH 1, 2025, AND ON EACH SUBSEQUENT**
6 **SEPTEMBER 1, THE SECRETARY SHALL DETERMINE AND ANNOUNCE:**

7 **1. THE ANNUAL PERCENTAGE GROWTH, IF ANY, IN THE**
8 **CONSUMER PRICE INDEX BASED ON THE MOST RECENT 12-MONTH PERIOD FOR**
9 **WHICH DATA ARE AVAILABLE ON SEPTEMBER 1; AND**

10 **2. THE MAXIMUM WEEKLY BENEFIT AMOUNT EFFECTIVE**
11 **FOR THE 12-MONTH PERIOD BEGINNING THE IMMEDIATELY FOLLOWING JULY 1.**

12 **(IV) IF THERE IS A DECLINE OR NO GROWTH IN THE CONSUMER**
13 **PRICE INDEX, THE MAXIMUM WEEKLY BENEFIT AMOUNT SHALL REMAIN THE SAME**
14 **AS THE AMOUNT THAT WAS IN EFFECT FOR THE PRECEDING 12-MONTH PERIOD.**

15 **(C) AN INCREASE IN THE WEEKLY BENEFIT AMOUNT UNDER SUBSECTION**
16 **(B)(3) OF THIS SECTION APPLIES ONLY TO A CLAIM FOR BENEFITS FILED AFTER THE**
17 **DATE THE INCREASE BECOMES EFFECTIVE.**

18 **(D) THE DEPARTMENT SHALL:**

19 **(1) NOTIFY THE EMPLOYER OF A COVERED INDIVIDUAL WITHIN 5**
20 **BUSINESS DAYS AFTER THE COVERED INDIVIDUAL FILES A CLAIM FOR BENEFITS**
21 **UNDER THIS TITLE;**

22 **(2) APPROVE OR DENY THE CLAIM AND NOTIFY THE COVERED**
23 **INDIVIDUAL WITHIN 10 BUSINESS DAYS AFTER THE COVERED INDIVIDUAL FILES THE**
24 **CLAIM;**

25 **(3) MAKE THE FIRST PAYMENT OF BENEFITS TO A COVERED**
26 **INDIVIDUAL WITHIN 5 BUSINESS DAYS AFTER THE CLAIM IS APPROVED; AND**

27 **(4) MAKE SUBSEQUENT PAYMENTS EVERY 2 WEEKS UNTIL THE**
28 **BENEFIT PERIOD ENDS.**

29 **8.3-705.**

30 **(A) IF THE INTERNAL REVENUE SERVICE DETERMINES THAT BENEFITS**
31 **PAID UNDER THIS SUBTITLE ARE SUBJECT TO FEDERAL INCOME TAX, AT THE TIME**

1 A COVERED INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, THE DEPARTMENT
2 SHALL NOTIFY THE COVERED INDIVIDUAL THAT:

3 (1) THE INTERNAL REVENUE SERVICE HAS DETERMINED THAT THE
4 BENEFITS ARE SUBJECT TO FEDERAL INCOME TAX;

5 (2) THERE ARE REQUIREMENTS REGARDING ESTIMATED TAX
6 PAYMENTS;

7 (3) THE COVERED INDIVIDUAL MAY ELECT TO HAVE FEDERAL
8 INCOME TAX DEDUCTED AND WITHHELD FROM THE BENEFITS THAT THE COVERED
9 INDIVIDUAL RECEIVES UNDER THIS TITLE AT THE RATE SPECIFIED IN THE
10 INTERNAL REVENUE CODE; AND

11 (4) THE COVERED INDIVIDUAL IS ALLOWED TO CHANGE A
12 PREVIOUSLY ELECTED WITHHOLDING STATUS.

13 (B) (1) IF A COVERED INDIVIDUAL ELECTS TO HAVE FEDERAL INCOME
14 TAX DEDUCTED AND WITHHELD UNDER SUBSECTION (A)(3) OF THIS SECTION, THE
15 DEPARTMENT SHALL DEDUCT AND WITHHOLD AN AMOUNT AT THE RATE SPECIFIED
16 IN THE INTERNAL REVENUE CODE IN A MANNER REQUIRED BY THE INTERNAL
17 REVENUE SERVICE.

18 (2) IF THE DEPARTMENT DEDUCTS AND WITHHOLDS FEDERAL
19 INCOME TAX UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DEDUCTED
20 AND WITHHELD SHALL REMAIN IN THE FUND UNTIL IT IS TRANSFERRED TO THE
21 INTERNAL REVENUE SERVICE AS A PAYMENT OF INCOME TAX.

22 **8.3-706.**

23 (A) AN EMPLOYER MAY SATISFY THE REQUIREMENTS OF THIS TITLE
24 THROUGH A PRIVATE EMPLOYER PLAN CONSISTING OF EMPLOYER-PROVIDED
25 BENEFITS, INSURANCE, OR A COMBINATION OF BOTH IF THE PRIVATE EMPLOYER
26 PLAN IS OFFERED TO ALL OF THE EMPLOYER'S ELIGIBLE EMPLOYEES AND MEETS
27 OR EXCEEDS THE RIGHTS, PROTECTIONS, AND BENEFITS PROVIDED TO A COVERED
28 EMPLOYEE UNDER THIS TITLE.

29 (B) A PRIVATE EMPLOYER PLAN SHALL BE FILED WITH THE DEPARTMENT
30 FOR APPROVAL.

31 (C) AN EMPLOYER THAT PROVIDES COVERED EMPLOYEES WITH A PRIVATE
32 EMPLOYER PLAN AND AN EMPLOYEE THAT IS COVERED BY A PRIVATE EMPLOYER
33 PLAN ARE EXEMPT FROM THE CONTRIBUTIONS REQUIRED UNDER SUBTITLE 6 OF

1 THIS TITLE.

2 8.3-707.

3 IF A COVERED INDIVIDUAL RECEIVES BENEFITS UNDER THIS TITLE OR TAKES
4 LEAVE FROM WORK FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, THE
5 EMPLOYER OF THE COVERED INDIVIDUAL SHALL, ON THE EXPIRATION OF THE
6 LEAVE, RESTORE THE COVERED INDIVIDUAL TO AN EQUIVALENT POSITION OF
7 EMPLOYMENT.

8 8.3-708.

9 IF A COVERED INDIVIDUAL IS RECEIVING BENEFITS UNDER THIS TITLE OR IS
10 TAKING LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE, THE
11 EMPLOYER OF THE COVERED INDIVIDUAL SHALL CONTINUE ANY EMPLOYMENT
12 BENEFITS IN THE SAME MANNER AS REQUIRED UNDER TITLE 3, SUBTITLE 12 OF
13 THIS ARTICLE FOR THE TIME PERIOD THAT THE COVERED INDIVIDUAL IS ABSENT
14 FROM WORK OR RECEIVING BENEFITS UNDER THIS TITLE.

15 SUBTITLE 8. NOTICE TO EMPLOYEES.

16 8.3-801.

17 (A) AN EMPLOYER SHALL PROVIDE WRITTEN NOTICE TO EACH EMPLOYEE
18 OF THE RIGHTS AND DUTIES OF AN EMPLOYEE UNDER THIS TITLE AT THE TIME OF
19 HIRE AND ANNUALLY THEREAFTER.

20 (B) (1) WHEN AN EMPLOYEE REQUESTS LEAVE UNDER THIS TITLE, OR
21 WHEN AN EMPLOYER KNOWS THAT AN EMPLOYEE'S LEAVE MAY BE FOR A REASON
22 UNDER § 8.3-302 OF THIS TITLE, THE EMPLOYER SHALL NOTIFY THE EMPLOYEE OF
23 THE EMPLOYEE'S ELIGIBILITY TO TAKE LEAVE FOR WHICH BENEFITS MAY BE PAID
24 UNDER THIS TITLE WITHIN 5 BUSINESS DAYS.

25 (2) THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS
26 SUBSECTION SHALL INCLUDE:

27 (I) THE RIGHT OF AN ELIGIBLE EMPLOYEE TO RECEIVE
28 PROGRAM BENEFITS UNDER THIS TITLE;

29 (II) THE PROCEDURE FOR FILING A CLAIM FOR BENEFITS;

30 (III) AN ELIGIBLE EMPLOYEE'S RESPONSIBILITIES WITH
31 RESPECT TO PROVIDING NOTIFICATION PRIOR TO THE COMMENCEMENT OF LEAVE

1 AND ANY PENALTIES FOR FAILING TO DO SO;

2 (IV) THE RIGHT OF AN EMPLOYEE TO FILE A COMPLAINT FOR
3 ALLEGED VIOLATIONS OF THIS TITLE;

4 (V) THE RIGHT OF AN ELIGIBLE EMPLOYEE TO JOB
5 PROTECTION; AND

6 (VI) A DESCRIPTION OF THE PROHIBITED ACTS, PENALTIES, AND
7 COMPLAINT PROCEDURES UNDER SUBTITLE 9 OF THIS TITLE.

8 (C) THE NOTICES REQUIRED UNDER THIS SUBTITLE SHALL BE PROVIDED IN
9 ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

10 SUBTITLE 9. PROHIBITED ACTS; PENALTIES.

11 8.3-901.

12 (A) IF AN INDIVIDUAL WILLFULLY MAKES A FALSE STATEMENT OR
13 MISREPRESENTATION REGARDING A MATERIAL FACT OR WILLFULLY FAILS TO
14 REPORT A MATERIAL FACT TO OBTAIN BENEFITS UNDER THIS TITLE, THE
15 INDIVIDUAL IS DISQUALIFIED FROM RECEIVING BENEFITS FOR 1 YEAR.

16 (B) IF AN EMPLOYER WILLFULLY MAKES OR CAUSES TO BE MADE A FALSE
17 STATEMENT OR WILLFULLY FAILS TO REPORT A MATERIAL FACT REGARDING A
18 CLAIM FOR BENEFITS BY AN EMPLOYEE, THE EMPLOYER IS SUBJECT TO A CIVIL
19 PENALTY OF UP TO \$1,000 FOR EACH OCCURRENCE.

20 (C) AN EMPLOYER MAY NOT WILLFULLY:

21 (1) FAIL OR REFUSE TO PAY CONTRIBUTIONS TO THE FUND; OR

22 (2) TAKE DEDUCTIONS FROM THE WAGES OF AN EMPLOYEE TO PAY
23 ANY PORTION OF THE EMPLOYER CONTRIBUTIONS DUE FROM THE EMPLOYER.

24 8.3-902.

25 (A) THE DEPARTMENT MAY SEEK REPAYMENT OF BENEFITS FROM AN
26 INDIVIDUAL WHO RECEIVED BENEFITS UNDER THIS TITLE IF:

27 (1) THE BENEFITS WERE PAID ERRONEOUSLY OR AS A RESULT OF
28 WILLFUL MISREPRESENTATION BY THE INDIVIDUAL; OR

1 **(2) A CLAIM FOR BENEFITS UNDER THIS TITLE IS REJECTED AFTER**
2 **THE BENEFITS WERE PAID.**

3 **(B) THE SECRETARY MAY WAIVE IN WHOLE OR IN PART THE REPAYMENT OF**
4 **BENEFITS UNDER SUBSECTION (A) OF THIS SECTION IF:**

5 **(1) THE ERROR IN PAYMENT WAS NOT DUE TO ANY FALSE STATEMENT,**
6 **NONDISCLOSURE OF MATERIAL FACT, OR MISREPRESENTATION BY A COVERED**
7 **INDIVIDUAL; OR**

8 **(2) THE REPAYMENT WOULD BE AGAINST EQUITY AND GOOD**
9 **CONSCIENCE OR ADMINISTRATIVE EFFICIENCY.**

10 **8.3-903.**

11 **IF AN EMPLOYER FAILS TO PAY THE CONTRIBUTIONS DUE TO THE FUND, THE**
12 **SECRETARY MAY, IN ACCORDANCE WITH § 8.3-404 OF THIS TITLE:**

13 **(1) ASSESS THE AMOUNT OF CONTRIBUTIONS AND INTEREST DUE;**

14 **(2) MAKE AN ADDITIONAL ASSESSMENT IN AN AMOUNT NOT TO**
15 **EXCEED TWO TIMES THE CONTRIBUTIONS WITHHELD, AS A PENALTY FOR FAILURE**
16 **TO PAY THE CONTRIBUTIONS DUE; AND**

17 **(3) ORDER AN AUDIT OF THE EMPLOYER FOR THE IMMEDIATELY**
18 **FOLLOWING FISCAL YEAR TO INVESTIGATE AND DETERMINE COMPLIANCE WITH**
19 **THIS TITLE AND TITLES 3, 8, AND 9 OF THIS ARTICLE.**

20 **8.3-904.**

21 **A PERSON MAY NOT DISCHARGE, DEMOTE, OR OTHERWISE DISCRIMINATE OR**
22 **TAKE ADVERSE ACTION AGAINST A COVERED INDIVIDUAL BECAUSE THE COVERED**
23 **INDIVIDUAL HAS:**

24 **(1) FILED FOR, APPLIED FOR, OR RECEIVED BENEFITS, OR TAKEN**
25 **FAMILY OR MEDICAL LEAVE FOR WHICH BENEFITS MAY BE PAID UNDER THIS TITLE;**

26 **(2) INQUIRED ABOUT THE RIGHTS AND RESPONSIBILITIES UNDER**
27 **THIS TITLE;**

28 **(3) COMMUNICATED TO THE PERSON AN INTENT TO FILE A CLAIM, A**
29 **COMPLAINT, OR AN APPEAL UNDER THIS TITLE; OR**

1 **(4) TESTIFIED OR INTENDS TO TESTIFY OR OTHERWISE HAS ASSISTED**
2 **IN A PROCEEDING UNDER THIS TITLE.**

3 **8.3-905.**

4 **(A) (1) AN EMPLOYEE ALLEGING A VIOLATION OF THIS SUBTITLE MAY**
5 **FILE A COMPLAINT WITH THE SECRETARY TO RECOVER LOST WAGES AND DAMAGES**
6 **EQUAL TO THE AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER**
7 **COMPENSATION DENIED OR LOST, AND APPROPRIATE PUNITIVE DAMAGES.**

8 **(2) A COMPLAINT UNDER THIS SUBSECTION MAY ALSO SEEK**
9 **APPROPRIATE RELIEF INCLUDING REINSTATEMENT OR THE HIRING OF EMPLOYEES**
10 **WITH OR WITHOUT BACK PAY.**

11 **(B) THIS SECTION DOES NOT DEPRIVE A PRIVATE RIGHT OR CAUSE OF**
12 **ACTION TO ANY EMPLOYEE FOR VIOLATIONS OF § 8.3-904 OF THIS SUBTITLE OR §**
13 **8.3-707 OF THIS TITLE.**

14 **8.3-906.**

15 **(A) (1) NOTWITHSTANDING ANY ADMINISTRATIVE REMEDY AVAILABLE**
16 **UNDER § 8.3-905 OF THIS SUBTITLE, AN EMPLOYEE MAY BRING AN ACTION AGAINST**
17 **AN EMPLOYER FOR VIOLATIONS OF § 8.3-904 OF THIS SUBTITLE OR § 8.3-707 OR §**
18 **8.3-708 OF THIS TITLE TO RECOVER LOST WAGES AND DAMAGES EQUAL TO THE**
19 **AMOUNT OF WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION**
20 **DENIED OR LOST, AND APPROPRIATE PUNITIVE DAMAGES.**

21 **(2) AN ACTION UNDER THIS SUBSECTION MAY SEEK INJUNCTIVE AND**
22 **OTHER APPROPRIATE EQUITABLE RELIEF INCLUDING REINSTATEMENT OR THE**
23 **HIRING OF EMPLOYEES WITH OR WITHOUT BACK PAY.**

24 **(B) ON A FINDING THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN**
25 **ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ALLOW**
26 **AGAINST THE EMPLOYER REASONABLE ATTORNEY'S FEES AND OTHER COSTS.**

27 **8.3-907.**

28 **(A) (1) THE SECRETARY SHALL ESTABLISH A SYSTEM FOR APPEALS BY**
29 **COVERED INDIVIDUALS IN THE CASE OF DENIAL OF BENEFITS UNDER THIS TITLE.**

30 **(2) THE SECRETARY MAY USE THE PROCEDURES UNDER § 8-806 OF**
31 **THIS ARTICLE FOR THE SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS**
32 **SUBSECTION.**

1 the Secretary of Labor shall adopt regulations as required under § 8.3–403 of the Labor and
2 Employment Article, as enacted by Section 1 of this Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
4 1, 2022.