



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 166

2 AMENDMENT NO. _____. Amend House Bill 166, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the Paid
6 Family Leave Act.

7 Section 5. Declaration of policy and intent.

8 (a) It is the public policy of this State to protect
9 working families against the economic hardship caused by the
10 need to take time off from work to care for family members who
11 are incapable of self-care, including newborn and newly adopted
12 children. The growing portion of middle-income families in
13 which all adult family members work, largely due to economic
14 necessity, points to the desperate need for replacement income
15 when a working family member must take time to care for family
16 members who are unable to take care of themselves.

1 Moreover, many women are single mothers or the primary
2 breadwinners for their families. If any of these women take an
3 unpaid maternity leave, her whole family, and Illinois,
4 suffers.

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

8 It is therefore desirable and necessary to develop systems
9 that help families adapt to the competing interests of work and
10 home which not only benefit workers, but also benefit employers
11 by reducing employee turnover and increasing worker
12 productivity.

13 (b) It is the intent of the General Assembly to create a
14 family leave program to relieve the serious menace to health,
15 morals, and welfare of Illinois families, to increase workplace
16 productivity, and to alleviate the enormous and growing stress
17 on working families of balancing the demands of work and family
18 needs. The family leave program shall complement the State's
19 unemployment insurance program, shall be funded through
20 employee contributions, and shall be administered in
21 accordance with the policies of the State unemployment
22 insurance program. Initial and ongoing administrative costs
23 associated with the family leave program shall be payable from
24 the State Benefits Fund.

25 Section 10. Definitions. In this Act:

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

7 (B) If the computation in paragraph (A) yields a result
8 that is less than the employee's average weekly earnings in
9 employment with all covered employers during the base weeks in
10 such 8 calendar weeks, then the average weekly wage shall be
11 computed on the basis of earnings from all covered employers
12 during the base weeks in the 8 calendar weeks immediately
13 preceding the week in which the period of family leave
14 commenced.

15 (C) For periods of family leave, if the computations in
16 paragraphs (A) and (B) both yield a result which is less than
17 the employee's average weekly earnings in employment with all
18 covered employers during the base weeks in the 26 calendar
19 weeks immediately preceding the week in which the period of
20 family leave commenced, then the average weekly wage shall,
21 upon a written request to the Department by the employee on a
22 form provided by the Department, be computed by the Department
23 on the basis of earnings from all covered employers of the
24 employee during the base weeks in those 26 calendar weeks.

25 (2) "Base hours" means the hours of work for which an
26 employee receives compensation. "Base hours" includes overtime

1 hours for which the employee is paid additional or overtime
2 compensation and hours for which the employee receives workers'
3 compensation benefits. "Base hours" also includes hours an
4 employee would have worked except for having been in military
5 service. At the option of the employer, "base hours" may
6 include hours for which the employee receives other types of
7 compensation, such as administrative, personal leave, vacation
8 or sick leave.

9 (3) "Base salary" means the salary paid to an employee,
10 excluding overtime and bonuses, but not excluding salary
11 withheld for State, federal, and local taxes, FICA, and
12 employee contributions to any pension or health or other
13 insurance plans or programs.

14 (4) "Care" includes, but is not limited to, physical care,
15 emotional support, visitation, arranging for a change in care,
16 assistance with essential daily living matters, and personal
17 attendant services.

18 (5) "Child" means a biological, adopted, or foster child,
19 stepchild, or legal ward of an eligible employee, child of a
20 domestic partner of the eligible employee, or child of a civil
21 union partner of the eligible employee, who is less than 19
22 years of age or is 19 years of age or older, but incapable of
23 self-care because of a mental or physical impairment.

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

26 (7) "Consecutive leave" means leave that is taken without

1 interruption based upon an employee's regular work schedule and
2 does not include breaks in employment in which an employee is
3 not regularly scheduled to work. For example, when an employee
4 is normally scheduled to work from September through June and
5 is not scheduled to work during July and August, a leave taken
6 continuously during May, June, and September shall be
7 considered a consecutive leave.

8 (8) "Department" means the Department of Employment
9 Security.

10 (9) "Director" means the Director of Employment Security
11 and any transaction or exercise of authority by the Director
12 shall be deemed to be performed by the Department.

13 (10) "Eligible employee" means an employee employed by the
14 same employer, as defined in paragraph (11), in the State of
15 Illinois for 12 months or more who has worked 1,000 or more
16 base hours during the preceding 12-month period. An employee is
17 considered to be employed in the State of Illinois if:

18 (A) the employee works in Illinois; or

19 (B) the employee routinely performs some work in
20 Illinois and the employee's base of operations or the place
21 from which the work is directed and controlled is in
22 Illinois.

23 (11) "Employer" means any partnership, association, trust,
24 estate, joint-stock company, insurance company, or
25 corporation, whether domestic or foreign, or the receiver,
26 trustee in bankruptcy, trustee, or person that has in its

1 employ one or more employees performing services for it within
2 this State. "Employer" also includes any employer subject to
3 the Unemployment Insurance Act, except the State, its political
4 subdivisions, and any instrumentality of the State. All
5 employees performing services within this State for any
6 employing unit that maintains 2 or more separate establishments
7 within this State shall be deemed to be employed by a single
8 employing unit for all purposes of this Act.

9 (12) "Family member" means a child, spouse, party to a
10 civil union, or parent of an eligible employee.

11 (13) "Family leave" means leave taken by an eligible
12 employee from work with an employer: (A) to participate in the
13 providing of care, including physical or psychological care,
14 for the employee or a family member of the eligible employee
15 made necessary by a serious health condition of the family
16 member; (B) to be with a child during the first 12 months after
17 the child's birth, if the employee, or the party to a civil
18 union with the employee, is a biological parent of the child,
19 or the first 12 months after the placement of the child for
20 adoption or foster care with the employee; (C) for the
21 employee's own serious condition; or (D) because of any
22 qualifying exigency as interpreted under the Family and Medical
23 Leave Act of 1993 (29 U.S.C. 2612(a)(1)(E) and 29 CFR 825.126)
24 arising out of the fact that the spouse, domestic partner,
25 child, or parent of the employee is on active duty (or has been
26 notified of an impending call or order to active duty) in the

1 armed forces as of the United States. "Family leave" does not
2 include any period of time during which an eligible employee is
3 paid benefits pursuant to the Workers' Compensation Act or the
4 Unemployment Insurance Act because the employee is unable to
5 perform the duties of the employee's employment due to the
6 employee's own disability.

7 (14) "Family leave benefits" means any payments that are
8 payable to an eligible employee for all or part of a period of
9 family leave.

10 (15) "Health care provider" means any person licensed under
11 federal, State, or local law or the laws of a foreign nation to
12 provide health care services or any other person who has been
13 authorized to provide health care by a licensed health care
14 provider.

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

18 (17) "Parent of an eligible employee" means a biological
19 parent, foster parent, adoptive parent, or stepparent of the
20 eligible employee or a person who was a legal guardian of the
21 eligible employee when the eligible employee was a child.

22 (18) "Placement for adoption" means the time when an
23 eligible employee adopts a child or becomes responsible for a
24 child pending adoption by the eligible employee.

25 (19) "Reduced leave schedule" means a reduced leave that is
26 scheduled for not more than 24 consecutive weeks.

1 (20) "Serious health condition" means an illness, injury,
2 impairment, or physical or mental condition that requires
3 inpatient care in a hospital, hospice, or residential medical
4 care facility or continuing medical treatment or continuing
5 supervision by a health care provider.

6 (21) "12-month period" means, with respect to an employee
7 who establishes a valid claim for family leave benefits during
8 a period of family leave, the 365 consecutive days that begin
9 with the first day that the employee first establishes the
10 claim.

11 (22) "Wages" means all compensation payable by employers to
12 eligible employees for personal services including
13 commissions, bonuses, and the cash value of all compensation
14 payable in any medium other than cash.

15 Section 15. Family leave program.

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

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

20 (c) The Department shall use information sharing and
21 integration technology to facilitate the disclosure of
22 relevant information or records by the Department of Employment
23 Security, so long as an individual consents to the disclosure
24 as required under Section 20 of this Act.

25 (d) Information contained in the files and records

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

14 An employer must keep at its place of business records of
15 employment from which the information needed by the Department
16 for purposes of this Act may be obtained. The records shall at
17 all times be open to the inspection of the Department pursuant
18 to rules adopted by the Department.

19 (e) The Department shall develop and implement an outreach
20 program to ensure that individuals who may be eligible to
21 receive family leave benefits under this Act are made aware of
22 these benefits. Outreach information shall explain, in an easy
23 to understand format, eligibility requirements, the claims
24 process, weekly benefit amounts, maximum benefits payable,
25 notice requirements, reinstatement and nondiscrimination
26 rights, confidentiality, and coordination of leave under this

1 Act and other laws, collective bargaining agreements, and
2 employer policies. Outreach information shall be available in
3 English and in languages other than English that are spoken as
4 a primary language by a significant portion of the State's
5 population, as determined by the Department.

6 Section 20. Eligibility for benefits.

7 (a) Family leave benefits are payable under the family
8 leave program to an employee during a period in which the
9 employee is on unpaid family leave if the employee does all of
10 the following:

11 (1) Takes family leave:

12 (A) because of the birth of a child of the employee
13 and in order to care for the child;

14 (B) to care for a newly adopted child under 18
15 years of age or a newly placed foster child under 18
16 years of age or a newly adopted or newly placed foster
17 child older than 18 years of age if the child is
18 incapable of self-care because of a mental or physical
19 disability; or

20 (C) to care for a family member with a serious
21 health condition.

22 (2) Files a claim for family leave benefits as required
23 by rules adopted by the Department.

24 (3) Establishes that the employee has been employed for
25 at least 680 hours in employment during the employee's

1 qualifying year.

2 (4) Establishes that the employee has had premiums
3 withheld throughout the employee's qualifying year via
4 payroll withholdings as provided under Section 30 of this
5 Act.

6 (5) Establishes an application year. An application
7 year may not be established if the qualifying year includes
8 hours worked before establishment of a previous
9 application year.

10 (6) Consents to the disclosure of information or
11 records deemed private and confidential by State and
12 federal laws. Further disclosure of this information or
13 these records is subject to subsection (c) of Section 15 of
14 this Act.

15 (7) Discloses whether or not he or she owes child
16 support obligations as defined in subsection (B) of Section
17 1300 of the Unemployment Insurance Act.

18 (8) Documents that he or she has provided the employer
19 from whom family leave is to be taken with written notice
20 of the employee's intention to take family leave as
21 provided in Section 75.

22 (b) The Department may require that a claim for family
23 leave benefits under this Section be supported by a
24 certification issued by a health care provider who is providing
25 care to the employee's family member if applicable.

26 (c) An employee is not eligible for family leave benefits

1 under this Section for any week for which the employee receives
2 paid family leave. If an employer provides paid family leave,
3 the employee may elect whether first to use the paid family
4 leave or to receive family leave benefits under this Section.
5 An employee may not be required to use paid family leave to
6 which the employee is entitled before receiving family leave
7 benefits under this Section.

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

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

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

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

1 Section.

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

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

10 Section 25. Disqualification from benefits.

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

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

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

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

20 (b) A disqualification for family leave benefits is for a
21 period of 2 years, and commences on the first day of the
22 calendar week in which the employee filed a claim for benefits
23 under this Act. An employee who is disqualified for benefits is
24 liable to the Department for a penalty in an amount equal to
25 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) There is imposed a tax upon employees in the amount of
9 0.3% of wages as defined in Section 235 of the Unemployment
10 Insurance Act. The Department shall by rule provide for the
11 collection of this tax.

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

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

25 (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 Director 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 Section 35. Family leave; duration; certification.

6 (a) An eligible employee may take 12 weeks of family leave
7 within any 24-month period in order to provide care made
8 necessary by reason of:

9 (1) the birth of a child of the employee;

10 (2) the placement for adoption of a child with an
11 employee; or

12 (3) the serious health condition of the employee or a
13 family member of the employee.

14 (b) If an eligible employee take less than 12 weeks of
15 family leave for any of the reasons specified in subsection
16 (a), the employee shall be entitled to take additional leave
17 for any of those reasons provided that the total leave taken
18 does not exceed 12 weeks in any consecutive 24-month period and
19 the other qualifications and restrictions contained in this Act
20 attendant to each type of leave are not abridged.

21 (c) An eligible employee is entitled to up to 12
22 consecutive weeks of family leave in order to care for the
23 employee's newly born child or child placed for adoption with
24 the employee. An employee is entitled to a family leave for the
25 birth or adoption of a child if the employer falls within the

1 statutory definition of employer at the time leave commences
2 and commencement of the leave begins within one year after the
3 birth or adoption of the child. An employee taking a family
4 leave for either of these reasons may take the leave
5 intermittently or on a reduced leave schedule only if agreed to
6 by the employee and the employer. An employee who takes a leave
7 for these purposes shall provide the employer with notice no
8 later than 30 days prior to the commencement of the leave,
9 except where emergent circumstances warrant shorter notice.

10 (d) An employee who has or whose family member has a
11 serious health condition is entitled to up to 12 weeks of
12 family leave taken on a consecutive, reduced leave, or, when
13 medically necessary, intermittent basis. The care that an
14 employee provides need not be exclusive and may be given in
15 conjunction with any other care provided. When requesting
16 family leave on an intermittent basis or reduced leave
17 schedule, the employee shall make a reasonable effort to
18 schedule the leave so as not to unduly disrupt the operations
19 of the employer.

20 An employee who takes a leave in connection with the
21 serious health condition of the employee or a family member
22 shall provide the employer with notice no later than 30 days
23 prior to the commencement of the leave except where emergent
24 circumstances warrant shorter notice.

25 For purposes of this subsection, the total time within
26 which an intermittent leave is taken may not exceed a 12-month

1 period if the leave is taken in connection with a single
2 serious health condition. Intermittent leaves taken in
3 connection with more than one serious health condition must be
4 taken within a consecutive 24-month period or until the
5 employee's 12-week family leave entitlement is exhausted,
6 whichever is shorter. Any remaining family leave to which the
7 employee is entitled subsequent to the expiration of any or all
8 intermittent leaves may be taken in a manner consistent with
9 this Act.

10 For purposes of this subsection, an employee taking a
11 family leave on a reduced leave schedule shall not be entitled
12 to the leave for more than a consecutive 24-week period. An
13 eligible employee shall be entitled to only one leave on a
14 reduced leave schedule during any consecutive 24-month period.
15 Any remaining family leave to which the employee is entitled
16 subsequent to the expiration of a leave taken on a reduced
17 leave schedule may be taken on a consecutive or intermittent
18 basis.

19 If an employee needs intermittent leave or leave on a
20 reduced leave schedule that is foreseeable based on care of, or
21 planned medical treatment for, a family member or if an
22 employer agrees to permit an employee intermittent or reduced
23 schedule leave for the birth of a child or placement of a child
24 for adoption, the employer may require the employee during the
25 period of leave to temporarily transfer to an available
26 alternative position for which the employee is qualified and

1 which better accommodates recurring periods of leave than does
2 the employee's regular position. The alternative position must
3 have equivalent pay and benefits to the employee's regular
4 position. An employer may not transfer an employee to an
5 alternative position in order to discourage the employee from
6 taking leave or otherwise work a hardship on the employee. When
7 an employee who is taking leave intermittently or on a reduced
8 leave schedule and has been transferred to an alternative
9 position is able to return to full-time work, he or she must be
10 placed in the same or equivalent job as the one he or she left
11 when the leave commenced.

12 (e) An employee's entitlement to return to work prior to
13 the prearranged expiration of a requested family leave shall be
14 governed by the employer's policy with respect to other leaves
15 of absence.

16 If an employer permits an employee to return to work prior
17 to the prearranged expiration of other leaves, then that policy
18 shall similarly govern an employee's entitlement to return to
19 work prior to the prearranged expiration of the requested
20 family leave.

21 If an employer does not permit an employee to return to
22 work prior to the prearranged expiration of other leaves, then
23 the employee is not entitled to return to work prior to the
24 prearranged expiration of family leave.

25 An employer that does not have a policy of either
26 permitting or denying an employee to return to work prior to

1 the prearranged expiration of any other leave of absence shall
2 permit an employee to return to work prior to the prearranged
3 expiration of requested family leave if the early return of the
4 employee will not cause the employer undue hardship, such as
5 requiring the employer to incur the expense of continuing the
6 employment of a temporary employee who was hired to replace the
7 employee who is taking family leave.

8 (f) An employer shall not require an employee to take a
9 leave of absence beyond the period of time that an employee
10 requests family leave.

11 (g) In determining the 24-month period in which the 12
12 weeks of leave shall be granted under this Act, an employer may
13 choose from any of the following methods:

14 (1) the calendar year;

15 (2) any fixed "leave year", such as a fiscal year or a
16 year starting on an employee's anniversary date;

17 (3) the 24-month period measured forward from the date
18 any employee's first leave under this Act begins; or

19 (4) a "rolling" 24-month period measured backward from
20 the date an employee uses any leave under this Act.

21 (h) An employer may choose any method of determining the
22 24-month period listed in subsection (g), provided that
23 employees are notified of the alternative chosen and the
24 alternative chosen is applied consistently and uniformly to all
25 employees. An employer wishing to change to another alternative
26 is required to give at least 60 days' notice to all employees,

1 and the transition must take place in such a way that the
2 employees retain the full benefit of 12 weeks of leave under
3 whichever method affords the greatest benefit to the employee.
4 Under no circumstances may a new method be implemented in order
5 to avoid this Act's leave requirements. If an employer fails to
6 select one of the options listed in subsection (g) for
7 measuring the 24-month period, the option that provides the
8 most beneficial outcome for the employee shall be used.

9 (i) Any period of family leave for the serious health
10 condition of a family member of the eligible employee shall be
11 supported by certification provided by a health care provider.
12 The certification shall be sufficient if it states:

13 (1) the date, if known, on which the serious health
14 condition commenced;

15 (2) the probable duration of the condition;

16 (3) the medical facts within the knowledge of the
17 provider of the certification regarding the condition;

18 (4) a statement that the serious health condition
19 warrants the participation of the covered employee in
20 providing health care, as provided in this Act and rules
21 adopted pursuant to this Act;

22 (5) an estimate of the amount of time of the eligible
23 employee that is needed for participation in the care of
24 the family member;

25 (6) if the leave is intermittent, a statement of the
26 medical necessity for the intermittent leave and the

1 expected duration of the intermittent leave; and

2 (7) if the leave is intermittent and for planned
3 medical treatment, the dates of the treatment.

4 Section 40. Recovery of erroneous payments.

5 (a) If an employee receives any family leave benefits under
6 Section 35 which the employee is not entitled:

7 (1) the employee is liable to the Department for the
8 amount of benefits received; and

9 (2) the amount of benefits received may be deducted by
10 the Department from any future benefits otherwise payable
11 to the employee under Section 35.

12 (b) If the Department decides that an employee has been
13 paid family leave benefits to which the employee is not
14 entitled because of an error, and that the employee is not
15 subject to disqualification under Section 25, the amounts
16 received in error may be recovered by the Department only by
17 deductions from benefits otherwise payable to the employee
18 under Section 35 during the 52 weeks following the date on
19 which the order establishing the amount of the erroneous
20 payment becomes final. If amounts determined to be recoverable
21 have not been paid within that time, the liability shall be
22 canceled by the Department and charged against the State
23 Benefits Fund.

24 (c) Except as provided in subsection (d), if benefits
25 determined to be recoverable under this Section have not been

1 paid within 3 years after the date that the order of the
2 Department establishing the liability of the employee becomes
3 final, and no payments have been received on the liability for
4 at least 3 months, the liability shall be canceled by the
5 Department and charged against the State benefits Fund.

6 (d) Any amount due under this Section may be collected by
7 the Department in a civil action against the employee brought
8 in the name of the Department.

9 (e) Interest on any benefits recoverable under this Section
10 shall be paid and collected at the same time repayment of
11 benefits is made by the employee. Interest on an amount
12 recoverable under this Section accrues at the rate specified in
13 Section 2-1303 of the Code of Civil Procedure, beginning on the
14 first day of the month following 60 days after entry of the
15 order establishing the amount recoverable.

16 (f) Any amount collected under this Section by the
17 Department shall be paid into the State Benefits Fund.

18 Section 45. Hearings. A person aggrieved by a decision of
19 the Department under this Act may request a hearing. The
20 Department shall adopt rules governing hearings and the
21 issuance of final orders under this Act in accordance with the
22 provisions of the Illinois Administrative Procedure Act. All
23 final administrative decisions of the Department under this Act
24 are subject to judicial review under the Administrative Review
25 Law.

1 Section 50. Prohibited acts. No employer, temporary
2 employment agency, employment agency, employee organization,
3 or other person shall discharge, expel, or otherwise
4 discriminate against a person because the person has filed or
5 communicated to the employer an intent to file a claim, a
6 complaint, or an appeal or has testified or is about to testify
7 or has assisted in any proceeding, under this Act, at any time.

8 Section 55. Penalties.

9 (a) A person who makes a false statement or representation,
10 knowing it to be false, or knowingly fails to disclose a
11 material fact to obtain or increase any family leave benefit
12 during a period of family leave, either for himself or herself
13 or for any other person, shall be liable for a civil penalty of
14 \$250 to be paid to the Department. Each such false statement or
15 representation or failure to disclose a material fact shall
16 constitute a separate offense. Upon refusal to pay such civil
17 penalty, the civil penalty shall be recovered in a civil action
18 by the Attorney General on behalf the Department in the name of
19 the State of Illinois. If, in any case in which liability for
20 the payment of a civil penalty has been determined, any person
21 who has received any benefits under this Act by reason of the
22 making of such false statements or representations or failure
23 to disclose a material fact shall not be entitled to any
24 benefits under this Act for any leave occurring prior to the

1 time he or she has discharged his or her liability to pay the
2 civil penalty.

3 (b) A person who willfully violates any provision of this
4 Act or any rule adopted under this Act for which a civil
5 penalty is neither prescribed in this Act nor provided by any
6 other applicable law shall be subject to a civil penalty of
7 \$500 to be paid to the Department. Upon the refusal to pay such
8 civil penalty, the civil penalty shall be recovered in a civil
9 action by the Attorney General on behalf of the Department in
10 the name of the State of Illinois.

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

17 Section 60. Recovery of overpayment of family leave
18 benefits. Overpayment of benefits under this Act may be
19 recovered in the manner provided under Sections 900, 901, and
20 900.1 of the Unemployment Insurance Act.

21 Section 70. Leave and employment protection.

22 (a) During a period in which an employee receives family
23 leave benefits or earns waiting period credits under this Act,
24 the employee is entitled to family leave and, at the

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

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

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

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

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

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

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

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

26 (e) Nothing in this Section prohibits an employer from

1 requiring an employee on family leave to report periodically to
2 the employer on the status and intention of the employee to
3 return to work.

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

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

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

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

16 (g) This Section applies to an employee only if:

17 (1) the employer from whom the employee takes family
18 leave employs more than 50 employees; and

19 (2) the employee has been employed for at least 12
20 months by that employer, and for at least 1,250 hours of
21 service with that employer during the previous 12-month
22 period.

23 Section 75. Notice to employer.

24 (a) If the necessity for family leave for the birth or
25 placement of a child is foreseeable based on an expected birth

1 or placement, the employee shall provide the employer with not
2 less than 30 days' notice, before the date the leave is to
3 begin, of the employee's intention to take leave for the birth
4 or placement of a child, except that if the date of the birth
5 or placement requires leave to begin in less than 30 days, the
6 employee shall provide such notice as is practicable.

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

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

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

19 Section 80. Employment by same employer. If spouses who are
20 entitled to leave under this Act are employed by the same
21 employer, the employer may require that spouses not take such
22 leave concurrently.

23 Section 85. Coordination of leave.

24 (a) Family leave taken under this Act must be taken

1 concurrently with any leave taken under the federal Family and
2 Medical Leave Act of 1993.

3 (b) An employer may require that family leave taken under
4 this Act be taken concurrently or otherwise coordinated with
5 leave allowed under the terms of a collective bargaining
6 agreement or employer policy, as applicable, for the birth or
7 placement of a child. The employer must give his or her
8 employees written notice of this requirement.

9 Section 90. Rules. The Department may adopt any rules
10 necessary to implement the provisions of this Act. In adopting
11 rules, the Department shall maintain consistency with the
12 regulations adopted to implement the federal Family and Medical
13 Leave Act of 1993 to the extent such rules are not in conflict
14 with this Act.

15 Section 100. Authority to contract. The Department may
16 contract or enter into interagency agreements with other State
17 agencies for the initial administration of the Family Leave
18 Program.

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

21 Section 900. The State Finance Act is amended by adding
22 Section 5.875 as follows:

1 (30 ILCS 105/5.875 new)

2 Sec. 5.875. The State Benefits Fund.

3 Section 999. Effective date. This Act takes effect upon
4 becoming law.".