

SECOND REGULAR SESSION

HOUSE BILL NO. 2597

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALSH MOORE.

5363H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof ten new sections relating to leave from employment, with a referendum clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 143.121, RSMo, is repealed and ten new sections enacted in lieu thereof, to be known as sections 143.121, 285.400, 285.405, 285.410, 285.415, 285.420, 285.425, 285.430, 285.435, and 285.440, to read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(1) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit. The amount added pursuant to this subdivision shall not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability pursuant to Public Law 116-136 or 116-260, enacted by the 116th United States Congress, for the tax year beginning on or after January 1, 2020, and ending on or before December 31, 2020, and deducted from Missouri adjusted gross income pursuant to section 143.171. The amount added under this subdivision shall also not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability under any other federal law that provides direct economic impact payments to taxpayers to mitigate financial challenges related to the COVID-19 pandemic, and deducted from Missouri adjusted gross income under section 143.171;

(2) Interest on certain governmental obligations excluded from federal gross income by 26 U.S.C. Section 103 of the Internal Revenue Code, as amended. The previous sentence

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 shall not apply to interest on obligations of the state of Missouri or any of its political
18 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of
19 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced
20 by the amounts applicable to such interest that would have been deductible in computing the
21 taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 of the
22 Internal Revenue Code, as amended. The reduction shall only be made if it is at least five
23 hundred dollars;

24 (3) The amount of any deduction that is included in the computation of federal
25 taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended
26 by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted
27 relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the
28 extent the amount deducted exceeds the amount that would have been deductible pursuant to
29 26 U.S.C. Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

30 (4) The amount of any deduction that is included in the computation of federal
31 taxable income for net operating loss allowed by 26 U.S.C. Section 172 of the Internal
32 Revenue Code of 1986, as amended, [~~other than the deduction allowed by 26 U.S.C. Section~~
33 ~~172(b)(1)(G) and 26 U.S.C. Section 172(i) of the Internal Revenue Code of 1986, as~~
34 ~~amended,~~] for a net operating loss the taxpayer claims in the tax year in which the net
35 operating loss occurred or carries forward for a period of more than twenty years and carries
36 backward for more than two years. Any amount of net operating loss taken against federal
37 taxable income but disallowed for Missouri income tax purposes pursuant to this subdivision
38 after June 18, 2002, may be carried forward and taken against any income on the Missouri
39 income tax return for a period of not more than twenty years from the year of the initial loss;
40 and

41 (5) For nonresident individuals in all taxable years ending on or after December 31,
42 2006, the amount of any property taxes paid to another state or a political subdivision of
43 another state for which a deduction was allowed on such nonresident's federal return in the
44 taxable year unless such state, political subdivision of a state, or the District of Columbia
45 allows a subtraction from income for property taxes paid to this state for purposes of
46 calculating income for the income tax for such state, political subdivision of a state, or the
47 District of Columbia;

48 (6) For all tax years beginning on or after January 1, 2018, any interest expense paid
49 or accrued in a previous taxable year, but allowed as a deduction under 26 U.S.C. Section
50 163, as amended, in the current taxable year by reason of the carryforward of disallowed
51 business interest provisions of 26 U.S.C. Section 163(j), as amended. For the purposes of this
52 subdivision, an interest expense is considered paid or accrued only in the first taxable year the

53 deduction would have been allowable under 26 U.S.C. Section 163, as amended, if the
54 limitation under 26 U.S.C. Section 163(j), as amended, did not exist.

55 3. There shall be subtracted from the taxpayer's federal adjusted gross income the
56 following amounts to the extent included in federal adjusted gross income:

57 (1) Interest received on deposits held at a federal reserve bank or interest or dividends
58 on obligations of the United States and its territories and possessions or of any authority,
59 commission or instrumentality of the United States to the extent exempt from Missouri
60 income taxes pursuant to the laws of the United States. The amount subtracted pursuant to
61 this subdivision shall be reduced by any interest on indebtedness incurred to carry the
62 described obligations or securities and by any expenses incurred in the production of interest
63 or dividend income described in this subdivision. The reduction in the previous sentence
64 shall only apply to the extent that such expenses including amortizable bond premiums are
65 deducted in determining the taxpayer's federal adjusted gross income or included in the
66 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses
67 total at least five hundred dollars;

68 (2) The portion of any gain, from the sale or other disposition of property having a
69 higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal
70 income tax purposes on December 31, 1972, that does not exceed such difference in basis. If
71 a gain is considered a long-term capital gain for federal income tax purposes, the modification
72 shall be limited to one-half of such portion of the gain;

73 (3) The amount necessary to prevent the taxation pursuant to this chapter of any
74 annuity or other amount of income or gain which was properly included in income or gain and
75 was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the
76 taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive
77 the income or gain, or to a trust or estate from which the taxpayer received the income or
78 gain;

79 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the
80 extent that the same are included in federal adjusted gross income;

81 (5) The amount of any state income tax refund for a prior year which was included in
82 the federal adjusted gross income;

83 (6) The portion of capital gain specified in section 135.357 that would otherwise be
84 included in federal adjusted gross income;

85 (7) The amount that would have been deducted in the computation of federal taxable
86 income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as in effect on
87 January 1, 2002, to the extent that amount relates to property purchased on or after July 1,
88 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually

89 deducted pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended by the
90 Job Creation and Worker Assistance Act of 2002;

91 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
92 received for military service while the taxpayer serves in a combat zone which is included in
93 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
94 "combat zone" means any area which the President of the United States by Executive Order
95 designates as an area in which Armed Forces of the United States are or have engaged in
96 combat. Service is performed in a combat zone only if performed on or after the date
97 designated by the President by Executive Order as the date of the commencing of combat
98 activities in such zone, and on or before the date designated by the President by Executive
99 Order as the date of the termination of combatant activities in such zone;

100 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
101 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
102 additional modification was made under subdivision (3) of subsection 2 of this section, the
103 amount by which additional modification made under subdivision (3) of subsection 2 of this
104 section on qualified property has not been recovered through the additional subtractions
105 provided in subdivision (7) of this subsection;

106 (10) For all tax years beginning on or after January 1, 2014, the amount of any
107 income received as payment from any program which provides compensation to agricultural
108 producers who have suffered a loss as the result of a disaster or emergency, including the:

- 109 (a) Livestock Forage Disaster Program;
- 110 (b) Livestock Indemnity Program;
- 111 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 112 (d) Emergency Conservation Program;
- 113 (e) Noninsured Crop Disaster Assistance Program;
- 114 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 115 (g) Annual Forage Pilot Program;
- 116 (h) Livestock Risk Protection Insurance Plan;
- 117 (i) Livestock Gross Margin Insurance Plan;

118 (11) For all tax years beginning on or after January 1, 2018, any interest expense paid
119 or accrued in the current taxable year, but not deducted as a result of the limitation imposed
120 under 26 U.S.C. Section 163(j), as amended. For the purposes of this subdivision, an interest
121 expense is considered paid or accrued only in the first taxable year the deduction would have
122 been allowable under 26 U.S.C. Section 163, as amended, if the limitation under 26 U.S.C.
123 Section 163(j), as amended, did not exist;

124 (12) One hundred percent of any retirement benefits received by any taxpayer as a
125 result of the taxpayer's service in the Armed Forces of the United States, including reserve

126 components and the National Guard of this state, as defined in 32 U.S.C. Sections 101(3) and
127 109, and any other military force organized under the laws of this state; ~~and~~

128 (13) One hundred percent of any federal grant moneys received for the purpose of
129 providing or expanding access to broadband internet to areas of the state deemed to be lacking
130 such access; **and**

131 **(14) The amount contributed to the Missouri earned family and medical leave**
132 **fund established under section 285.435.**

133 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross
134 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

135 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross
136 income the modifications provided in section 143.411.

137 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
138 section, to calculate Missouri adjusted gross income there shall be subtracted from the
139 taxpayer's federal adjusted gross income any gain recognized pursuant to 26 U.S.C. Section
140 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or
141 involuntary conversion of property as a result of condemnation or the imminence thereof.

142 7. (1) As used in this subsection, "qualified health insurance premium" means the
143 amount paid during the tax year by such taxpayer for any insurance policy primarily
144 providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's
145 dependents.

146 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
147 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
148 federal adjusted gross income to the extent the amount paid for such premiums is included in
149 federal taxable income. The taxpayer shall provide the department of revenue with proof of
150 the amount of qualified health insurance premiums paid.

151 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this
152 section, one hundred percent of the cost incurred by a taxpayer for a home energy audit
153 conducted by an entity certified by the department of natural resources under section 640.153
154 or the implementation of any energy efficiency recommendations made in such an audit shall
155 be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid
156 for any such activity is included in federal taxable income. The taxpayer shall provide the
157 department of revenue with a summary of any recommendations made in a qualified home
158 energy audit, the name and certification number of the qualified home energy auditor who
159 conducted the audit, and proof of the amount paid for any activities under this subsection for
160 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
161 recommendations made in a qualified home energy audit to the department of natural
162 resources.

163 (2) At no time shall a deduction claimed under this subsection by an individual
164 taxpayer or taxpayers filing combined returns exceed one thousand dollars per year for
165 individual taxpayers or cumulatively exceed two thousand dollars per year for taxpayers
166 filing combined returns.

167 (3) Any deduction claimed under this subsection shall be claimed for the tax year in
168 which the qualified home energy audit was conducted or in which the implementation of the
169 energy efficiency recommendations occurred. If implementation of the energy efficiency
170 recommendations occurred during more than one year, the deduction may be claimed in more
171 than one year, subject to the limitations provided under subdivision (2) of this subsection.

172 (4) A deduction shall not be claimed for any otherwise eligible activity under this
173 subsection if such activity qualified for and received any rebate or other incentive through a
174 state-sponsored energy program or through an electric corporation, gas corporation, electric
175 cooperative, or municipally owned utility.

176 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

177 10. (1) As used in this subsection, the following terms mean:

178 (a) "Beginning farmer", a taxpayer who:

179 a. Has filed at least one but not more than ten Internal Revenue Service Schedule F
180 (Form 1040) Profit or Loss From Farming forms since turning eighteen years of age;

181 b. Is approved for a beginning farmer loan through the USDA Farm Service Agency
182 Beginning Farmer direct or guaranteed loan program;

183 c. Has a farming operation that is determined by the department of agriculture to be
184 new production agriculture but is the principal operator of a farm and has substantial farming
185 knowledge; or

186 d. Has been determined by the department of agriculture to be a qualified family
187 member;

188 (b) "Farm owner", an individual who owns farmland and disposes of or relinquishes
189 use of all or some portion of such farmland as follows:

190 a. A sale to a beginning farmer;

191 b. A lease or rental agreement not exceeding ten years with a beginning farmer; or

192 c. A crop-share arrangement not exceeding ten years with a beginning farmer;

193 (c) "Qualified family member", an individual who is related to a farm owner within
194 the fourth degree by blood, marriage, or adoption and who is purchasing or leasing or is in a
195 crop-share arrangement for land from all or a portion of such farm owner's farming operation.

196 (2) (a) In addition to all other subtractions authorized in this section, a taxpayer who
197 is a farm owner who sells all or a portion of such farmland to a beginning farmer may subtract
198 from such taxpayer's Missouri adjusted gross income an amount to the extent included in
199 federal adjusted gross income as provided in this subdivision.

200 (b) Subject to the limitations in paragraph (c) of this subdivision, the amount that may
201 be subtracted shall be equal to the portion of capital gains received from the sale of such
202 farmland that such taxpayer receives in the tax year for which such taxpayer subtracts such
203 capital gain.

204 (c) A taxpayer may subtract the following amounts and percentages per tax year in
205 total capital gains received from the sale of such farmland under this subdivision:

206 a. For the first two million dollars received, one hundred percent;

207 b. For the next one million dollars received, eighty percent;

208 c. For the next one million dollars received, sixty percent;

209 d. For the next one million dollars received, forty percent; and

210 e. For the next one million dollars received, twenty percent.

211 (d) The department of revenue shall prepare an annual report reviewing the costs and
212 benefits and containing statistical information regarding the subtraction of capital gains
213 authorized under this subdivision for the previous tax year including, but not limited to, the
214 total amount of all capital gains subtracted and the number of taxpayers subtracting such
215 capital gains. Such report shall be submitted before February first of each year to the
216 committee on agriculture policy of the Missouri house of representatives and the committee
217 on agriculture, food production and outdoor resources of the Missouri senate, or the successor
218 committees.

219 (3) (a) In addition to all other subtractions authorized in this section, a taxpayer who
220 is a farm owner who enters a lease or rental agreement for all or a portion of such farmland
221 with a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
222 amount to the extent included in federal adjusted gross income as provided in this
223 subdivision.

224 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
225 be subtracted shall be equal to the portion of cash rent income received from the lease or
226 rental of such farmland that such taxpayer receives in the tax year for which such taxpayer
227 subtracts such income.

228 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
229 total cash rent income received from the lease or rental of such farmland under this
230 subdivision.

231 (4) (a) In addition to all other subtractions authorized in this section, a taxpayer who
232 is a farm owner who enters a crop-share arrangement on all or a portion of such farmland with
233 a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
234 amount to the extent included in federal adjusted gross income as provided in this
235 subdivision.

236 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
237 be subtracted shall be equal to the portion of income received from the crop-share
238 arrangement on such farmland that such taxpayer receives in the tax year for which such
239 taxpayer subtracts such income.

240 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
241 total income received from the lease or rental of such farmland under this subdivision.

242 (5) The department of agriculture shall, by rule, establish a process to verify that a
243 taxpayer is a beginning farmer for purposes of this section and shall provide verification to
244 the beginning farmer and farm seller of such farmer's and seller's certification and
245 qualification for the exemption provided in this subsection.

**285.400. 1. The provisions of sections 285.400 to 285.440 shall be known and
2 may be cited as the "Missouri Earned Family and Medical Leave Act".**

3 2. As used in sections 285.400 to 285.440, the following terms shall mean:

**4 (1) "Average state weekly pay", the total wages earned by all employees who
5 have contributed to the fund in the past twelve months, divided by the total number of
6 such employees, the quotient of which is divided by the average number of weeks
7 worked by all employees who have contributed to the fund in the last twelve months;**

**8 (2) "Average weekly pay", the total wages earned by an employee in the past
9 twelve months, divided by the number of weeks worked by the employee in such twelve-
10 month period or the weekly salary of the employee at the time that family or medical
11 leave is taken, whichever is greater, provided that the average weekly pay shall never
12 exceed the average state weekly pay;**

**13 (3) "Care", includes, but is not limited to, physical care, emotional support,
14 visitation, assistance in treatment, transportation, arranging for a change in care,
15 assistance with essential daily living matters, and personal attendant services;**

**16 (4) "Child", a biological, adopted, or foster son or daughter; a stepson or
17 stepdaughter; a legal ward; a son or daughter of a domestic or civil union partner; or
18 the person to whom the employee stands in loco parentis who is under nineteen years of
19 age or nineteen years of age or older but incapable of self-care because of mental or
20 physical impairment;**

21 (5) "Department", the department of labor and industrial relations;

**22 (6) "Employee", any person performing service for remuneration unless it is
23 shown to the satisfaction of the department that such services were performed by an
24 independent contractor. In determining the existence of the independent contractor
25 relationship, the common law of agency right to control shall be applied. The common
26 law of agency right to control test shall include, but not be limited to: if the alleged
27 employer retains the right to control the manner and means by which the results are to**

28 be accomplished, the person who performs the service is an employee or if only the
29 results are controlled, the person performing the service is an independent contractor;

30 (7) "Employer", any person acting directly or indirectly in the interest of an
31 employer in relation to an employee;

32 (8) "Family member", a child, parent, grandparent, grandchild, sibling, spouse,
33 domestic or civil union partner, or household member or any ward as that term is
34 defined in section 475.010;

35 (9) "Family or medical leave", any of the following:

36 (a) Leave to bond with a minor child within the first year after the child's birth
37 or placement in connection with foster care or adoption;

38 (b) Leave to care for a family member who has a serious health condition;

39 (c) Leave due to an employee's own serious health condition; or

40 (d) Leave to assume any familial responsibility because a spouse, child, or parent
41 of an employee is on, or has been notified of an impending call to, active duty in the
42 uniformed services;

43 (10) "Fund", the Missouri earned family and medical leave fund established in
44 section 285.435;

45 (11) "Grandchild", a child of the employee's child;

46 (12) "Grandparent", a parent of the employee's parent;

47 (13) "Health care provider", any physician, hospital, health maintenance
48 organization, ambulatory surgical center, long-term care facility including those
49 licensed under chapter 198, dentist, registered or licensed practical nurse,
50 optometrist, podiatrist, pharmacist, chiropractor, physical therapist, psychologist,
51 physician-in-training, and any other person or entity that provides health care
52 services under the authority of a license or certificate of this state or any other state
53 or foreign country;

54 (14) "Parent", a biological, foster, or adoptive parent, a parent-in-law, a
55 stepparent, a legal guardian, or other person who stood in loco parentis to the employee
56 when the employee was a child;

57 (15) "Parent-in-law", the parent of a spouse or domestic or civil union partner;

58 (16) "Serious health condition", an illness, injury, impairment, or physical or
59 mental condition that involves inpatient care in a hospital, hospice, or residential health
60 care facility, or continuing medical treatment or continuing supervision by a health care
61 provider. The term shall include medical attention, services, or counseling for victims of
62 stalking, domestic violence, abuse, or sexual assault, as such terms are defined in section
63 455.010, or victims of trafficking for the purpose of sexual exploitation as described in
64 section 566.209;

65 (17) "Sibling", a person related to another person by blood, adoption, or affinity
66 through a common legal or biological parent;

67 (18) "Spouse", a partner to a lawful marriage;

68 (19) "Uniformed services":

69 (a) Active and reserve components of the Army, Navy, Air Force, Marine Corps,
70 Space Force, or Coast Guard of the United States;

71 (b) The Merchant Marine, the commissioned corps of the Public Health Service,
72 or the commissioned corps of the National Oceanic and Atmospheric Administration of
73 the United States; or

74 (c) The Missouri National Guard.

285.405. 1. There is hereby established the "Missouri Earned Family and
2 Medical Leave Program" to provide up to six weeks of wage replacement benefits to
3 employees who take time off work for family or medical leave. The department shall
4 administer and implement the program and the provisions of sections 285.400 to
5 285.440 and shall pay Missouri family or medical leave benefits as specified in such
6 sections.

7 2. An employee shall be eligible to receive Missouri earned family or medical
8 leave program benefits equal to one hundred percent of his or her average weekly pay
9 for each full week during which he or she has taken family or medical leave. An
10 employee may take family or medical leave for a partial week and shall be eligible to
11 receive only the fraction of the average weekly pay that is equal to the number of days of
12 leave taken divided by the number of days for which such employee would have
13 otherwise worked in the respective week had the employee not taken family or medical
14 leave. Any leave taken shall be in full-day increments.

15 3. No more than six weeks of Missouri earned family and medical leave benefits
16 shall be paid to an employee within any fifty-two-week period.

17 4. An employee shall file a claim for Missouri earned family and medical leave
18 benefits with the department not later than the forty-first consecutive day following the
19 first compensable day with respect to which the claim is made for benefits, which time
20 shall be extended by the department upon a showing of good cause. If a first claim is not
21 complete, the claim form shall be returned to the employee for completion, and it shall
22 be completed and returned not later than the tenth consecutive day after the date it was
23 verifiably sent by the department to the employee, except that such time shall be
24 extended by the department upon a showing of good cause.

25 5. No employee shall be eligible for Missouri earned family and medical leave
26 program benefits with respect to any day:

27 **(1) That he or she is eligible to receive unemployment compensation benefits**
28 **under chapter 288 or under an unemployment compensation act of any other state or of**
29 **the federal government; or**

30 **(2) That he or she has received, or is entitled to receive, any other benefits under**
31 **chapter 287.**

32 **6. No employee shall be eligible for Missouri earned family and medical leave**
33 **benefits until such employee has paid into the Missouri earned family and medical leave**
34 **fund for fifty-two weeks.**

35 **7. An employee who is entitled to leave under the Missouri earned family and**
36 **medical leave act and the Family and Medical Leave Act (FMLA) under 29 U.S.C.**
37 **Section 2601 et seq. shall take family or medical leave under sections 285.400 to 285.440**
38 **concurrent with leave taken under the FMLA.**

39 **8. The first payment of Missouri earned family and medical leave benefits shall**
40 **be made to an employee within two weeks after the completed claim is received by the**
41 **department or the day the family or medical leave began, whichever is later.**
42 **Subsequent payments shall be made bimonthly.**

285.410. 1. (1) An employee shall establish eligibility for each uninterrupted
2 **family or medical care leave period by filing a first claim for benefits supported by the**
3 **certificate of a treating health care provider that establishes the serious health condition**
4 **of the family member that warrants the care of the employee or that establishes the**
5 **serious health condition of the employee. For subsequent periods of uninterrupted leave**
6 **after the period covered by the initial certificate or any preceding continued claim, an**
7 **employee shall file a continued claim for those benefits supported by the certificate of a**
8 **treating health care provider.**

9 **(2) For employees seeking leave in order to assume a familial responsibility due**
10 **to a spouse, child, or parent being on active duty in the uniformed services, eligibility for**
11 **leave shall be established by providing, in a manner satisfactory to the department,**
12 **proof of the family member being on active duty.**

13 **(3) For employees seeking leave due to a serious health condition related to**
14 **seeking medical attention, services, or counseling for victims of stalking, domestic**
15 **violence, abuse, or sexual assault, as such terms are defined in section 455.010, or**
16 **victims of trafficking for purposes of sexual exploitation as described in section 566.209,**
17 **the certificate required by subdivision (1) of this subsection may be provided by any of**
18 **the following:**

19 **(a) A health care provider;**

20 **(b) A court that has jurisdiction over a judicial proceeding relating to the serious**
21 **health condition of the employee or the serious health condition of the family member of**
22 **the employee; or**

23 **(c) A law enforcement officer with knowledge of the serious health condition of**
24 **the employee or the serious health condition of the family member of the employee.**

25 **2. The certificates required under subsection 1 of this section shall be developed**
26 **by the department. In order to establish medical eligibility of the serious health**
27 **condition of the family member that warrants the care of the employee, or to establish**
28 **medical eligibility of the serious health condition of the employee, the information on the**
29 **certificate shall be within the physician's or health care provider's knowledge and shall**
30 **be based on a physical examination and documented medical history of the family**
31 **member or employee. The certificate shall contain all of the following:**

32 **(1) A diagnosis and diagnostic code prescribed in the International Classification**
33 **of Diseases or, if no diagnosis has yet been obtained, a detailed statement of symptoms;**

34 **(2) The date, if known, on which the condition commenced;**

35 **(3) The probable duration of the condition;**

36 **(4) An estimate of the amount of time that the physician or health care provider**
37 **believes the employee needs to care for the family member or himself or herself; and**

38 **(5) If applicable, a statement that the serious health condition warrants the**
39 **participation of the employee to provide care for his or her family member.**

40 **3. The department shall develop a certificate form that is separate and distinct**
41 **from the certificate required in subsection 1 of this section for an employee taking leave**
42 **to bond with a minor child within the first year of the child's birth or placement in**
43 **connection with foster care or adoption.**

44 **4. Any claim of an employee who obtains care and treatment outside the state**
45 **shall be supported by a certificate of a treating health care provider duly licensed or**
46 **certified by the state or foreign country in which the employee is receiving care and**
47 **treatment.**

48 **5. Nothing in this section shall be construed to preclude the department from**
49 **requesting additional medical evidence to supplement any claim. Any cost incurred for**
50 **procuring additional medical evidence shall be paid by the employee. The department**
51 **may require that the additional evidence include any or all of the following:**

52 **(1) Identification of diagnoses;**

53 **(2) Identification of symptoms;**

54 **(3) A statement setting forth the facts of the serious health condition of the**
55 **employee or such employee's family member, which shall be completed by any of the**
56 **following individuals:**

57 (a) The health care provider treating the employee or family member of the
58 employee;

59 (b) The registrar, authorized medical officer, or other duly authorized official of
60 the hospital or health care facility treating the employee or family member of the
61 employee; or

62 (c) An examining physician or other representative of the department; and

63 (4) An affidavit from an employee averring that the employee or such
64 employee's spouse gave birth to a child or has adopted or received a child in connection
65 with foster care.

285.415. Employees shall provide at least thirty days advance notice to their
2 employer before family and medical leave is to begin if the need for the leave is
3 foreseeable. If thirty days' notice is not practicable, notice shall be given to the
4 employer as soon as practicable.

285.420. 1. Except as provided in subsection 4 of this section, an employee may
2 file a notice of appeal from any determination of eligibility for benefits made by the
3 department with the administrative hearing commission under chapter 621. Such
4 appeal shall be made by mail or in person within thirty days after the date on which a
5 copy of the department's decision was received by the employee.

6 2. The administrative hearing commission's proposed decision and order shall
7 be final and not subject to further appeal unless, within thirty days after the decision is
8 served on the interested parties, a party files a petition for judicial review as provided in
9 chapter 536.

10 3. A determination of the amount of benefits payable under sections 285.400 to
11 285.440 shall not serve as a basis for appeal under this section. However, the
12 determination shall be subject to request by the employee on family or medical leave for
13 redetermination by the department at any time within one year from the date of
14 delivery or mailing of such determination, or any redetermination thereof. A
15 redetermination shall be furnished to the individual in writing.

16 4. A denial of benefits shall become final in the absence of timely appeal
17 therefrom. The department may redetermine a denial of benefits at any time within one
18 year from delivery or mailing of such denial to correct an error in identity, omission of
19 fact, or misapplication of law with respect to the facts.

20 5. A determination of allowance of benefits shall become final in the absence of
21 timely appeal therefrom. The department may redetermine such allowance at any time
22 within two years following the application year in which such allowance was made in
23 order to recover any benefits for which recovery is provided under this section.

24 **6. A redetermination of benefits may be made at any time for any of the**
25 **following reasons:**

26 **(1) To conform to a final court decision applicable to either an initial**
27 **determination or a determination of denial or allowance of benefits;**

28 **(2) In the event of a back pay award or settlement affecting the allowance of**
29 **benefits; or**

30 **(3) In the case of misrepresentation or willful failure to report a material fact.**

31

32 **Written notice of any such redetermination shall be promptly given by mail or delivered**
33 **to such interested parties as were notified of the initial determination of denial or**
34 **allowance of benefits and any new interested party or parties who, under such rule as**
35 **the department may adopt, would be an interested party.**

285.425. 1. Notwithstanding any provision of law to the contrary, it shall be
2 **unlawful for any person to discharge or in any other manner discriminate against an**
3 **employee because the employee has made a claim for, indicated an intent to make a**
4 **claim for, or received Missouri earned family and medical leave benefits.**

5 **2. (1) Any person who violates the provisions of subsection 1 of this section shall**
6 **be liable to any employee of such person who is affected by the violation for such**
7 **equitable relief as may be appropriate, including employment, reinstatement, or**
8 **promotion and for damages equal to the sum of:**

9 **(a) The amount of:**

10 **a. Any wages, salary, employment benefits, or other compensation denied or lost**
11 **to such individual by reason of the violation; or**

12 **b. In a case in which wages, salary, employment benefits, or other compensation**
13 **have not been denied or lost to the individual, any actual monetary losses sustained by**
14 **the individual as a direct result of the violation, such as the cost of providing care, up to**
15 **a sum equal to sixty calendar days of wages or salary for the individual;**

16 **(b) The interest on the amount described in paragraph (a) of this subdivision,**
17 **such interest rate being equal to the market rate as determined by the director of the**
18 **division of finance under section 408.030; and**

19 **(c) An additional amount as liquidated damages equal to the sum of the amount**
20 **described in paragraph (a) of this subdivision and the interest described in paragraph**
21 **(b) of this subdivision, except that if a person who has violated subsection 1 of this**
22 **section proves to the satisfaction of the court that the act or omission was in good faith**
23 **and that the person had reasonable grounds for believing that the act or omission was**
24 **not a violation, such court may reduce the amount of such liquidated damages.**

25 **(2) The court may additionally require reasonable attorney's fees, expert witness**
26 **fees, and other court costs to be paid by a defendant.**

27 **3. An action to recover the relief prescribed in subsection 2 of this section may be**
28 **maintained against any person in any court of competent jurisdiction by the employee**
29 **affected.**

30 **4. The department may bring an action seeking relief on behalf of an employee**
31 **under this section. The right to bring an action provided under subsection 3 of this**
32 **section shall terminate upon the filing of a complaint by the department. If any**
33 **damages are recovered in such action, such damages shall be held in a special deposit**
34 **account and paid directly to each employee affected.**

35 **5. An action may be brought under this section not later than three years after**
36 **the date of the alleged violation for which the action is brought. An action brought**
37 **under this section shall be considered to be commenced on the date when the complaint**
38 **is filed.**

285.430. 1. The department shall develop and implement an outreach program
2 **to ensure that employees who may be eligible to receive Missouri earned family and**
3 **medical leave benefits under sections 285.400 to 285.440 are made aware of such**
4 **benefits. Outreach information shall easily explain eligibility requirements, the claims**
5 **process, weekly benefit amounts, maximum benefits payable, notice and medical**
6 **certification requirements, reinstatement and nondiscrimination rights, confidentiality,**
7 **and the relationship between employment protection, leave from employment, wage**
8 **replacement benefits, and other laws, collective bargaining agreements, and employer**
9 **policies.**

10 **2. Not later than January 1, 2031, the state auditor shall submit to the general**
11 **assembly a report on the Missouri earned family and medical leave benefits paid for**
12 **each month during the one-year period beginning on January 1, 2028. The report shall**
13 **include the following:**

14 **(1) An identification of the total number of applications for such benefits filed,**
15 **and the average number of days between when an application is received and when a**
16 **determination is made;**

17 **(2) An identification of the total number of requests for review of an initial**
18 **adverse determination of eligibility for such benefits made, and the average number of**
19 **days between when such review is requested and when a final determination of**
20 **eligibility is made; and**

21 **(3) An identification of the total number of monthly benefit claim reports for**
22 **such benefits filed, the average number of days between the date such report is received,**

23 and the date on which the initial determination of eligibility with respect to the claim
24 report is made.

285.435. 1. (1) There is hereby created in the state treasury the "Missouri
2 Earned Family and Medical Leave Fund", which shall consist of moneys collected under
3 this section. The state treasurer shall be custodian of the fund. In accordance with
4 sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund
5 shall be a dedicated fund and moneys in the fund shall be used solely by the department
6 of labor and industrial relations for the purpose of distributing Missouri earned family
7 and medical leave program benefits.

8 (2) The state treasurer shall invest moneys in the fund in the same manner as
9 other funds are invested. Any interest and moneys earned on such investments shall be
10 credited to the fund.

11 2. (1) In order to provide funding to implement the provisions of sections
12 285.400 to 285.440, employees shall contribute one-quarter of one percent of their
13 average weekly pay to the Missouri earned family and medical leave fund beginning
14 January 1, 2026.

15 (2) For purposes of this section, in determining the average weekly pay of an
16 employee, the total wages of an employee shall not exceed the contribution and benefit
17 base established by the Commissioner of Social Security Administration under 42
18 U.S.C. 430.

19 (3) Notwithstanding the provisions of section 285.405 to the contrary, if there are
20 not sufficient resources in the fund, the department may, at its discretion, reduce the
21 benefit amount each employee is eligible to receive. If the benefit amount is reduced,
22 each employee shall receive the same percentage of his or her average weekly wage.

23 (4) No employee shall receive benefits from the fund until January 1, 2028.

24 3. Under section 23.253 of the Missouri sunset act:

25 (1) The provisions of the new program authorized under sections 285.400 to
26 285.440 shall automatically sunset on December thirty-first, six years after the effective
27 date of this section, unless reauthorized by an act of the general assembly;

28 (2) If such program is reauthorized, the program authorized under sections
29 285.400 to 285.440 shall automatically sunset six years after the effective date of the
30 reauthorization of such sections; and

31 (3) Sections 285.400 to 285.440 shall terminate on September first of the
32 calendar year immediately following the calendar year in which the program authorized
33 under such sections is sunset.

285.440. Any rule or portion of a rule, as that term is defined in section 536.010,
2 that is created under the authority delegated in sections 285.400 to 285.435 shall become

3 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
4 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any**
5 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**
6 **delay the effective date, or to disapprove and annul a rule are subsequently held**
7 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**
8 **adopted after the effective date of this section shall be invalid and void.**

Section B. This act is hereby submitted to the qualified voters of this state for
2 approval or rejection at an election which is hereby ordered and which shall be held and
3 conducted on Tuesday next following the first Monday in November, 2024, under the
4 applicable laws and constitutional provisions of this state for the submission of referendum
5 measures by the general assembly, and this act shall become effective when approved by a
6 majority of the votes cast thereon at such election and not otherwise.

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