



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1721

Introduced 2/9/2017, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.878 new

Creates the Family Leave Insurance Act. Provides that an employee may take up to 12 weeks of family leave within any 24-month period for the purpose of providing care for the birth of a child, adoption of a child or placement of a foster child, or serious health condition of a family member. Establishes terms and conditions for taking leave. Authorizes compensation for the family leave to be paid from the State Benefits Fund, a special fund created in the State treasury. Prohibits simultaneous receipt of benefits under the Family Leave Insurance Act, the Unemployment Insurance Act, and the Workers' Compensation Act. Imposes a charge upon certain wages for the payment of benefits. Provides for administration by the Department of Employment Security. Amends the State Finance Act to add the State Benefits Fund to the list of special funds in the State treasury. Creates civil penalties for certain violations. Provides that a violation with intent to defraud the Department is a Class C misdemeanor. Effective immediately.

LRB100 08716 JLS 18852 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Family
5 Leave Insurance Act.

6 Section 5. Declaration of policy and intent.

7 (a) Many employees do not have access to family and medical
8 leave programs, and those who do may not be in a financial
9 position to take family or medical leave that is unpaid, and
10 employer-paid benefits meet only a relatively small part of
11 this need. It is the public policy of this State to protect
12 working families against the economic hardship caused by the
13 need to take time off from work to care for themselves or
14 family members who are suffering from a serious illness or to
15 care for a newborn or a newly adopted child.

16 Moreover, many women are single mothers or the primary
17 breadwinners for their families. If any of these women take an
18 unpaid maternity leave, her whole family, and Illinois,
19 suffers.

20 The United States is the only industrialized nation in the
21 world that does not have a mandatory workplace-based program
22 for such income support.

23 It is therefore desirable and necessary to develop systems

1 that help families adapt to the competing interests of work and
2 home which not only benefit workers, but also benefit employers
3 by reducing employee turnover and increasing worker
4 productivity.

5 (b) It is the intent of the General Assembly to create a
6 family leave program to relieve the serious menace to health,
7 morals, and welfare of Illinois families, to increase workplace
8 productivity, and to alleviate the enormous and growing stress
9 on working families of balancing the demands of work and family
10 needs.

11 Section 10. Definitions. In this Act:

12 (1) (A) "Average weekly wage" means the amount derived by
13 dividing a covered employee's total wages earned from the
14 employee's most recent covered employer during the base weeks
15 in the 8 calendar weeks immediately preceding the calendar week
16 in which a period of family leave commenced by the number of
17 such base weeks.

18 (B) If the computation in paragraph (A) yields a result
19 that is less than the employee's average weekly earnings in
20 employment with all covered employers during the base weeks in
21 such 8 calendar weeks, then the average weekly wage shall be
22 computed on the basis of earnings from all covered employers
23 during the base weeks in the 8 calendar weeks immediately
24 preceding the week in which the period of family leave
25 commences.

1 (C) For periods of family leave, if the computations in
2 paragraphs (A) and (B) both yield a result which is less than
3 the employee's average weekly earnings in employment with all
4 covered employers during the base weeks in the 26 calendar
5 weeks immediately preceding the week in which the period of
6 family leave commenced, then the average weekly wage shall,
7 upon a written request to the Department by the employee on a
8 form provided by the Department, be computed by the Department
9 on the basis of earnings from all covered employers of the
10 employee during the base weeks in those 26 calendar weeks.

11 (2) "Base hours" means the hours of work for which an
12 employee receives compensation. "Base hours" includes overtime
13 hours for which the employee is paid additional or overtime
14 compensation and hours for which the employee receives workers'
15 compensation benefits. "Base hours" also includes hours an
16 employee would have worked except for having been in military
17 service. At the option of the employer, "base hours" may
18 include hours for which the employee receives other types of
19 compensation, such as administrative, personal leave, vacation
20 or sick leave.

21 (3) "Care" includes, but is not limited to, physical care,
22 emotional support, visitation, arranging for a change in care,
23 assistance with essential daily living matters, and personal
24 attendant services.

25 (4) "Child" means a biological, adopted, or foster child,
26 stepchild, or legal ward of an eligible employee, child of a

1 spouse of the eligible employee, or child of a civil union
2 partner of the eligible employee, who is less than 19 years of
3 age or is 19 years of age or older, but incapable of self-care
4 because of a mental or physical impairment.

5 (5) "Civil union" means a civil union as defined in the
6 Illinois Religious Freedom Protection and Civil Union Act.

7 (6) "Consecutive leave" means leave that is taken without
8 interruption based upon an employee's regular work schedule and
9 does not include breaks in employment in which an employee is
10 not regularly scheduled to work. For example, when an employee
11 is normally scheduled to work from September through June and
12 is not scheduled to work during July and August, a leave taken
13 continuously during May, June, and September shall be
14 considered a consecutive leave.

15 (7) "Department" means the Department of Employment
16 Security.

17 (8) "Director" means the Director of Employment Security
18 and any transaction or exercise of authority by the Director
19 shall be deemed to be performed by the Department.

20 (9) "Eligible employee" means an employee employed by the
21 same employer, as defined in paragraph (10), in the State of
22 Illinois for 12 months or more who has worked 1,200 or more
23 base hours during the preceding 12-month period. An employee is
24 considered to be employed in the State of Illinois if:

25 (A) the employee works in Illinois; or

26 (B) the employee routinely performs some work in

1 Illinois and the employee's base of operations or the place
2 from which the work is directed and controlled is in
3 Illinois.

4 (10) "Employer" means any partnership, association, trust,
5 estate, joint-stock company, insurance company, or
6 corporation, whether domestic or foreign, or the receiver,
7 trustee in bankruptcy, trustee, or person that has in its
8 employ one or more employees performing services for it within
9 this State. "Employer" also includes any employer subject to
10 the Unemployment Insurance Act, except the State, its political
11 subdivisions, and any instrumentality of the State. All
12 employees performing services within this State for any
13 employing unit that maintains 2 or more separate establishments
14 within this State shall be deemed to be employed by a single
15 employing unit for all purposes of this Act.

16 (11) "Family member" means an eligible employee's child,
17 spouse, party to a civil union, parent, or any other individual
18 related by blood or whose close relationship with the employee
19 is the equivalent of a family relationship.

20 (12) "Family leave" means leave taken by an eligible
21 employee from work with an employer: (A) to participate in the
22 providing of care, including physical or psychological care,
23 for the employee or a family member of the eligible employee
24 made necessary by a serious health condition of the family
25 member; (B) to be with a child during the first 12 months after
26 the child's birth, if the employee, the employee's spouse, or

1 the party to a civil union with the employee, is a biological
2 parent of the child, or the first 12 months after the placement
3 of the child for adoption or foster care with the employee; (C)
4 for the employee's own serious health condition; or (D) because
5 of any qualifying exigency as interpreted under the Family and
6 Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)(E) and 29 CFR
7 825.126) arising out of the fact that the spouse, party to a
8 civil union, child, parent of the employee, or any other
9 individual related by blood or whose close relationship with
10 the employee is equivalent to a family relationship is on
11 active duty (or has been notified of an impending call or order
12 to active duty) in the armed forces as of the United States.
13 "Family leave" does not include any period of time during which
14 an eligible employee is paid benefits pursuant to the Workers'
15 Compensation Act or the Unemployment Insurance Act because the
16 employee is unable to perform the duties of the employee's
17 employment due to the employee's own disability.

18 (13) "Family leave benefits" means any payments that are
19 payable to an eligible employee for all or part of a period of
20 family leave.

21 (14) "Health care provider" means any person licensed under
22 federal, State, or local law or the laws of a foreign nation to
23 provide health care services or any other person who has been
24 authorized to provide health care by a licensed health care
25 provider.

26 (15) "Intermittent leave" means a non-consecutive leave

1 consisting of intervals, each of which is at least one, but
2 fewer than 12, weeks within a consecutive 12-month period.

3 (16) "Parent of an eligible employee" means a biological
4 parent, foster parent, adoptive parent, or stepparent of the
5 eligible employee or a person who was a legal guardian of, or
6 who stood in loco parentis to, the eligible employee when the
7 eligible employee was a child.

8 (17) "Placement for adoption" means the time when an
9 eligible employee adopts a child or becomes responsible for a
10 child pending adoption by the eligible employee.

11 (18) "Serious health condition" means an illness, injury,
12 impairment, or physical or mental condition that requires
13 inpatient care in a hospital, hospice, or residential medical
14 care facility or continuing medical treatment or continuing
15 supervision by a health care provider.

16 (19) "12-month period" means, with respect to an employee
17 who establishes a valid claim for family leave benefits during
18 a period of family leave, the 365 consecutive days that begin
19 with the first day that the employee first establishes the
20 claim.

21 Section 15. Family leave program.

22 (a) Subject to appropriation, the Department shall
23 establish and administer a family leave program.

24 (b) The Department shall establish procedures and forms for
25 filing claims for benefits under this Act.

1 (c) The Department shall use information sharing and
2 integration technology to facilitate the disclosure of
3 relevant information or records by the Department of Employment
4 Security.

5 (d) Information contained in the files and records
6 pertaining to an employee under this Act is confidential and
7 not open to public inspection, other than to public employees
8 in the performance of their official duties. However, the
9 employee or an authorized representative of an employee may
10 review the records or receive specific information from the
11 records on the presentation of the signed authorization of the
12 employee. An employer or the employer's duly authorized
13 representative may review the records of an employee employed
14 by the employer in connection with a pending claim. At the
15 Department's discretion, other persons may review records when
16 such persons are rendering assistance to the Department at any
17 stage of the proceedings on any matter pertaining to the
18 administration of this Act.

19 An employer must keep at its place of business records of
20 employment from which the information needed by the Department
21 for purposes of this Act may be obtained. The records shall at
22 all times be open to the inspection of the Department pursuant
23 to rules adopted by the Department.

24 (e) The Department shall develop and implement an outreach
25 program to ensure that individuals who may be eligible to
26 receive family leave benefits under this Act are made aware of

1 these benefits. Outreach information shall explain, in an easy
2 to understand format, eligibility requirements, the claims
3 process, weekly benefit amounts, maximum benefits payable,
4 notice requirements, reinstatement and nondiscrimination
5 rights, confidentiality, and coordination of leave under this
6 Act and other laws, collective bargaining agreements, and
7 employer policies. Outreach information shall be available in
8 English and in languages other than English that are spoken as
9 a primary language by a significant portion of the State's
10 population, as determined by the Department.

11 Section 20. Eligibility for benefits.

12 (a) The Department may require that a claim for family
13 leave benefits under this Section be supported by a
14 certification issued by a health care provider who is providing
15 care to the employee or the employee's family member if
16 applicable.

17 (b) An employee is not eligible for family leave benefits
18 under this Section for any week for which the employee receives
19 paid family leave from his or her employer. If an employer
20 provides paid family leave, the employee may elect whether
21 first to use the paid family leave or to receive family leave
22 benefits under this Section. An employee may not be required to
23 use paid family leave to which the employee is entitled before
24 receiving family leave benefits under this Section.

25 (c) This Section does not limit an employee's right to take

1 leave from employment under other laws or employer policy.

2 (d) The eligibility of an employee for benefits is not
3 affected by a strike or lockout at the factory, establishment,
4 or other premises at which the employee is or was last
5 employed.

6 (e) An employee who has received benefits under this
7 Section may not lose any other employment benefits, including
8 seniority or pension rights, accrued before the date that
9 family leave commenced. However, this Section does not entitle
10 an employee to accrue employment benefits during a period of
11 family leave or to a right, benefit, or position of employment
12 other than a right, benefit, or position to which the employee
13 would have been entitled had the employee not taken family
14 leave.

15 (f) This Section does not diminish an employer's obligation
16 to comply with a collective bargaining agreement or an
17 employment benefits program or plan that provides greater
18 benefits to employees than the benefits provided under this
19 Section.

20 (g) An agreement by an employee to waive the employee's
21 rights under this Section is void as contrary to public policy.
22 The benefits under this Section may not be diminished by a
23 collective bargaining agreement or another employment benefits
24 program or plan entered into or renewed after the effective
25 date of this Act.

26 (h) Nothing in this Act shall be deemed to affect the

1 validity or change the terms of bona fide collective bargaining
2 agreements in force on the effective date of this Act. After
3 that date, requirements of this Act may be waived in a bona
4 fide collective bargaining agreement, but only if the waiver is
5 set forth explicitly in such agreement in clear and unambiguous
6 terms.

7 (i) This Section does not create a continuing entitlement
8 or contractual right.

9 Section 25. Disqualification from benefits.

10 (a) An employee is disqualified from family leave benefits
11 under this Act if the employee:

12 (1) willfully makes a false statement or
13 misrepresentation regarding a material fact, or willfully
14 fails to disclose a material fact, to obtain benefits;

15 (2) seeks benefits based on an intentionally
16 self-inflicted serious health condition; or

17 (3) seeks benefits based on a serious health condition
18 that resulted from the employee's commission of a felony.

19 (b) A disqualification for family leave benefits is for a
20 period of 2 years, and commences on the first day of the
21 calendar week in which the employee filed a claim for benefits
22 under this Act. An employee who is disqualified for benefits is
23 liable to the Department for a penalty in an amount equal to
24 15% of the amount of benefits received by the employee.

1 Section 30. State Benefits Fund.

2 (a) The State Benefits Fund is created as a special fund in
3 the State treasury. Subject to appropriation, moneys in the
4 Fund may be used for the payment of family leave benefits and
5 for the administration of this Act. All interest and other
6 earnings that accrue from investment of moneys in the Fund
7 shall be credited to the Fund.

8 (b) An employer shall retain from all employees a payroll
9 premium deduction in the amount of 0.3% of wages as defined in
10 Section 235 of the Unemployment Insurance Act. The Department
11 shall by rule provide for the collection of this payroll
12 premium deduction.

13 The amount of the payroll premium imposed under this
14 Section, less refunds authorized by this Act, and all
15 assessments and penalties collected under this Act shall be
16 deposited into and credited to the Fund.

17 (c) A separate account, to be known as the Administration
18 Account, shall be maintained in the Fund. An amount determined
19 by the Department sufficient for proper administration, not to
20 exceed, however, 0.1% of wages as defined in this Section,
21 shall be credited to the Administration Account. The expenses
22 of the Department in administering the Fund and its accounts
23 shall be charged against the Administration Account. The costs
24 of administration of this Act shall be charged to the
25 Administration Account.

26 (d) A separate account, to be known as the Family Leave

1 Benefits Account, shall be maintained in the Fund. The account
2 shall be charged with all benefit payments. Prior to July 1 of
3 each calendar year, the Department shall determine the average
4 rate of interest and other earnings on all investments of the
5 Fund for the preceding calendar year. If there is an
6 accumulated deficit in the Family Leave Benefits Account in
7 excess of \$200,000 at the end of any calendar year after
8 interest and other earnings have been credited as provided in
9 this Section, the Department shall determine the ratio of the
10 deficit to the total of all taxable wages paid during the
11 preceding calendar year and shall make an assessment against
12 all employers in an amount equal to the taxable wages paid by
13 them during the preceding calendar year to employees,
14 multiplied by the ratio, but in no event shall any such
15 assessment exceed 0.1% of such wages. The amounts shall be
16 collectible by the Department in the same manner as provided
17 for the collection of employer contributions under the
18 Unemployment Insurance Act. In making this assessment, the
19 Department shall furnish to each affected employer a brief
20 summary of the determination of the assessment. The amount of
21 such assessments collected by the Department shall be credited
22 to the Family Leave Benefits Account. As used in this Section,
23 "wages" means wages as provided in Section 235 of the
24 Unemployment Insurance Act.

25 (e) A board of trustees, consisting of the State Treasurer,
26 the Secretary of State, the Director of Labor, the Director of

1 Employment Security, and the State Comptroller, is hereby
2 created. The board shall invest and reinvest all moneys in the
3 Fund in excess of its cash requirements in obligations legal
4 for savings banks.

5 (f) The Department may adjust rates, not to exceed the
6 amount established in subsection (b) of this Section, for the
7 collection of premiums pursuant to subsection (b) of this
8 Section. The Department shall set rates for premiums in a
9 manner that minimizes the volatility of the rates assessed and
10 so that at the end of the period for which the rates are
11 effective, the cash balance shall be an amount approximating 12
12 months of projected expenditures from the Fund, considering the
13 functions and duties of the Department under this Act.

14 (g) An employer required to pay premiums under this Section
15 shall make and file a report of employee hours worked and
16 amounts due under this Section upon a combined report form
17 prescribed by the Department. The report shall be filed with
18 the Department at the times and in the manner prescribed by the
19 Department.

20 (h) If the employer is a temporary employment agency that
21 provides employees on a temporary basis to its customers, the
22 temporary employment agency is considered the employer for
23 purposes of this Section.

24 (i) When an employer quits business or sells out,
25 exchanges, or otherwise disposes of the business or stock of
26 goods, any premium payable under this Section is immediately

1 due and payable, and the employer shall, within 10 days
2 thereafter, pay the premium due. A person who becomes a
3 successor to the business is liable for the full amount of the
4 premium and shall withhold from the purchase price a sum
5 sufficient to pay any premium due from the employer until the
6 employer produces a receipt from the Department showing payment
7 in full of any premium due or a certificate that no premium is
8 due. If the premium is not paid by the employer within 10 days
9 after the date of the sale, exchange, or disposal, the
10 successor is liable for the payment of the full amount of the
11 premium. The successor's payment of the premium is, to the
12 extent of the payment, a payment upon the purchase price, and
13 if the payment is greater in amount than the purchase price,
14 the amount of the difference is a debt due the successor from
15 the employer.

16 A successor is not liable for any premium due from the
17 person from whom the successor has acquired a business or stock
18 of goods if the successor gives written notice to the
19 Department of the acquisition and no assessment is issued by
20 the Department within one year after receipt of the notice
21 against the former operator of the business.

22 Section 35. Compensation for family leave.

23 (a) An individual's weekly benefit rate shall be two-thirds
24 of his or her average weekly wage, subject to a maximum of 53%
25 of the Statewide average weekly wage paid to workers by

1 employers, as determined pursuant to Section 401 of the
2 Unemployment Insurance Act, provided, however, that the
3 individual's benefit rate shall be computed to the next lower
4 multiple of \$1 if not already a multiple thereof. The amount of
5 benefits for each day of family leave for which benefits are
6 payable shall be one-seventh of the corresponding weekly
7 benefit amount; provided that the total benefits for a
8 fractional part of a week shall be computed to the next lower
9 multiple of \$1 if not already a multiple thereof.

10 (b) With respect to any period of family leave and while an
11 individual is an eligible employee, family benefits not in
12 excess of the individual's maximum benefits shall be payable
13 with respect to the first day of leave taken after the first
14 one-week period following the commencement of the period of
15 family leave and each subsequent day of family leave during
16 that period of family leave; and if benefits become payable on
17 any day after the first 3 weeks in which leave is taken, then
18 benefits shall also be payable with respect to any leave taken
19 during the first one-week period in which leave is taken. The
20 maximum total benefits payable to any eligible individual
21 commencing on or after the effective date of this Act shall be
22 12 times the individual's weekly benefit amount or one-third of
23 his or her total wages in his or her base year, whichever is
24 the lesser; provided that the maximum amount shall be computed
25 in the next lower multiple of \$1 if not already a multiple
26 thereof.

1 (c) All of the family leave benefits paid to an eligible
2 employee during a period of family leave with respect to any
3 one birth or adoption shall be for a single continuous period
4 of time, except that the employer of the eligible employee may
5 permit the eligible employee to receive the family leave
6 benefits during non-consecutive weeks in a manner mutually
7 agreed to by the employer and the eligible employee and
8 disclosed to the Department by the employer.

9 (d) Nothing in this Act shall be construed to prohibit the
10 establishment by an employer, without approval by the
11 Department, of a supplementary plan or plans providing for the
12 payment to employees, or to any class or classes of employees,
13 of benefits in addition to the benefits provided by this Act or
14 to prohibit the collection or receipt of additional voluntary
15 contributions from employees toward the cost of the additional
16 benefits. The rights, duties, and responsibilities of all
17 interested parties under the supplementary plans shall be
18 unaffected by any provision of this Act.

19 Section 40. Family leave; duration. An eligible employee
20 may take 12 weeks of family leave within any 24-month period in
21 order to provide care made necessary by reasons identified in
22 Section 10. An eligible employee may take family leave on an
23 intermittent schedule in which all of the leave authorized
24 under this Act is not taken sequentially.

1 Section 45. Annual reports; contents.

2 (a) The Department shall issue and make available to the
3 public, not later than July 1, 2019 and July 1 of each
4 subsequent year, annual reports providing data on family leave
5 benefits claims involving pregnancy and childbirth, and family
6 leave benefits, including separate data for each of the
7 following categories of claims: the employee's own serious
8 illness; care of newborn children; care of newly adopted
9 children; care of sick children; care of sick spouses; and care
10 of other sick family members. The reports shall include, for
11 each category of claims, the number of workers receiving the
12 benefits, the amount of benefits paid, the average duration of
13 benefits, the average weekly benefit, and any reported amount
14 of sick leave, vacation, or other fully paid time which
15 resulted in reduced benefit duration. The report shall provide
16 data by gender and by any other demographic factors determined
17 to be relevant by the Department. The reports shall also
18 provide, for all family leave benefits, the total costs of
19 benefits and the total cost of administration, the portion of
20 benefits for claims during family leave, and the total revenues
21 from employer assessments, where applicable; employee
22 assessments; and other sources.

23 (b) The Department may, in its discretion, conduct surveys
24 and other research regarding, and include in the annual reports
25 descriptions and evaluations of the impact and potential future
26 impact of the costs and benefits resulting from the provisions

1 of this Act for:

2 (1) employees and their families, including surveys
3 and evaluations of what portion of the total number of
4 employees taking leave would not have taken leave, or would
5 have taken less leave, without the availability of
6 benefits; what portion of employees return to work after
7 receiving benefits and what portion are not permitted to
8 return to work; and what portion of employees who are
9 eligible for benefits do not claim or receive them and why
10 they do not;

11 (2) employers, including benefits such as reduced
12 training and other costs related to reduced turnover of
13 personnel, and increased affordability of family leave
14 through the State, with special attention given to small
15 businesses; and

16 (3) the public, including savings caused by any
17 reduction in the number of people receiving public
18 assistance.

19 (c) The total amount of any expenses that the Department
20 determines are necessary to carry out its duties pursuant to
21 this Section shall be charged to the Administration Account of
22 the Fund.

23 Section 50. Hearings. A person aggrieved by a decision of
24 the Department under this Act may request a hearing. The
25 Department shall adopt rules governing hearings and the

1 issuance of final orders under this Act in accordance with the
2 provisions of the Illinois Administrative Procedure Act. All
3 final administrative decisions of the Department under this Act
4 are subject to judicial review under the Administrative Review
5 Law.

6 Section 55. Prohibited acts. No employer, temporary
7 employment agency, employment agency, employee organization,
8 or other person shall discharge, expel, or otherwise
9 discriminate against a person because the person has filed or
10 communicated to the employer an intent to file a claim, a
11 complaint, or an appeal or has testified or is about to testify
12 or has assisted in any proceeding, under this Act, at any time.

13 Section 60. Penalties.

14 (a) A person who makes a false statement or representation,
15 knowing it to be false, or knowingly fails to disclose a
16 material fact to obtain or increase any family leave benefit
17 during a period of family leave, either for himself or herself
18 or for any other person, shall be liable for a civil penalty of
19 \$250 to be paid to the Department. Each such false statement or
20 representation or failure to disclose a material fact shall
21 constitute a separate offense. Upon refusal to pay such civil
22 penalty, the civil penalty shall be recovered in a civil action
23 by the Attorney General on behalf the Department in the name of
24 the State of Illinois. If, in any case in which liability for

1 the payment of a civil penalty has been determined, any person
2 who has received any benefits under this Act by reason of the
3 making of such false statements or representations or failure
4 to disclose a material fact shall not be entitled to any
5 benefits under this Act for any leave occurring prior to the
6 time he or she has discharged his or her liability to pay the
7 civil penalty.

8 (b) A person who willfully violates any provision of this
9 Act or any rule adopted under this Act for which a civil
10 penalty is neither prescribed in this Act nor provided by any
11 other applicable law shall be subject to a civil penalty of
12 \$500 to be paid to the Department. Upon the refusal to pay such
13 civil penalty, the civil penalty shall be recovered in a civil
14 action by the Attorney General on behalf of the Department in
15 the name of the State of Illinois.

16 (c) A person, employing unit, employer, or entity violating
17 any provision of this Section with intent to defraud the
18 Department is guilty of a Class C misdemeanor. The fine upon
19 conviction shall be payable to the Fund. Any penalties imposed
20 by this subsection shall be in addition to those otherwise
21 prescribed in this Section.

22 Section 70. Leave and employment protection.

23 (a) During a period in which an employee receives family
24 leave benefits under this Act, the employee is entitled to
25 family leave and, at the established ending date of leave, to

1 be restored to a position of employment with the employer from
2 whom leave was taken as provided under subsection (b).

3 (b) Except as provided in subsection (f), an employee who
4 receives family leave benefits under this Act for the intended
5 purpose of the family leave is entitled, on return from the
6 leave:

7 (1) to be restored by the employer to the position of
8 employment held by the employee when the family leave
9 commenced; or

10 (2) to be restored to an equivalent position with
11 equivalent employment benefits, pay, and other terms and
12 conditions of employment at a workplace within 20 miles of
13 the employee's workplace when the family leave commenced.

14 (c) The taking of family leave under this Act may not
15 result in the loss of any employment benefits accrued before
16 the date on which the family leave commenced.

17 (d) Nothing in this Section entitles a restored employee
18 to:

19 (1) the accrual of any seniority or employment benefits
20 during any period of family leave; or

21 (2) any right, benefit, or position of employment other
22 than any right, benefit, or position to which the employee
23 would have been entitled to had the employee not taken the
24 family leave.

25 (e) Nothing in this Section prohibits an employer from
26 requiring an employee on family leave to report periodically to

1 the employer on the status and intention of the employee to
2 return to work.

3 (f) An employer may deny restoration under subsection (b)
4 to a salaried employee who is among the highest paid 10% of the
5 employees employed by the employer within 75 miles of the
6 facility at which the employee is employed if:

7 (1) denial is necessary to prevent substantial and
8 grievous economic injury to the operations of the employer;

9 (2) the employer notifies the employee of the intent of
10 the employer to deny restoration on such basis at the time
11 the employer determines that the injury would occur; and

12 (3) the family leave has commenced and the employee
13 elects not to return to employment after receiving the
14 notice.

15 Section 75. Notice to employer.

16 (a) If the necessity for family leave for the birth or
17 placement of a child is foreseeable based on an expected birth
18 or placement, the employee shall provide the employer with not
19 less than 30 days' notice, before the date the leave is to
20 begin, of the employee's intention to take leave for the birth
21 or placement of a child, except that if the date of the birth
22 or placement requires leave to begin in less than 30 days, the
23 employee shall provide such notice as is practicable.

24 (b) If the necessity for family leave for an employee's or
25 a family member's serious health condition is foreseeable based

1 on planned medical treatment, the employee:

2 (1) must make a reasonable effort to schedule the
3 treatment so as not to disrupt unduly the operations of the
4 employer; and

5 (2) must provide the employer with not less than 30
6 days' notice, before the date the leave is to begin, of the
7 employee's intention to take leave for his, her, or a
8 family member's serious health condition, except that if
9 the date of the treatment requires leave to begin in less
10 than 30 days, the employee must provide such notice as is
11 practicable.

12 Section 80. Employment by same employer. If spouses who are
13 entitled to leave under this Act are employed by the same
14 employer, the employer may require that spouses not take such
15 leave concurrently.

16 Section 85. Coordination of leave.

17 (a) Family leave taken under this Act must be taken
18 concurrently with any leave taken under the federal Family and
19 Medical Leave Act of 1993.

20 (b) An employer may require that family leave taken under
21 this Act be taken concurrently or otherwise coordinated with
22 leave allowed under the terms of a collective bargaining
23 agreement or employer policy, as applicable, for the birth or
24 placement of a child. The employer must give his or her

1 employees written notice of this requirement.

2 Section 90. Rules. The Department may adopt any rules
3 necessary to implement the provisions of this Act. In adopting
4 rules, the Department shall maintain consistency with the
5 regulations adopted to implement the federal Family and Medical
6 Leave Act of 1993 to the extent such regulations are not in
7 conflict with this Act.

8 Section 95. Authority to contract. The Department may
9 contract or enter into interagency agreements with other State
10 agencies for the initial administration of the Family Leave
11 Program.

12 Section 175. Severability. The provisions of this Act are
13 severable under Section 1.31 of the Statute on Statutes.

14 Section 900. The State Finance Act is amended by adding
15 Section 5.878 as follows:

16 (30 ILCS 105/5.878 new)

17 Sec. 5.878. The State Benefits Fund.

18 Section 999. Effective date. This Act takes effect upon
19 becoming law.