



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 5359

2 AMENDMENT NO. _____. Amend House Bill 5359 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Declaration of policy and intent.

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

16 Moreover, many women are single mothers or the primary

1 breadwinners for their families. If any of these women take an
2 unpaid maternity leave, her whole family, and Illinois,
3 suffers.

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

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

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

24 Section 10. Definitions. In this Act:

25 (1) (A) "Average weekly wage" means the amount derived by

1 dividing a covered employee's total wages earned from the
2 employee's most recent covered employer during the base weeks
3 in the 8 calendar weeks immediately preceding the calendar week
4 in which a period of family leave commenced by the number of
5 such base weeks.

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

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

24 (2) "Base hours" means the hours or work for which an
25 employee receives compensation. Base hours includes overtime
26 hours for which the employee is paid additional or overtime

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

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

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

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

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

25 (7) "Consecutive leave" means leave that is taken without
26 interruption based upon an employee's regular work schedule and

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

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

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

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

17 (A) the employee works in Illinois; or

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

22 (11) "Employer" means any partnership, association, trust,
23 estate, joint-stock company, insurance company, or
24 corporation, whether domestic or foreign, or the receiver,
25 trustee in bankruptcy, trustee, or person that has in its
26 employ one or more employees performing services for it within

1 this State. "Employer" also includes any employer subject to
2 the Unemployment Insurance Act, except the State, its political
3 subdivisions, and any instrumentality of the State unless the
4 governmental entity elects to become a covered employer. 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 to (A) participate in the
13 providing of care for a family member of the eligible employee
14 made necessary by a serious health condition of the family
15 member; or (B) be with a child during the first 12 months after
16 the child's birth, if the employee, or the party to a civil
17 union with the employee, is a biological parent of the child,
18 or the first 12 months after the placement of the child for
19 adoption with the employee. "Family leave" does not include any
20 period of time during which an eligible employee is paid
21 benefits pursuant to the Workers' Compensation Act or the
22 Unemployment Insurance Act because the employee is unable to
23 perform the duties of the employee's employment due to the
24 employee's own disability.

25 (14) "Family leave benefits" means any payments that are
26 payable to an eligible employee for all or part of a period of

1 family leave.

2 (15) "Health care provider" means any person licensed under
3 federal, State, or local law or the laws of a foreign nation to
4 provide health care services or any other person who has been
5 authorized to provide health care by a licensed health care
6 provider.

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

10 (17) "Parent of an eligible employee" means a biological
11 parent, foster parent, adoptive parent, or stepparent of the
12 eligible employee or a person who was a legal guardian of the
13 eligible employee when the eligible employee was a child.

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

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

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

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

1 with the first day that the employee first establishes the
2 claim.

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

7 Section 15. Family leave; duration; certification.

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

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

12 (2) the placement for adoption of a child with an
13 employee; or

14 (3) the serious health condition of family member of
15 the employee.

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

23 (c) An eligible employee is entitled to up to 12
24 consecutive weeks of family leave in order to care for the
25 employee's newly born child or child placed for adoption with

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

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

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

26 For purposes of this subsection, the total time within

1 which an intermittent leave is taken may not exceed a 12-month
2 period if the leave is taken in connection with a single
3 serious health condition. Intermittent leaves taken in
4 connection with more than one serious health condition must be
5 taken within a consecutive 24-month period or until the time as
6 the employee's 12-week family leave entitlement is exhausted,
7 whichever is shorter. Any remaining family leave to which the
8 employee is entitled subsequent to the expiration of any or all
9 intermittent leaves may be taken in a manner consistent with
10 this Act.

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

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

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

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

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

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

26 An employer that does not have a policy of either

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

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

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

15 (1) the calendar year;

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

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

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

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

1 is required to give at least 60 days' notice to all employees,
2 and the transition must take place in such a way that the
3 employees retain the full benefit of 12 weeks of leave under
4 whichever method affords the greatest benefit to the employee.
5 Under no circumstances may a new method be implemented in order
6 to avoid this Act's leave requirements. If an employer fails to
7 select one of the options listed in subsection (g) for
8 measuring the 24-month period, the option that provides the
9 most beneficial outcome for the employee shall be used.

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

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

16 (2) the probable duration of the condition;

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

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

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

26 (6) if the leave is intermittent, a statement of the

1 medical necessity for the intermittent leave and the
2 expected duration of the intermittent leave; and

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

5 (j) An eligible employee claiming benefits to provide care
6 for a family member with a serious health condition under this
7 Act shall, if requested by the Department, have the family
8 member submit to an examination by a health care provider
9 designated by the Department. The examinations shall not be
10 more frequent than once a week, shall be made without cost to
11 the claimant, and shall be held at a reasonable time and place.
12 Refusal of the family member to submit to an examination
13 requested pursuant to this subsection shall disqualify the
14 claimant from all benefits for the period in question except
15 from benefits already paid.

16 Section 20. Compensation for family leave.

17 (a) An individual's weekly benefit rate shall be two-thirds
18 of his or her average weekly wage, subject to a maximum of 53%
19 of the Statewide average weekly wage paid to workers by
20 employers, as determined pursuant to Section 401 of the
21 Unemployment Insurance Act, provided, however, that the
22 individual's benefit rate shall be computed to the next lower
23 multiple of \$1 if not already a multiple thereof. The amount of
24 benefits for each day of family leave for which benefits are
25 payable shall be one-seventh of the corresponding weekly

1 benefit amount; provided that the total benefits for a
2 fractional part of a week shall be computed to the next lower
3 multiple of \$1 if not already a multiple thereof.

4 (b) With respect to any period of family leave and while an
5 individual is an eligible employee, family benefits not in
6 excess of the individual's maximum benefits shall be payable
7 with respect to the first day of leave taken after the first
8 one-week period following the commencement of the period of
9 family leave and each subsequent day of family leave during
10 that period of family leave; and if benefits become payable on
11 any day after the first 3 weeks in which leave is taken, then
12 benefits shall also be payable with respect to any leave taken
13 during the first one-week period in which leave is taken. The
14 maximum total benefits payable to any eligible individual
15 commencing on or after the effective date of this Act shall be
16 6 times the individual's weekly benefit amount or one-third of
17 his or her total wages in his or her base year, whichever is
18 the lesser; provided that the maximum amount shall be computed
19 in the next lower multiple of \$1 if not already a multiple
20 thereof.

21 (c) All of the family leave benefits paid to an eligible
22 employee during a period of family leave with respect to any
23 one birth or adoption shall be for a single continuous period
24 of time, except that the employer of the eligible employee may
25 permit the eligible employee to receive the family leave
26 benefits during non-consecutive weeks in a manner mutually

1 agreed to by the employer and the eligible employee and
2 disclosed to the Department by the employer.

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

13 Section 25. Limitations on benefits.

14 (a) Family leave shall be compensable subject to the
15 limitations of this Act for any period of family leave taken by
16 an eligible employee which commences after effective date of
17 this Act.

18 (b) An employee shall not simultaneously receive benefits
19 for family leave under this Act and any other benefits pursuant
20 the Workers' Compensation Act or the Unemployment Insurance
21 Act.

22 (c) The employer of an employee may, notwithstanding any
23 other provision of law, permit or require the employee, during
24 a period of family leave, to use any paid sick leave, vacation
25 time, or other leave at full pay made available by the employer

1 before the employee is eligible for family leave benefits
2 except that the employer may not require the employee to use
3 more than 2 weeks' worth of leave at full pay. The employer may
4 also have the total number of days' worth of benefits paid
5 pursuant to this Act to the employee during a period of family
6 leave reduced by the number of days of leave at full pay paid
7 by the employer to the employee during that period. If the
8 employer requires the employee to use leave at full pay, the
9 employee shall be permitted to take that fully paid leave
10 during the waiting period required pursuant to this Act.
11 Nothing in this Act shall be construed as nullifying any
12 provision of an existing collective bargaining agreement or
13 employer policy or preventing any new provision of a collective
14 bargaining agreement or employer policy that provides
15 employees more generous leave or gives employees greater rights
16 to select which kind of leave is used or select the order in
17 which the different kinds of leave are used. Nothing in this
18 Act shall be construed as preventing an employer from providing
19 more generous benefits than are provided under this Act or
20 providing benefits that supplement the benefits provided under
21 this Act for some or all of the employer's employees.

22 (d) An employee who is entitled to leave under the
23 provisions of this Act or the federal Family and Medical Leave
24 Act of 1993, 29 U.S.C. 2601 et seq., shall take any benefits
25 provided for family leave pursuant to this Act concurrently
26 with leave taken pursuant to this Act or the federal Family and

1 Medical Leave Act of 1993, 29 U.S.C. 2601 et seq. Nothing in
2 this Act shall be construed to grant an employee any
3 entitlement to be restored by the employer to the job position
4 held by the employee prior to taking family leave or any right
5 to take action against an employer who refuses to restore the
6 employee to his or her job position after the leave. Nothing in
7 this Act shall be construed to increase, reduce, or otherwise
8 modify any entitlement of an employee to return to employment
9 or right of the employee to take action under the provisions of
10 this Act or the federal Family and Medical Leave Act of 1993,
11 29 U.S.C. 2601 et seq. If an employee receives benefits for
12 family leave pursuant to this Act with respect to employment
13 with an employer who is not an employer as defined in this Act
14 and that employer fails or refuses to restore the employee to
15 employment after the period of family leave, that failure or
16 refusal shall not be a wrongful discharge in violation of a
17 clear mandate of public policy, and the employee shall not have
18 a cause of action against that employer, in tort, or for breach
19 of an implied provision of the employment agreement, or under
20 common law, for that failure or refusal.

21 (e) An employee taking family leave or an employer from
22 whom the employee is taking the leave shall have the same right
23 to appeal a determination of a benefit for the family leave
24 made under this Act.

25 (f) In the event of a period of family leave of any
26 eligible employee, the employer shall, not later than the ninth

1 day of the period of family leave, including any waiting period
2 or time during which the employer provides sick leave,
3 vacation, or other fully paid leave, issue to the employee and
4 to the Department printed notices on Department forms
5 containing the name, address, and social security number of the
6 employee, the wage information as the Department may require to
7 determine the employee's eligibility for benefits, including
8 any sick pay, vacation, or other fully paid time off provided
9 by the employer during the period of family leave, and the
10 name, address, and tax identification number of the employer.
11 Not later than 30 days after the commencement of the period of
12 family leave for which the notice is furnished by the employer,
13 the employee shall furnish to the Department a notice and claim
14 for family leave benefits. Upon the submission of the notices
15 by the employer and the employee, the Department may issue
16 benefit payments. In the case of family leave taken to care for
17 a family member with a serious health condition, the benefits
18 may be paid for periods not exceeding 3 weeks pending the
19 receipt of the certification required pursuant to this Act.
20 Failure to furnish notice and certification in the manner as
21 required shall not invalidate or reduce any claim if it is
22 shown to the satisfaction of the Department not to have been
23 reasonably possible to furnish the notice and certification and
24 that the notice and certification was furnished as soon as
25 reasonably possible.

26 (g) A covered employer shall conspicuously post

1 notification, in a place or places accessible to all employees
2 in each of the employer's workplaces by a form issued under
3 rules adopted by the Department, of each covered employee's
4 rights regarding benefits payable pursuant to this Section. The
5 employer shall also provide each employee with a written copy
6 of the notification:

7 (1) not later than 30 days after the form of the
8 notification is adopted by rule;

9 (2) at the time of the employee's hiring, if the
10 employee is hired after the adoption of the rule;

11 (3) whenever the employee notifies the employer that
12 the employee is taking time off for circumstances under
13 which the employee is eligible for benefits pursuant to
14 this Section; and

15 (4) at any time, upon the first request of the
16 employee.

17 Section 30. State Benefits Fund.

18 (a) The State Benefits Fund is created as a special fund in
19 the State treasury. Subject to appropriation, moneys in the
20 Fund may be used for the payment of family leave benefits and
21 for the administration of this Act. All interest and other
22 earnings that accrue from investment of moneys in the Fund
23 shall be credited to the Fund.

24 (b) There is imposed a tax upon employees in the amount of
25 0.3% of wages as defined in Section 235 of the Unemployment

1 Insurance Act. The Department shall by rule provide for the
2 collection of this tax.

3 The amount of the tax imposed under this Section, less
4 refunds authorized by this Act, and all assessments and
5 penalties collected under this Act shall be deposited into and
6 credited to the Fund.

7 (c) A separate account, to be known as the Administration
8 Account, shall be maintained in the Fund. An amount determined
9 by the Treasurer sufficient for proper administration, not to
10 exceed, however, 0.1% of wages as defined in this Section,
11 shall be credited to the Administration Account. The expenses
12 of the Treasurer in administering the Fund and its accounts
13 shall be charged against the Administration Account. The costs
14 of administration of this Act shall be charged to the
15 Administration Account.

16 (d) A separate account, to be known as the Family Leave
17 Benefits Account, shall be maintained in the Fund. The account
18 shall be charged with all benefit payments. Prior to July 1 of
19 each calendar year, the Department shall determine the average
20 rate of interest and other earnings on all investments of the
21 Fund for the preceding calendar year. If there is an
22 accumulated deficit in the Family Leave Benefits Account in
23 excess of \$200,000 at the end of any calendar year after
24 interest and other earnings have been credited as provided in
25 this Section, the Director shall determine the ratio of the
26 deficit to the total of all taxable wages paid during the

1 preceding calendar year and shall make an assessment against
2 all employers in an amount equal to the taxable wages paid by
3 them during the preceding calendar year to employees,
4 multiplied by the ratio, but in no event shall any such
5 assessment exceed 0.1% of such wages. The amounts shall be
6 collectible by the Department in the same manner as provided
7 for the collection of employer contributions under the
8 Unemployment Insurance Act. In making this assessment, the
9 Department shall furnish to each affected employer a brief
10 summary of the determination of the assessment. The amount of
11 such assessments collected by the Department shall be credited
12 to the Family Leave Benefits Account. As used in this Section,
13 "wages" means wages as provided in Section 235 of the
14 Unemployment Insurance Act.

15 (e) A board of trustees, consisting of the State Treasurer,
16 the Secretary of State, the Director of Labor, the Director of
17 Employment Security, and the State Comptroller, is hereby
18 created. The board shall invest and reinvest all moneys in the
19 Fund in excess of its cash requirements in obligations legal
20 for savings banks.

21 Section 35. Assessment of costs of administration. If
22 officers or employees of the Department of Employment Security
23 perform duties in part related to the administration of this
24 Act and there are expenses otherwise incurred jointly in
25 connection with administration of other Acts, the Department

1 shall make an equitable apportionment to determine the portion
2 of total expense to be charged to administration of this Act.
3 So far as possible, the apportionment shall be based upon
4 records to be maintained with respect to activities undertaken
5 in administering this Act.

6 Section 40. Postings, notice, and claims.

7 (a) An employer shall post, in prominent locations, notices
8 to employees in the form provided by the Department of whether
9 the employer is permitted or required to participate in a
10 family leave program pursuant to this Act and whether the
11 employer does or does not participate. For employers who
12 participate in a family leave program, the notice shall also
13 describe the family leave benefits available to the employees
14 and prominently disclose that pregnancy is regarded by law as a
15 disability and subject to the Illinois Human Rights Act. Upon
16 the request of an employer, the Department shall, without
17 charge, provide the employer with a copy of each applicable
18 notice, suitable for reproduction by the employer. The employer
19 shall give a printed copy of benefit instructions to any
20 employee, upon his or her request.

21 (b) The employer shall, by the ninth day of family leave,
22 issue to the individual and to the Department printed notices
23 on Department forms containing the name, address, and Social
24 Security number of the individual, such wage information as the
25 Department may require to determine the individual's

1 eligibility for benefits, and the name, address, and Department
2 identity number of the employer. Not later than 30 days after
3 the commencement of the period of family leave for which the
4 notice is furnished, the individual shall furnish to the
5 Department a notice and claim for family leave benefits. Upon
6 the submission of the notices by the employer and the
7 individual, the Department may issue benefit payments for
8 periods not exceeding 3 weeks pending the receipt of medical
9 proof. When requested by the Department, the notice and proof
10 shall include certification, in accordance with Section 15 by
11 the attending physician, or a record of hospital confinement.
12 Failure to furnish notice and proof within the time or in the
13 manner required shall not invalidate or reduce any claim if it
14 is shown to the satisfaction of the Department not to have been
15 reasonably possible to furnish such notice and proof and that
16 such notice and proof was furnished as soon as reasonably
17 possible. In all cases of physical examination required by
18 Section 15, the examination shall be made by a designee of the
19 Department, who shall be the same sex as the claimant if so
20 requested by the claimant. All examinations by physicians,
21 dentists, podiatrists, chiropractors, or nurses designated by
22 the Department shall be without cost to the claimant and shall
23 be held at a reasonable time and place. Refusal to submit to
24 such a requested examination shall disqualify the claimant from
25 all benefits for the period of family leave in question, except
26 as to benefits already paid.

1 (c) All medical records of the Department, except to the
2 extent necessary for the proper administration of this Act,
3 shall be confidential and shall not be published or be open to
4 public inspection (other than to public employees in the
5 performance of their public duties) in any manner revealing the
6 identity of the claimant, or the nature or cause of serious
7 health condition nor admissible in evidence in any action or
8 special proceeding other than one arising under this Act.

9 Section 45. Annual reports; contents.

10 (a) The Department shall issue and make available to the
11 public, not later than July 1, 2018 and July 1 of each
12 subsequent year, annual reports providing data on family leave
13 benefits claims involving pregnancy and childbirth, and family
14 leave benefits, including separate data for each of the
15 following categories of claims: care of newborn children; care
16 of newly adopted children; care of sick children; care of sick
17 spouses; and care of other sick family members. The reports
18 shall include, for each category of claims, the number of
19 workers receiving the benefits, the amount of benefits paid,
20 the average duration of benefits, the average weekly benefit,
21 and, in the case of family leave benefits, any reported amount
22 of sick leave, vacation or other fully paid time which resulted
23 in reduced benefit duration. The report shall provide data by
24 gender and by any other demographic factors determined to be
25 relevant by the Director. The reports shall also provide, for

1 all family leave benefits, the total costs of benefits and the
2 total cost of administration, the portion of benefits for
3 claims during family leave, and the total revenues from
4 employer assessments, where applicable; employee assessments;
5 and other sources.

6 (b) The Director may, in his or her discretion, conduct
7 surveys and other research regarding, and include in the annual
8 reports descriptions and evaluations of the impact and
9 potential future impact of the costs and benefits resulting
10 from the provisions of this Act for:

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

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

25 (3) the public, including savings caused by any
26 reduction in the number of people receiving public

1 assistance.

2 (c) The total amount of any expenses that the Director
3 determines are necessary to carry out his or her duties
4 pursuant to this Section shall be charged to the Administration
5 Account of the Fund.

6 Section 50. Employer records. An employer shall keep true
7 and accurate employment records, containing such information
8 as may reasonably be prescribed by the Department. The records
9 shall be open to inspection by the Department or its authorized
10 representative at any time during ordinary business hours for
11 the purpose of ascertaining whether the employer is a covered
12 employer and, if so, whether the employer is complying with the
13 provisions of this Act. Information thus obtained shall not be
14 published or open to public inspection (other than to public
15 employees in the performance of their public duties) in any
16 manner revealing an employee's or employer's identity, but any
17 claimant at a hearing before the Department or a hearing
18 officer shall be supplied with information from such records to
19 the extent necessary for the proper presentation of his or her
20 claim.

21 Section 55. Penalties.

22 (a) A person who makes a false statement or representation,
23 knowing it to be false, or knowingly fails to disclose a
24 material fact to obtain or increase any family leave benefit

1 during a period of family leave, either for himself or herself
2 or for any other person shall be liable for a civil penalty of
3 \$250 to be paid to the Department. Each such false statement or
4 representation or failure to disclose a material fact shall
5 constitute a separate offense. Upon refusal to pay such civil
6 penalty, the civil penalty shall be recovered in a civil action
7 by the Attorney General on behalf the Department in the name of
8 the State of Illinois. If, in any case in which liability for
9 the payment of a civil penalty has been determined, any person
10 who has received any benefits under this Act by reason of the
11 making of such false statements or representations or failure
12 to disclose a material fact shall not be entitled to any
13 benefits under this Act for any leave occurring prior to the
14 time he or she has discharged his or her liability to pay the
15 civil penalty.

16 (b) Any employer or any officer or agent of any employer or
17 any other person who makes a false statement or representation,
18 knowing it to be false, or knowingly fails to disclose a
19 material fact, to prevent or reduce the benefits to any person
20 entitled to benefits, or to avoid becoming or remaining subject
21 to this Act or to avoid or reduce any contribution or other
22 payment required from an employer under this Act, or who
23 willfully fails or refuses to make any such contributions or
24 other payment or to furnish any reports required under this Act
25 or to produce or permit the inspection or copying of records as
26 required under this Act, shall be liable for a civil penalty of

1 \$250 to be paid to the Department. Upon refusal to pay such
2 civil penalty, the civil penalty shall be recovered in a civil
3 action by the Attorney General on behalf of the Department in
4 the name of the State of Illinois.

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

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

19 Section 60. Recovery of overpayment of family leave
20 benefits. Overpayment of benefits under this Act may be
21 recovered in the manner provided under Sections 900, 901, and
22 900.1 of the Unemployment Insurance Act.

23 Section 97. Severability. The provisions of this Act are
24 severable under Section 1.31 of the Statute on Statutes.

1 Section 99. The State Finance Act is amended by adding
2 Section 5.875 as follows:

3 (30 ILCS 105/5.875 new)

4 Sec. 5.875. The State Benefits Fund.".