



Sectional Analysis House Bill 193, 34-LS0612\G

“An Act Relating to Parental Leave and Unemployment Insurance Benefits”

Section 1.

This section creates the Alaska paid Parental Leave Program in Article 9.

Sec 23.10.700: This section establishes the Alaska Paid Parental Leave Program in AS 23.10.700.

Sec 23.10.705: This section establishes the parental leave fund account in the general fund. The Commissioner of Administration shall account for funds collected under AS 23.10.710, and it is subject to appropriation by the legislature to implement the later sections of this act, AS 23.10.710-23.10.795.

Sec. 23.10.710(a): This section establishes the employee contribution of .15 percent of wages under AS 23.20 and for the benefit of the paid parental leave program. It is set out in AS 23.20.175, with the contributions outlined in AS 23.20.290 (d). The department is required to remit money collected in accordance with AS 37.10.050, regarding the collection of fees by state agencies.

Sec 23.10.710 (b): This section directs the department to credit each employee with the amount equal to the amount collected from the employee under (a) of this section against unemployment contributions owed by the employee under AS 23.20.

Sec. 23.10.710 (c): The department is directed to assess and collect interest and penalties for delinquent reports and payments under this section. They shall be handled in accordance with AS 23.20.130(d), regarding the unemployment compensation fund.

Sec. 23.10.715: This section declares the qualifying purpose for paid parental leave. Under AS 23.10.715(1) it may be to care for a child within 12 months of the anticipated birth of that child, the adoption of that child by, or the placement of that child with the eligible employee. Under AS 23.10.715(2), it may be to complete the foster or adoption of a child before the child is adopted or fostered by the employee.



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Sec. 23.10.720(a): This section directs the department to establish by regulation the procedures for filing a paid parental leave claim under AS 23.10.700-795, including certifying that the leave is qualified under the previous section, AS 23.10.715.

Sec 23.10.720 (b): This section states that an employee may file a claim with the department not more than 60 days before the anticipated start date of the qualifying absence from work, nor 90 days after the date which the qualifying absence from work began. The department may waive the latter deadline for good cause. The department may process the claim without the eligible employee filing exact dates of an anticipated absence from work. The department may adjust claim data through a modification process established by the department.

Sec 23.10.720(c): This section establishes what the department may accept to determine what is a qualified purpose for paid parental leave. It includes a child's birth certificate document from the health care provider or adoption agency, an individual approved by the department to confirm the adoption or anticipated adoption, or a document from the foster care agency, or an individual approved by the department confirming the placement or anticipated placement of the child in foster care; or a form signed by the employee acknowledging the paternity of the child.

Sec 23.10.725(a): This section states that the employee who is paid at least \$2,500 in wages during at least two of the calendar quarters of the employee's base period is eligible to receive paid parental leave.

Sec 23.10.725(b): This section establishes the base period for Sec.23.10.725(a).

Sec 23.10.725(c): This section directs the department to establish the weekly benefit in the manner as AS 23.30.350(d). This section establishes the wage replacement for paid parental leave. It directs the department to prorate the weekly benefit in accordance with AS 23.10.730 for those using a reduced or intermittent leave schedule.

Sec 23.10.725(d): This section declares the maximum number of weeks for which an eligible employee may take paid parental leave and for which benefits are payable as 26 weeks, cumulatively. Employees may use intermittent leave or a reduced leave schedule in concordance with the department's calculation under AS 23.10.730.

Sec 23.10.725(e): This section delineates the benefit year as a period of 52 consecutive weeks. This is the same definition as the Alaska Employment Security Act under AS 23.20.520.

Sec 23.10.730(a): This section states an employee may take paid parental leave on an intermittent or reduced leave schedule. The department is directed to prorate the benefit in



increments taken of less than one week. The minimum amount of leave that may be claimed is one day during a claim week.

Sec 23.10.730(b): This section declares the paid parental leave taken under this section may not result in a reduction of the total amount of leave a covered employee is entitled to take.

Sec 23.10.735(a): This section covers elective coverage by self-employed individuals. A self-employed individual may elect to take coverage for an initial period of not less than 3 years.

Sec 23.10.735(b): This section states that a self-employed individual who elects coverage is eligible for paid parental leave benefits as soon as they meet the requirements under AS 23.10.725.

Sec 23.10.735(c): This section states that a self-employed individual who has elected coverage may withdraw from that coverage within 30 days after the end of the three-year coverage period, or at other specific times specified by the department in regulation. They may do so by submitting written notice to the department. This withdrawal takes effect not sooner than 30 days after notice is filed.

Sec 23.10.735(d): This section states that the department shall relieve a self-employed individual who has elected coverage under this section from obligations if they are no longer self-employed or if they have left the state.

Sec 23.10.735(e): Under this section, a self-employed individual shall agree to supply information to the department regarding income that the department considers necessary.

Sec 23.10.740(a): This section states that leave taken under this program can run concurrently with leave under the national Family and Medical Leave Act, as well as the leave allowed under AS 39.20.500, regarding public employee leave.

Sec.23.10.740(b): This section states that employers may require that payments for paid parental leave may be made concurrently with or coordinate with a policy for short term disability, or a separate bank of paid parental leave designated by a collective bargaining agreement or employer policy. The employer must provide employees written notice of this requirement.

Sec. 23.10.740(c): This section states that an employee may not be required to exhaust other leave such as vacation, sick leave or other paid time off before or while receiving paid parental leave. The employee may elect to use such leave while receiving paid parental leave, if the total amount received does not exceed the employee's average weekly earnings.



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Sec 23.10.740(d): This section states that paid parental leave under AS 23.10.700-795 does not mean an employer is not obliged to follow more generous terms in a collective bargaining agreement or employment contract.

Sec 23.10.745: This section states that an employee may be disqualified from benefits under this section if the department determines the employee made intentionally false statements or misrepresentations to obtain paid parental leave under this section.

Sec 23.10.750: This section establishes an appeals process for employees who receive a determination made by the department regarding a paid parental leave claim within 90 days after receiving that notice.

Sec 23.10.755(a): This section states that an employee who receives a paid parental leave benefit to which they are not entitled under AS 23.10.700-AS23.10.795 shall repay the department the amount they were improperly paid. The department shall return these funds to the paid parental leave fund account established in AS 23.10.705.

Sec 23.10.755(b): This section establishes the process by which the department can serve notice for improper payments of paid parental leave and recoup the improper payments from that employee. They may deduct the amount improperly paid from future paid parental leave benefits or the permanent fund dividend of that employee; they may also waive repayment of all or a portion of the leave that was paid if the employee is determined to have died or that such repayment would be unfair or inequitable.

Sec.23.10.755(c): This section permits the commissioner of the department to declare improper payments of paid parental leave uncollectable if an improper payment as not been repaid or deducted after a period of two years.

Sec 23.10.760: This section directs the department to submit a report to the state legislature on or before July 1st of each year, to the chief clerk of the house of representatives and the secretary of the senate. The department should post it online, and include parameters such as the number of participants in the paid parental leave program, the demographic information of the participants, the average weekly benefit, duration of the leave taken, current and projected fund balance, processing time for claims, claim denials and stated reasons for denials, appeals, and average length of time between application and receipt of benefits, as well as the department's outreach efforts.

Sec 23.10.765: This section directs the department to conduct a public education and outreach campaign to educate employees and employers about the availability of paid parental leave.

Sec 23.10.770(a): This section establishes job protection for an employee who takes paid



parental leave under AS 23.10.700-AS 23.10.795. Employers must return the employee to a position held when the leave began or an equivalent with equivalent seniority and benefits.

Sec 23.10.770(b): This section requires employers to maintain an employee's health benefits during a period of paid parental leave.

Sec 23.10.770(c): This section prohibits an employer to discriminate or threaten adverse action against an employee wishing to take parental leave or who uses parental leave.

Sec 23.10.770(d): This section prevents an employer from taking action that would prevent or discourage an employee from taking paid parental leave.

Sec 23.10.770(e): This section states that an employer may not consider paid parental leave as an absence that could result in discipline or adverse action against the employee.

Sec 23.10.770(f): This section directs the department to establish a complaint process in regulation for employees who believe their employer is in violation of this section, and states that the complaint must be filed within two years.

Sec 23.10.770(g): This section directs the department's complaint process to give an employer a chance for a fair hearing, determine whether or not a violation occurred, and provide a remedy.

Sec 23.10.770(h): Following a final determination, the employee(s) or employer may appeal the department's decision to a court of competent jurisdiction.

Sec 23.10.775(a): This section directs employers to provide written notice to employees upon hiring, and on an annual basis, of their right to paid parental leave benefits, the amount available, how to apply for it, the employee's rights against discriminatory and retaliatory actions, and the process for filing a complaint.

Sec 23.10.775(b): This directs an employer to have a poster with this information under (a) in this section placed in a prominent location in the workplace.

Sec 23.10.780(a): This section states that an individual filing a claim for paid parental leave must disclose whether they owe child support; if an individual states that they do owe child support, the department must report that disclosure to the Department of Revenue.

Sec 23.10.780(b): This section directs the department to deduct and withhold child support owed by an individual from any paid parental leave compensation.

Sec. 23.10.780(c): This section directs the department to pay an amount deducted under (b) of this section to the Department of Revenue.



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Sec 23.10.780(d) This section states that any amount deducted or withheld from a paid parental leave policy under this section be treated as it were paid parental leave that was paid out to an individual who then paid the Department of Revenue in satisfaction of their child support obligations.

Sec 23.10.780(e): This section states that it only applies if the department has made arrangements with the Department of Revenue to facilitate the administrative costs incurred.

Sec 23.10.780(f): This section defines child support obligation to include only obligations are enforced under federal law, the Social Security Act.

Sec 23.10.785(a): This section declares that if the IRS determines that paid parental leave benefits are subject to federal income tax, the department shall advise an individual filing for a claim for paid parental leave it is subject to federal income tax; that federal requirements exist pertaining to federal tax payments and that an individual may elect to have federal income tax deducted and withheld from the payment of paid parental leave. It also states that the individual is permitted to change a previously elected status for the withholding of federal income tax.

Sec 23.10.785(b): This section states that amounts deducted for federal income taxes and withheld from paid parental leave shall be held in the parental leave fund account, until transferred to the Internal Revenue Service as payment of federal income tax.

Sec 23.10.795: This section adds definitions to AS 23.10.700-AS 23.10.795 for employee, employer, and employment.

Section 2.

Sec 23.20.350(d): This section updates the weekly benefit and base period wages for AS 23.20.350(d), regarding unemployment insurance benefits, adjusting for inflation and increasing the maximum wage and ensuring wage replacement is always at least 50% of an employee's average weekly wage.

Section 3.

This section amends AS 25.27.020(a) to add a reference to AS 23.10.78, withholding of paid parental leave and child support obligations. This is a conforming change.

Section 4.

This section amends AS 37.05.14(c), regarding fiscal procedures act, to refer to the parental fund leave account established in AS 23.10.705. This is a conforming change.



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