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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Deeter

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SUMMARY

- Imposes requirements on policies of paid family leave insurance.
- Requires a policy of paid family leave insurance to lay out all details and requirements with regard to coverage for each form of family leave covered under the policy.
- Requires policies of paid family leave insurance that impose waiting periods to set forth the terms and conditions of the waiting period.
- Specifies that the length of family leave benefits provided in a policy of paid family leave insurance cannot be less than two weeks during a period of 52 consecutive calendar weeks.
- Allows eligibility for benefits under a policy of paid family leave insurance to be limited, excluded, or reduced.
- Requires any limitations, exclusions, or reductions included in a policy of paid family leave insurance to be set forth in the policy.
- Requires benefits provided under policies of paid family leave insurance to be paid periodically and promptly, except in those situations where a period of family leave is contested as being exempt or excluded under the policy.
- Allows the Superintendent of Insurance to adopt rules as necessary to carry out the bill's requirements.

DETAILED ANALYSIS

Overview

The bill imposes requirements on those insurers offering policies of insurance that pay a benefit to an employer when that employer's employees take certain types of family leave,

allowing the employer to pay all or a portion of the employee's salary over this time. This type of insurance is referred to as paid family leave insurance. "Paid family leave insurance" is defined by the bill as being an insurance policy issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to any of the following:

- The birth or adoption of a child;
- Placement of a child with the employee for foster care;
- Care of a family member who has a serious health condition;
- Circumstances arising out of the fact that the employee's family member who is a service member is on active duty or has been notified of an impending call or order to active duty.¹

Authorized forms of covered family leave

The bill identifies several forms of family leave as being eligible for coverage under a policy of paid family leave insurance. One such form of leave is when an employee must care for a family member suffering from a serious health condition, including both physical and psychological conditions.² "Family member" is defined by the bill as being a child, spouse, parent, or any other person defined as a "family member" in a policy of paid family leave insurance.³ "Child" means a person who is either younger than 18, or 18 or older, but incapable of self-care because of mental or physical disability, and that is also any of the following:

- A biological, adopted, or foster son or daughter;
- A stepson or stepdaughter;
- A legal ward;
- A son or daughter of a domestic partner;
- A son or daughter of a person to whom the person covered under the policy stands in loco parentis.⁴

"Parent" is defined as a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stands in loco parentis to a child.⁵ "Serious health condition" means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves inpatient care in a hospital, hospice, or residential health care facility, continuing treatment, or

¹ R.C. 3966.01(G).

² R.C. 3966.02(A).

³ R.C. 3966.01(E).

⁴ R.C. 3966.01(B).

⁵ R.C. 3966.01(H).

continuing supervision by a health care provider, as defined in a policy of paid family leave insurance.⁶ And “health care provider” means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.⁷

The bill also specifies that addressing a qualifying urgent need or emergency, as specified in the federal “Family and Medical Leave Act,” arising from the fact that an employee’s spouse, child, or parent 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 is also a form of leave that may be covered under a policy of paid family leave insurance.⁸

The bill specifies that “armed forces” includes:

- Army, navy, air force, marine corps, space force, coast guard, auxiliary corps as established by congress, red cross nurse serving with the army, navy, air force, or hospital service of the United States, army nurse corps, navy nurse corps, full-time service with the American red cross in a combat zone, and such other service as may be designated by congress as included therein;
- Personnel of the Ohio national guard and the reserve components of any of the armed forces described above who are called to active duty pursuant to an executive order issued by the president of the United States or an act of congress;
- Persons on whom United States merchant marine veteran status has been conferred for service aboard oceangoing merchant ships in service to the United States during World War II.⁹

The bill also specifies that all of the following are also employee-leave situations that may qualify for coverage under a policy of paid family leave insurance:

- Bonding with the employee’s child during the first 12 months after the child’s birth;
- The first 12 months after the placement of a child for adoption or foster care with the employee;
- Caring for a family service member injured in the line of duty;
- Taking other leave to provide care for a family member or other family leave, as specified in the policy of paid family leave insurance.¹⁰

⁶ R.C. 3966.01(I).

⁷ R.C. 3966.01(F) and 3701.74(A)(5), not in the bill.

⁸ R.C. 3966.02(C).

⁹ R.C. 3966.01(A) and 145.30(A)(1), not in the bill.

¹⁰ R.C. 3966.02(B), (D), and (E).

Policy requirements

The bill imposes certain requirements on policies of paid family leave insurance. A policy of paid family leave insurance is required to lay out all details and requirements with regard to coverage for each form of family leave covered under the policy.¹¹ Also, policies of paid family leave insurance are required to set forth the length of family leave benefits available for each form of family leave covered under the policy. The length of family leave benefits provided in a policy of paid family leave insurance cannot be less than two weeks during a period of 52 consecutive calendar weeks. 52 consecutive calendar weeks may be calculated by any of the following methods:

- A calendar year;
- Any fixed period starting on a particular date such as the effective or anniversary date of a policy of paid family leave insurance;
- The period measured forward from the employee's first day of family leave;
- A rolling period measured by looking back from the employee's first day of family leave;
- Any other method that is specified in the policy of paid family leave insurance.¹²

A policy of paid family leave insurance must set forth all of the following:

- The amount of benefits that will be paid for covered family leave reasons;
- The wages or other income upon which the amount of family leave benefits will be based;
- How benefits based on the wages or other income will be calculated.¹³

If paid family leave benefits are subject to offsets for wages or other income received or for which the insured may be eligible, the policy must state both of the following:

- All the wages or other income that may be offset;
- The circumstances under which the wages or other income may be offset.¹⁴

The bill also applies certain continuing law requirements, unchanged by the bill, imposed on insurance policies to policies of paid family leave insurance. These requirements impose, for example, policy forms, including standards for things like readability, font-size, and organization.¹⁵

¹¹ R.C. 3966.03.

¹² R.C. 3966.04.

¹³ R.C. 3966.06(A).

¹⁴ R.C. 3966.06(B).

¹⁵ R.C. 3902.02(A); see, R.C. 3902.04, not in the bill.

Waiting periods

If a policy of paid family leave insurance imposes a waiting period before benefits will be paid, the policy must set forth the terms and conditions of the waiting period. The terms and conditions of the waiting period may include all of the following:

- Whether the waiting period runs over a consecutive calendar day period;
- Whether the waiting period is included when determining the availability of the annual allotment of family leave benefits or if it is excluded when determining the availability of the annual allotment of family leave benefits;
- Whether the waiting period must be met only once per benefit year or must be met for each separate claim for benefits;
- Whether the employee may work or receive paid time off or other compensation by the employer during the waiting period.¹⁶

Exclusions and limitations

Eligibility for benefits under a policy of paid family leave insurance may be limited, excluded, or reduced, but any limitations, exclusions, or reductions are required to be stated in the policy.¹⁷ Permissible limitations, exclusions, or reductions include any of the following:

- Any period of family leave wherein any required notice or medical certification required under the policy has not been provided;
- Any family leave related to a serious health condition or other harm to a family member brought about by the willful intention of the employee;
- Any period of family leave during which the employee performed work for remuneration or profit;
- Any period of family leave for which the employee is eligible to receive from the employee's employer, or from a fund to which the employer has contributed, remuneration or maintenance;
- Any period of family leave in which the employee is eligible to receive benefits under any other statutory or employer-sponsored program, including unemployment insurance benefits, worker's compensation benefits, statutory disability benefits, statutory paid leave benefits, or any paid time off under an employer's paid leave policy;
- Any period of family leave commencing before the employee becomes eligible for family leave benefits under the policy;

¹⁶ R.C. 3966.05.

¹⁷ R.C. 3966.07(A).

- Any period of family leave where more than one person seeks family leave for the same family member.¹⁸

Prompt payment requirements

The bill requires that policies of paid family leave insurance must be paid periodically and promptly. However, periods of family leave contested by the insurer or employer as excluded under the policy are exempt from this requirement while the matter is being resolved. If a period of family leave is determined not to be exempt, then the insurer in question must pay the required benefits as soon as is practicable after the matter has been resolved.¹⁹

Amendments and riders

The bill specifies that policies of paid family leave insurance may provide coverage for existing paid family leave benefits or may provide benefits as an amendment or rider to a policy of disability income or life insurance in accordance with the requirements of the bill and any applicable provision of Ohio law.

Premiums for policies or riders providing paid family leave benefits in accordance with the Residential State Supplement Program for disabled individuals or with life insurance policies issued under Ohio law are to be calculated in accordance with the bill's requirements and all applicable laws governing insurance.²⁰

Voluntary purchase

Purchase of paid family leave insurance for employees is voluntary. Nothing in the bill is to be construed as requiring employers to purchase paid family leave insurance for their workers.²¹

Rules

The bill authorizes the Superintendent of Insurance to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119) as necessary to carry out the bill's requirements.²²

¹⁸ R.C. 3966.07(B).

¹⁹ R.C. 3966.08.

²⁰ R.C. 3966.09.

²¹ R.C. 3966.10.

²² R.C. 3966.11.

HISTORY

Action	Date
Introduced	11-18-25
