



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5594

Introduced 1/31/2022, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.970 new

Creates the Family Leave Insurance Act. Requires the Department of Employment Security to establish and administer a family leave insurance program. Provides family leave insurance benefits to eligible employees who take unpaid family leave to care for a newborn child, a newly adopted or newly placed foster child, or a family member with a serious health condition. Authorizes family leave of up to 12 weeks during any 24-month period. Authorizes compensation for leave in the amount of 85% of the employee's average weekly wage subject to a maximum of \$881 per week. Contains provisions concerning disqualification from benefits; premium payments; the amount and duration of benefits; the recovery of erroneous payments; hearings; defaulted premium payments; elective coverage; employment protection; coordination of family leave; defined terms; and other matters. Amends the State Finance Act. Creates the State Benefits Fund. Effective immediately.

LRB102 22602 SPS 31745 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  
8 medical leave programs, and those who do may not be in a  
9 financial position to take family or medical leave that is  
10 unpaid, and employer-paid benefits meet only a relatively  
11 small part of this need. It is the public policy of this State  
12 to protect working families against the economic hardship  
13 caused by the need to take time off from work to care for  
14 themselves or family members who are suffering from a serious  
15 illness or to 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  
2 and home which not only benefit workers, but also benefit  
3 employers 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  
8 workplace productivity, and to alleviate the enormous and  
9 growing stress on working families of balancing the demands of  
10 work and family 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  
16 week in which a period of family leave commenced by the number  
17 of 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  
15 workers' compensation benefits. "Base hours" also includes  
16 hours an employee would have worked except for having been in  
17 military service. At the option of the employer, "base hours"  
18 may include hours for which the employee receives other types  
19 of compensation, such as administrative, personal leave,  
20 vacation 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  
9 and does not include breaks in employment in which an employee  
10 is not regularly scheduled to work. For example, when an  
11 employee is normally scheduled to work from September through  
12 June and is not scheduled to work during July and August, a  
13 leave taken continuously during May, June, and September shall  
14 be 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, other than an  
21 employee of the State of Illinois, its political subdivisions,  
22 or instrumentalities, employed by the same employer, as  
23 defined in paragraph (10), in the State of Illinois for 12  
24 months or more who has worked 1,200 or more base hours during  
25 the preceding 12-month period. An employee is considered to be  
26 employed in the State of Illinois if:

1 (A) the employee works in Illinois; or

2 (B) the employee routinely performs some work in  
3 Illinois and the employee's base of operations or the  
4 place from which the work is directed and controlled is in  
5 Illinois.

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

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

23 (12) "Family leave" means leave taken by an eligible  
24 employee from work with an employer: (A) to participate in the  
25 providing of care, including physical or psychological care,  
26 for the employee or a family member of the eligible employee

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

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

26 (14) "Health care provider" means any person licensed

1 under federal, State, or local law or the laws of a foreign  
2 nation to provide health care services or any other person who  
3 has been authorized to provide health care by a licensed  
4 health care provider.

5 (15) "Intermittent leave" means a non-consecutive leave  
6 consisting of intervals, each of which is at least one, but  
7 fewer than 12, weeks within a consecutive 12-month period.

8 (16) "Parent of an eligible employee" means a biological  
9 parent, foster parent, adoptive parent, or stepparent of the  
10 eligible employee or a person who was a legal guardian of, or  
11 who stood in loco parentis to, the eligible employee when the  
12 eligible employee was a child.

13 (17) "Placement for adoption" means the time when an  
14 eligible employee adopts a child or becomes responsible for a  
15 child pending adoption by the eligible employee.

16 (18) "Serious health condition" means an illness, injury,  
17 impairment, or physical or mental condition that requires  
18 inpatient care in a hospital, hospice, or residential medical  
19 care facility or continuing medical treatment or continuing  
20 supervision by a health care provider.

21 (19) "12-month period" means, with respect to an employee  
22 who establishes a valid claim for family leave benefits during  
23 a period of family leave, the 365 consecutive days that begin  
24 with the first day that the employee first establishes the  
25 claim.



1 Section 15. Family leave program.

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

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

6 (c) The Department shall use information sharing and  
7 integration technology to facilitate the disclosure of  
8 relevant information or records by the Department of  
9 Employment Security.

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

24 An employer must keep at its place of business records of  
25 employment from which the information needed by the Department  
26 for purposes of this Act may be obtained. The records shall at

1 all times be open to the inspection of the Department pursuant  
2 to rules adopted by the Department.

3 (e) The Department shall develop and implement an outreach  
4 program to ensure that individuals who may be eligible to  
5 receive family leave benefits under this Act are made aware of  
6 these benefits. Outreach information shall explain, in an easy  
7 to understand format, eligibility requirements, the claims  
8 process, weekly benefit amounts, maximum benefits payable,  
9 notice requirements, reinstatement and nondiscrimination  
10 rights, confidentiality, and coordination of leave under this  
11 Act and other laws, collective bargaining agreements, and  
12 employer policies. Outreach information shall be available in  
13 English and in languages other than English that are spoken as  
14 a primary language by a significant portion of the State's  
15 population, as determined by the Department.

16 Section 20. Eligibility for benefits.

17 (a) The Department may require that a claim for family  
18 leave benefits under this Section be supported by a  
19 certification issued by a health care provider who is  
20 providing care to the employee or the employee's family member  
21 if applicable.

22 (b) An employee is not eligible for family leave benefits  
23 under this Section for any week for which the employee  
24 receives paid family leave from his or her employer. If an  
25 employer provides paid family leave, the employee may elect

1 whether first to use the paid family leave or to receive family  
2 leave benefits under this Section. An employee may not be  
3 required to use paid family leave to which the employee is  
4 entitled before receiving family leave benefits under this  
5 Section.

6 (c) This Section does not limit an employee's right to  
7 take leave from employment under other laws or employer  
8 policy.

9 (d) The eligibility of an employee for benefits is not  
10 affected by a strike or lockout at the factory, establishment,  
11 or other premises at which the employee is or was last  
12 employed.

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

22 (f) This Section does not diminish an employer's  
23 obligation to comply with a collective bargaining agreement or  
24 an employment benefits program or plan that provides greater  
25 benefits to employees than the benefits provided under this  
26 Section.

1 (g) An agreement by an employee to waive the employee's  
2 rights under this Section is void as contrary to public  
3 policy. The benefits under this Section may not be diminished  
4 by a collective bargaining agreement or another employment  
5 benefits program or plan entered into or renewed after the  
6 effective date of this Act.

7 (h) Nothing in this Act shall be deemed to affect the  
8 validity or change the terms of bona fide collective  
9 bargaining agreements in force on the effective date of this  
10 Act. After that date, requirements of this Act may be waived in  
11 a bona fide collective bargaining agreement, but only if the  
12 waiver is set forth explicitly in such agreement in clear and  
13 unambiguous terms.

14 (i) This Section does not create a continuing entitlement  
15 or contractual right.

16 Section 25. Disqualification from benefits.

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

19 (1) willfully makes a false statement or  
20 misrepresentation regarding a material fact, or willfully  
21 fails to disclose a material fact, to obtain benefits;

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

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

1           (b) A disqualification for family leave benefits is for a  
2 period of 2 years, and commences on the first day of the  
3 calendar week in which the employee filed a claim for benefits  
4 under this Act. An employee who is disqualified for benefits  
5 is liable to the Department for a penalty in an amount equal to  
6 15% of the amount of benefits received by the employee.

7           Section 30. State Benefits Fund.

8           (a) The State Benefits Fund is created as a special fund in  
9 the State treasury. Subject to appropriation, moneys in the  
10 Fund may be used for the payment of family leave benefits and  
11 for the administration of this Act. All interest and other  
12 earnings that accrue from investment of moneys in the Fund  
13 shall be credited to the Fund.

14           (b) An employer shall retain from all employees a payroll  
15 premium deduction in the amount of 0.5% of wages. The  
16 Department shall by rule provide for the collection of this  
17 payroll premium deduction.

18           The amount of the payroll premium imposed under this  
19 Section, less refunds authorized by this Act, and all  
20 assessments and penalties collected under this Act shall be  
21 deposited into and credited to the Fund.

22           (c) A separate account, to be known as the Administration  
23 Account, shall be maintained in the Fund. An amount determined  
24 by the Department sufficient for proper administration, not to  
25 exceed, however, 0.1% of wages, shall be credited to the

1 Administration Account. The expenses of the Department in  
2 administering the Fund and its accounts shall be charged  
3 against the Administration Account. The costs of  
4 administration of this Act shall be charged to the  
5 Administration Account.

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

1 such assessments collected by the Department shall be credited  
2 to the Family Leave Benefits Account. As used in this Section,  
3 "wages" means wages as provided in Section 235 of the  
4 Unemployment Insurance Act.

5 (e) A board of trustees, consisting of the State  
6 Treasurer, the Secretary of State, the Director of Labor, the  
7 Director of Employment Security, and the State Comptroller, is  
8 hereby created. The board shall invest and reinvest all moneys  
9 in the Fund in excess of its cash requirements in obligations  
10 legal for savings banks.

11 (f) The Department may adjust rates, not to exceed the  
12 amount established in subsection (b) of this Section, for the  
13 collection of premiums pursuant to subsection (b) of this  
14 Section. The Department shall set rates for premiums in a  
15 manner that minimizes the volatility of the rates assessed and  
16 so that at the end of the period for which the rates are  
17 effective, the cash balance shall be an amount approximating  
18 12 months of projected expenditures from the Fund, considering  
19 the functions and duties of the Department under this Act.

20 (g) An employer required to pay premiums under this  
21 Section shall make and file a report of employee hours worked  
22 and amounts due under this Section upon a combined report form  
23 prescribed by the Department. The report shall be filed with  
24 the Department at the times and in the manner prescribed by the  
25 Department.

26 (h) If the employer is a temporary employment agency that

1 provides employees on a temporary basis to its customers, the  
2 temporary employment agency is considered the employer for  
3 purposes of this Section.

4 (i) When an employer quits business or sells out,  
5 exchanges, or otherwise disposes of the business or stock of  
6 goods, any premium payable under this Section is immediately  
7 due and payable, and the employer shall, within 10 days  
8 thereafter, pay the premium due. A person who becomes a  
9 successor to the business is liable for the full amount of the  
10 premium and shall withhold from the purchase price a sum  
11 sufficient to pay any premium due from the employer until the  
12 employer produces a receipt from the Department showing  
13 payment in full of any premium due or a certificate that no  
14 premium is due. If the premium is not paid by the employer  
15 within 10 days after the date of the sale, exchange, or  
16 disposal, the successor is liable for the payment of the full  
17 amount of the premium. The successor's payment of the premium  
18 is, to the extent of the payment, a payment upon the purchase  
19 price, and if the payment is greater in amount than the  
20 purchase price, the amount of the difference is a debt due the  
21 successor from the employer.

22 A successor is not liable for any premium due from the  
23 person from whom the successor has acquired a business or  
24 stock of goods if the successor gives written notice to the  
25 Department of the acquisition and no assessment is issued by  
26 the Department within one year after receipt of the notice



1 against the former operator of the business.

2 Section 35. Compensation for family leave.

3 (a) An individual's weekly benefit rate shall be 85% of  
4 his or her average weekly wage, subject to a maximum of \$881  
5 per week paid to workers by employers, as determined pursuant  
6 to Section 401 of the Unemployment Insurance Act; however, the  
7 individual's benefit rate shall be computed to the next lower  
8 multiple of \$1 if not already a multiple thereof. The amount of  
9 benefits for each day of family leave for which benefits are  
10 payable shall be one-seventh of the corresponding weekly  
11 benefit amount; provided that the total benefits for a  
12 fractional part of a week shall be computed to the next lower  
13 multiple of \$1 if not already a multiple thereof.

14 (b) With respect to any period of family leave and while an  
15 individual is an eligible employee, family benefits not in  
16 excess of the individual's maximum benefits shall be payable  
17 with respect to the first day of leave taken after the first  
18 one-week period following the commencement of the period of  
19 family leave and each subsequent day of family leave during  
20 that period of family leave; and if benefits become payable on  
21 any day after the first 3 weeks in which leave is taken, then  
22 benefits shall also be payable with respect to any leave taken  
23 during the first one-week period in which leave is taken. The  
24 maximum total benefits payable to any eligible individual  
25 commencing on or after the effective date of this Act shall be

1 12 times the individual's weekly benefit amount or one-third  
2 of his or her total wages in his or her base year, whichever is  
3 the lesser; provided that the maximum amount shall be computed  
4 in the next lower multiple of \$1 if not already a multiple  
5 thereof.

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

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

24 Section 40. Family leave; duration. An eligible employee  
25 may take 12 weeks of family leave within any 24-month period in

1 order to provide care made necessary by reasons identified in  
2 Section 10. An eligible employee may take family leave on an  
3 intermittent schedule in which all of the leave authorized  
4 under this Act is not taken sequentially.

5 Section 45. Annual reports; contents.

6 (a) The Department shall issue and make available to the  
7 public, not later than July 1, 2024 and July 1 of each  
8 subsequent year, annual reports providing data on family leave  
9 benefits claims involving pregnancy and childbirth, and family  
10 leave benefits, including separate data for each of the  
11 following categories of claims: the employee's own serious  
12 illness; care of newborn children; care of newly adopted  
13 children; care of sick children; care of sick spouses; and  
14 care of other sick family members. The reports shall include,  
15 for each category of claims, the number of workers receiving  
16 the benefits, the amount of benefits paid, the average  
17 duration of benefits, the average weekly benefit, and any  
18 reported amount of sick leave, vacation, or other fully paid  
19 time which resulted in reduced benefit duration. The report  
20 shall provide data by gender and by any other demographic  
21 factors determined to be relevant by the Department. The  
22 reports shall also provide, for all family leave benefits, the  
23 total costs of benefits and the total cost of administration,  
24 the portion of benefits for claims during family leave, and  
25 the total revenues from employer assessments, where

1 applicable; employee assessments; and other sources.

2 (b) The Department may, in its discretion, conduct surveys  
3 and other research regarding, and include in the annual  
4 reports descriptions and evaluations of the impact and  
5 potential future impact of the costs and benefits resulting  
6 from the provisions of this Act for:

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

16 (2) employers, including benefits such as reduced  
17 training and other costs related to reduced turnover of  
18 personnel, and increased affordability of family leave  
19 through the State, with special attention given to small  
20 businesses; and

21 (3) the public, including savings caused by any  
22 reduction in the number of people receiving public  
23 assistance.

24 (c) The total amount of any expenses that the Department  
25 determines are necessary to carry out its duties pursuant to  
26 this Section shall be charged to the Administration Account of

1 the Fund.

2 Section 50. Hearings. A person aggrieved by a decision of  
3 the Department under this Act may request a hearing. The  
4 Department shall adopt rules governing hearings and the  
5 issuance of final orders under this Act in accordance with the  
6 provisions of the Illinois Administrative Procedure Act. All  
7 final administrative decisions of the Department under this  
8 Act are subject to judicial review under the Administrative  
9 Review Law.

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

17 Section 60. Penalties.

18 (a) A person who makes a false statement or  
19 representation, knowing it to be false, or knowingly fails to  
20 disclose a material fact to obtain or increase any family  
21 leave benefit during a period of family leave, either for  
22 himself or herself or for any other person, shall be liable for  
23 a civil penalty of \$250 to be paid to the Department. Each such

1 false statement or representation or failure to disclose a  
2 material fact shall constitute a separate offense. Upon  
3 refusal to pay such civil penalty, the civil penalty shall be  
4 recovered in a civil action by the Attorney General on behalf  
5 the Department in the name of the State of Illinois. If, in any  
6 case in which liability for the payment of a civil penalty has  
7 been determined, any person who has received any benefits  
8 under this Act by reason of the making of such false statements  
9 or representations or failure to disclose a material fact  
10 shall not be entitled to any benefits under this Act for any  
11 leave occurring prior to the time he or she has discharged his  
12 or her liability to pay the civil penalty.

13 (b) A person who willfully violates any provision of this  
14 Act or any rule adopted under this Act for which a civil  
15 penalty is neither prescribed in this Act nor provided by any  
16 other applicable law shall be subject to a civil penalty of  
17 \$500 to be paid to the Department. Upon the refusal to pay such  
18 civil penalty, the civil penalty shall be recovered in a civil  
19 action by the Attorney General on behalf of the Department in  
20 the name of the State of Illinois.

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

1 Section 65. Leave and employment protection.

2 (a) During a period in which an employee receives family  
3 leave benefits under this Act, the employee is entitled to  
4 family leave and, at the established ending date of leave, to  
5 be restored to a position of employment with the employer from  
6 whom leave was taken as provided under subsection (b).

7 (b) Except as provided in subsection (f), an employee who  
8 receives family leave benefits under this Act for the intended  
9 purpose of the family leave is entitled, on return from the  
10 leave:

11 (1) to be restored by the employer to the position of  
12 employment held by the employee when the family leave  
13 commenced; or

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

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

21 (d) Nothing in this Section entitles a restored employee  
22 to:

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

25 (2) any right, benefit, or position of employment

1 other than any right, benefit, or position to which the  
2 employee would have been entitled to had the employee not  
3 taken the family leave.

4 (e) Nothing in this Section prohibits an employer from  
5 requiring an employee on family leave to report periodically  
6 to the employer on the status and intention of the employee to  
7 return to work.

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

12 (1) denial is necessary to prevent substantial and  
13 grievous economic injury to the operations of the  
14 employer;

15 (2) the employer notifies the employee of the intent  
16 of the employer to deny restoration on such basis at the  
17 time the employer determines that the injury would occur;  
18 and

19 (3) the family leave has commenced and the employee  
20 elects not to return to employment after receiving the  
21 notice.

22 Section 70. Notice to employer.

23 (a) If the necessity for family leave for the birth or  
24 placement of a child is foreseeable based on an expected birth  
25 or placement, the employee shall provide the employer with not



1 less than 30 days' notice, before the date the leave is to  
2 begin, of the employee's intention to take leave for the birth  
3 or placement of a child, except that if the date of the birth  
4 or placement requires leave to begin in less than 30 days, the  
5 employee shall provide such notice as is practicable.

6 (b) If the necessity for family leave for an employee's or  
7 a family member's serious health condition is foreseeable  
8 based on planned medical treatment, the employee:

9 (1) must make a reasonable effort to schedule the  
10 treatment so as not to disrupt unduly the operations of  
11 the employer; and

12 (2) must provide the employer with not less than 30  
13 days' notice, before the date the leave is to begin, of the  
14 employee's intention to take leave for his, her, or a  
15 family member's serious health condition, except that if  
16 the date of the treatment requires leave to begin in less  
17 than 30 days, the employee must provide such notice as is  
18 practicable.

19 Section 75. Coordination of leave.

20 (a) Family leave taken under this Act must be taken  
21 concurrently with any leave taken under the Federal Family and  
22 Medical Leave Act of 1993.

23 (b) An employer may require that family leave taken under  
24 this Act be taken concurrently or otherwise coordinated with  
25 leave allowed under the terms of a collective bargaining

1 agreement or employer policy, as applicable, for the birth or  
2 placement of a child. The employer must give his or her  
3 employees written notice of this requirement.

4 Section 80. Rules. The Department may adopt any rules  
5 necessary to implement the provisions of this Act. In adopting  
6 rules, the Department shall maintain consistency with the  
7 regulations adopted to implement the Federal Family and  
8 Medical Leave Act of 1993 to the extent such regulations are  
9 not in conflict with this Act.

10 Section 85. Authority to contract. The Department may  
11 contract or enter into interagency agreements with other State  
12 agencies for the initial administration of the Family Leave  
13 Program.

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

16 Section 900. The State Finance Act is amended by adding  
17 Section 5.970 as follows:

18 (30 ILCS 105/5.970 new)

19 Sec. 5.970. The State Benefits Fund.

20 Section 999. Effective date. This Act takes effect upon  
21 becoming law.