



Sen. Ram Villivalam

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1 AMENDMENT TO SENATE BILL 1723

2 AMENDMENT NO. _____. Amend Senate Bill 1723 by replacing
3 everything after the enacting clause with the following:

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

6 Section 5. Declaration of policy and intent.

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

16 Moreover, many women are single mothers or the primary

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 and medical leave program to relieve the serious menace
14 to health, morals, and welfare of Illinois families, to
15 increase workplace productivity, and to alleviate the enormous
16 and growing stress on working families of balancing the demands
17 of work and family needs.

18 Section 10. Definitions. In this Act:

19 (1) "Average weekly wage" means the amount derived by
20 dividing by 12 an employee's total wages, including gratuities
21 and commissions that constitute remuneration, earned during
22 the 12 weeks preceding application for family and medical leave
23 benefits, or the most recent 12 weeks of employment if the
24 individual is not currently employed.

25 (2) "Base hours" means the hours of work for which an

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

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

14 (4) "Child" means a biological, adopted, or foster child,
15 stepchild, or legal ward of an employee, or a child for whom an
16 employee is standing in loco parentis, a child of the spouse of
17 an employee, or a child of a party to a civil union, or any
18 other individual whose close association with the employee is
19 the equivalent of a child.

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

22 (6) "Consecutive leave" means leave that is taken without
23 interruption based upon an employee's regular work schedule and
24 does not include breaks in employment in which an employee is
25 not regularly scheduled to work. For example, when an employee
26 is normally scheduled to work from September through June and

1 is not scheduled to work during July and August, a leave taken
2 continuously during May, June, and September shall be
3 considered a consecutive leave.

4 (7) "Covered employee" means (a) an individual employed by
5 the same employer, as defined in paragraph (12), in the State
6 of Illinois for 12 weeks or more who has worked 240 or more
7 base hours. This threshold must be met annually, however, once
8 the annual threshold is met, the covered employee shall be able
9 to use family and medical leave. A covered employee is
10 considered to be employed in the State of Illinois if (i) the
11 individual works in Illinois; (ii) the individual performs some
12 work in Illinois and the employer's base of operations or the
13 place from which the work is directed and controlled is in
14 Illinois; or (iii) the base of operations or place from which
15 the work is directed or controlled is not in any state in which
16 some part of the work is performed, but the individual's
17 residence is in this state.

18 (8) "Department" means the Department of Employment
19 Security.

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

23 (10) "Employ" means to suffer or permit to work.

24 (11) "Employee" means any person who works for an employer
25 for wage, remuneration, or other compensation. This includes
26 persons working any number of hours, including full-time or

1 part-time status. "Employee" does not include (i) any employee
2 as defined in the federal Railroad Unemployment Insurance Act
3 (45 U.S.C 351) or (ii) any person who the employer establishes:

4 (A) has been and will continue to be free from control
5 and direction over the performance of their work, both
6 under a contract of service and in fact;

7 (B) is engaged in an independently established trade,
8 occupation, profession or business; or

9 (C) is deemed a legitimate sole proprietor or
10 partnership. A sole proprietor or partnership shall be
11 deemed to be legitimate if the employer establishes that:

12 (i) the sole proprietor or partnership is
13 performing the service free from the direction or
14 control over the means and manner of providing the
15 service, subject only to the right of the employer for
16 whom the service is provided to specify the desired
17 result;

18 (ii) the sole proprietor or partnership is not
19 subject to cancellation or destruction upon severance
20 of the relationship with the employer;

21 (iii) the sole proprietor or partnership has a
22 substantial investment of capital in the sole
23 proprietorship or partnership beyond the ordinary
24 tools and equipment and a personal vehicle;

25 (iv) the sole proprietor or partnership owns the
26 capital goods and gains the profits and bears the

1 losses of the sole proprietorship or partnership;

2 (v) the sole proprietor or partnership makes its
3 services available to the general public on a
4 continuing basis;

5 (vi) the sole proprietor or partnership includes
6 services rendered on a federal Income Tax Schedule as
7 an independent business or profession;

8 (vii) the sole proprietor or partnership performs
9 services for the contractor under the sole proprietor
10 or partnership's name;

11 (viii) when the services being provided require a
12 license or permit, the sole proprietor or partnership
13 obtains and pays for the license or permit in the sole
14 proprietorship's or partnership's name;

15 (ix) the sole proprietor or partnership furnishes
16 the tools and equipment necessary to provide the
17 service;

18 (x) if necessary, the sole proprietor or
19 partnership hires its own employees without approval
20 of the employer, pays the employees without
21 reimbursement from the employer and reports the
22 employees' income to the Internal Revenue Service;

23 (xi) the employer does not represent the sole
24 proprietorship or partnership as an employee of the
25 employer to the public; and

26 (xii) the sole proprietor or partnership has the

1 right to perform similar services for others on
2 whatever basis and whenever it chooses.

3 (12) "Employer" means any individual, person, partnership,
4 association, limited liability company, trust, estate,
5 joint-stock company, insurance company, employment and labor
6 placement agency, or business where wages are made directly or
7 indirectly by the agency or business for work undertaken by the
8 employee under hire to a third party pursuant to a contract
9 between the agency or business with the third party, or
10 corporation, whether domestic or foreign, or the receiver,
11 trustee in bankruptcy, trustee, or person that has in its
12 employ one or more employees performing services for it as a
13 covered employee. "Employer" also includes any employer
14 subject to the Unemployment Insurance Act, except the State,
15 its political subdivisions, and any instrumentality of the
16 State. All employees performing services within this State for
17 any employing unit that maintains 2 or more separate
18 establishments within this State shall be deemed to be employed
19 by a single employing unit for all purposes of this Act.

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

25 (14) "Family and medical leave" means leave taken by a
26 covered employee from work with an employer:

1 (A) to participate in the providing of care, including
2 physical or psychological care, for a family member of the
3 covered employee made necessary by a serious health
4 condition of the family member;

5 (B) to be with a child during the first 12 months after
6 the child's birth, if the employee, the employee's spouse,
7 or the party to a civil union with the employee, is a
8 biological parent of the child, or the first 12 months
9 after the placement of the child for adoption or foster
10 care with the employee, the first 12 months after the child
11 becomes the legal ward of the employee, the employee's
12 spouse, or the party to a civil union with the employee, or
13 the first 12 months after the employee, the employee's
14 spouse, or the party to a civil union with the employee
15 acquires loco parentis status of the child;

16 (C) for the employee's own serious health condition;

17 (D) because of any qualifying exigency as interpreted
18 under the Family and Medical Leave Act of 1993 (29 U.S.C.
19 2612(a)(1)(E) and 29 CFR 825.126) as of the effective date
20 of this Act arising out of the fact that the spouse, party
21 to a civil union, child, parent of the employee, or any
22 other individual related by blood or whose close
23 relationship with the employee is equivalent to a family
24 relationship is on active duty (or has been notified of an
25 impending call or order to active duty) in the armed forces
26 as of the United States; or

1 (E) because the employee or the employee's family
2 member is the victim of domestic violence as defined in
3 Section 103(3) of the Illinois Domestic Violence Act of
4 1986, or sexual violence, which means: (1) any conduct
5 proscribed by Article 11 of the Criminal Code of 2012
6 except Sections 11-35 and 11-45; (ii) Sections 12-7.3,
7 12-7.4, and 12-7.5 of the Illinois Criminal Code of 2012;
8 or (iii) a similar provision of the Criminal Code of 1961.

9 "Family and medical leave" does not include any period of
10 time during which an employee is paid benefits pursuant to
11 the Workers' Compensation Act because the employee is
12 unable to perform the duties of the employee's employment
13 due to the employee's own disability, or paid benefits
14 pursuant to the Unemployment Insurance Act.

15 (15) "Family and medical leave benefits" means any payments
16 that are payable to a covered employee for all or part of a
17 period of family and medical leave.

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

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

26 (18) "Parent" means a biological parent, foster parent,

1 adoptive parent, or stepparent of the employee or a person who
2 was a legal guardian of, or who stood in loco parentis to, the
3 employee when the employee was a child, or any other individual
4 whose close association with the employee is the equivalent of
5 a parent.

6 (19) "Placement for adoption" means the time when an
7 employee adopts a child or becomes responsible for a child
8 pending adoption by the eligible employee.

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

14 (21) "12-month period" means, with respect to an employee
15 who establishes a valid claim for family and medical leave
16 benefits during a period of family and medical leave, the 365
17 consecutive days that begin with the first day that the
18 employee first establishes the claim.

19 (22) "Victim services organization" means a nonprofit,
20 nongovernmental organization that provides assistance to
21 victims of domestic or sexual violence, including rape crisis
22 centers, organizations carrying out a domestic violence
23 program, organizations operating a shelter or providing
24 counseling services, or a legal services organization or other
25 organization providing assistance through the legal process.

1 Section 15. Family and medical leave insurance program.

2 (a) The Department shall establish and administer a family
3 and medical leave insurance program.

4 (b) The Department shall establish procedures and forms for
5 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.

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

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

1 to rules adopted by the Department.

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

16 (f) A covered employee may make a claim for benefits under
17 this Act on and after January 1 of the year one year after the
18 Department begins collecting employee payroll premium
19 deductions and employer premium contributions under this Act.

20 Section 20. Eligibility for benefits.

21 (a) The Department may require that a claim for family and
22 medical leave benefits under this Act be supported by a
23 certification. For a claim for family and medical leave under
24 paragraph (A), (B), or (C) of item (14) of Section 10, the
25 certification shall be issued by a health care provider of the

1 employee's choosing who is providing care to the employee or
2 the employee's family member if applicable. For a claim for
3 family and medical leave under paragraph (E) of item (14) of
4 Section 10, any one of the following is acceptable for
5 certification, and only one of the following documents shall be
6 required: a police report, court document, document issued by a
7 healthcare provider, or a signed statement from an attorney, a
8 member of the clergy, or a victim services organization or
9 advocate. It is up to the employee to determine which
10 documentation to submit. If a document has been submitted, the
11 Department or the employer shall not request or require any
12 other document if the reason for the initial or subsequent
13 claims for family and medical leave is related to the same
14 incident of violence or the same perpetrator of the violence.

15 (b) The eligibility of an employee for benefits is not
16 affected by a strike or lockout at the factory, establishment,
17 or other premises at which the employee is or was last
18 employed.

19 (c) An employee who has received benefits under this Act
20 may not lose any other employment benefits, including seniority
21 or pension rights, accrued before the date that family and
22 medical leave commenced. The employer shall maintain during any
23 period of family and medical leave taken the health benefits of
24 the employee and, if applicable, the employee's dependents, in
25 force at the time a request for family and medical leave was
26 made, for the duration of such leave as if the employee had

1 continued to work from the date the employee commenced the
2 family and medical leave until the date the employee returns to
3 work. However, this Section does not entitle an employee to
4 accrue employment benefits during a period of family and
5 medical leave or to a right, benefit, or position of employment
6 other than a right, benefit, or position to which the employee
7 would have been entitled had the employee not taken family and
8 medical leave.

9 (d) This Act does not diminish an employer's obligation to
10 comply with a collective bargaining agreement or an employment
11 benefits program or plan that provides greater benefits to
12 employees than the benefits provided under this Act.

13 (e) An agreement by an employee to waive the employee's
14 rights under this Section is void as contrary to public policy.
15 The benefits under this Act may not be diminished by a
16 collective bargaining agreement or another employment benefits
17 program or plan entered into or renewed after the effective
18 date of this Act.

19 (f) Nothing in this Act shall be deemed to affect the
20 validity or change the terms of bona fide collective bargaining
21 agreements in force on the effective date of this Act. After
22 that date, requirements of this Act may be waived in a bona
23 fide collective bargaining agreement, but only if the waiver is
24 set forth explicitly in such agreement in clear and unambiguous
25 terms.

1 Section 25. Elective coverage; self-employed.

2 (a) For benefits payable beginning January 1, 2021, any
3 self-employed person, including a sole proprietor, independent
4 contractor, partner, or joint venturer, who has
5 self-employment income for work performed in Illinois in
6 accordance with the definition of covered employee under item
7 (7) of Section 10 may elect coverage for an initial period of
8 not less than 3 years and subsequent periods of not less than
9 one year immediately following a period of coverage. Those
10 electing coverage under this Act are responsible for payment of
11 100% of all premiums assessed to any employee and employer
12 under this Act. The self-employed person must file a notice of
13 election in writing with the Department, in a manner as
14 required by the Department in rule. The self-employed person is
15 eligible for family and medical leave benefits after working at
16 least 12 weeks in the state following the date of filing the
17 notice.

18 (b) A self-employed person who has elected coverage may
19 withdraw from coverage within 30 days after the end of each
20 period of coverage, or at such other times as the Department
21 may adopt by rule, by filing a notice of withdrawal in writing
22 with the Department, such withdrawal to take effect not sooner
23 than 30 days after the filing the notice with the Department.

24 (c) The Department may cancel elective coverage if the
25 self-employed person fails to make required payments or file
26 reports. The Department may collect due and unpaid premiums and

1 may levy additional premiums for the remainder of the period of
2 coverage. The cancellation shall be effective no later than 30
3 days from the date of the notice in writing advising the
4 self-employed person of the cancellation.

5 (d) Those electing coverage are considered employees or
6 employers where the context dictates so.

7 (e) In this Section, "independent contractor" means an
8 individual excluded from employment under the definition of
9 "employee" under Section 10 of this Act.

10 Section 30. Disqualification from benefits.

11 (a) An employee is disqualified from family and medical
12 leave benefits 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 a serious health condition
17 that resulted from the employee's commission of a felony.

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

1 Section 35. Family and Medical Leave Insurance Fund.

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

8 (b) An employer shall retain from all employees a payroll
9 premium deduction in the amount of 0.15% of wages as defined in
10 Section 235 of the Unemployment Insurance Act. An employer
11 shall pay an amount equal to the payroll premium deduction,
12 known as the employer's premium contribution. The Department
13 shall by rule provide for the collection of this payroll
14 premium deduction and the employer's premium contribution.

15 The amount of the payroll premium deduction and the
16 employer's premium contribution imposed under this Section,
17 less refunds authorized by this Act, and all assessments and
18 penalties collected under this Act shall be deposited into and
19 credited to the Fund.

20 (c) A separate account, to be known as the Family and
21 Medical Leave Insurance Administration Account, shall be
22 maintained in the Fund. An amount determined by the Department
23 sufficient for proper administration, not to exceed, however,
24 0.05% of additional payroll premium deductions and of employer
25 premium contributions as defined in this Section, shall be
26 collected and credited to the Administration Account. The

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

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

1 to the Family and Medical Leave Benefits Account. As used in
2 this Section, "wages" means wages as provided in Section 235 of
3 the Unemployment Insurance Act.

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

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

19 (g) An employer required to make employee premium
20 deductions and pay employer premium contributions 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 Act.

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

22 A successor is not liable for any premiums due from the
23 person from whom the successor has acquired a business or stock
24 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 (j) This Section is inoperative before January 1 of the
3 year after this Act becomes law. At that time, the Department
4 shall collect the amounts due under this Section.

5 Section 40. Compensation for family and medical leave.

6 (a) An individual's weekly benefit rate shall be determined
7 as follows: if the employee's average weekly wage is (a) 50% or
8 less of the statewide average weekly wage, the employee's
9 weekly benefit is 90% of the employee's average weekly wage or
10 (b) greater than 50% of the statewide average weekly wage, the
11 employee's weekly benefit is the sum of (i) 90% of the
12 employee's average weekly wage up to 50% of the statewide
13 average weekly wage; and (ii) 50% of the employee's average
14 weekly wage that is greater than 50% of the statewide average
15 weekly wage. The individual's benefit rate shall be computed to
16 the next lower multiple of \$1 if not already a multiple
17 thereof. The amount of benefits for each day of family and
18 medical leave for which benefits are payable shall be
19 one-seventh of the corresponding weekly benefit amount;
20 provided that the total benefits for a fractional part of a
21 week shall be computed to the next lower multiple of \$1 if not
22 already a multiple thereof.

23 (b) The maximum weekly benefit for family and medical leave
24 shall be \$1,000, adjusted annually after the first year to 90%
25 of the statewide average weekly wage.

1 (c) With respect to any period of family and medical leave
2 taken by a covered employee, family and medical leave benefits
3 not in excess of the employee's maximum benefits shall be
4 payable with respect to the first day of family and medical
5 leave taken after a waiting period consisting of the first 7
6 calendar days of family and medical leave following the
7 commencement of the period of family and medical leave and each
8 subsequent day of family and medical leave during that period
9 of family and medical leave; and if benefits become payable on
10 any day after the first 3 weeks in which leave is taken, then
11 benefits shall also be payable with respect to any leave taken
12 during the first one-week period in which leave is taken. The
13 waiting period need only be served once every application year.
14 The maximum total benefits payable to any covered employee
15 commencing on or after the effective date of this Act shall be
16 12 times the employee's weekly benefit amount, provided that
17 the maximum amount shall be computed in the next lower multiple
18 of \$1 if not already a multiple thereof.

19 (d) The first payment of benefits must be made to an
20 employee within 14 calendar days after the claim is filed and
21 subsequent payments must be made no later than semi-monthly
22 thereafter. If the employer contests an initial application for
23 family and medical leave benefits, the employer must notify the
24 employee and the Department in a manner prescribed by the
25 Director within 10 calendar days of receipt of notice from the
26 Department of the employee's filing of an application for

1 benefits.

2 Nothing in this Act shall be construed to prohibit the
3 establishment by an employer, without approval by the
4 Department, of a supplementary plan or plans providing for the
5 payment to employees, or to any class or classes of employees,
6 of benefits in addition to the benefits provided by this Act.
7 The rights, duties, and responsibilities of all interested
8 parties under the supplementary plans shall be unaffected by
9 any provision of this Act.

10 Section 45. Family and medical leave; duration. A covered
11 employee may take up to 12 weeks of family and medical leave
12 within any 12-month period in order to provide care made
13 necessary by reasons identified in item (14) of Section 10. A
14 covered employee may take family and medical leave on an
15 intermittent schedule in which all of the leave authorized
16 under this Act is not taken sequentially.

17 Section 50. Annual reports; contents.

18 (a) The Department shall issue and make available to the
19 public, not later than July 1, 2023 and July 1 of each
20 subsequent year, annual reports providing data on family and
21 medical leave benefits claims including separate data for each
22 of the following categories of claims: the employee's own
23 serious illness; care of newborn children; care of newly
24 adopted children; care of seriously ill family members, because

1 of family members on active duty in the armed forces of the
2 U.S.; and for domestic or sexual violence. The reports shall
3 include, for each category of claims, the number of workers
4 receiving the benefits, the amount of benefits paid, the
5 average duration of benefits, the average weekly benefit, and
6 any reported amount of sick leave, vacation, or other fully
7 paid time which resulted in reduced benefit duration. The
8 report shall provide data by gender and by any other
9 demographic factors determined to be relevant by the
10 Department. The reports shall also provide, for all family and
11 medical leave benefits, the total costs of benefits and the
12 total cost of administration, the portion of benefits for
13 claims during family and medical leave, and the total revenues
14 from employer assessments, where applicable; employee
15 assessments; and other sources.

16 (b) The Department may, in its discretion, conduct surveys
17 and other research regarding, and include in the annual reports
18 descriptions and evaluations of the impact and potential future
19 impact of the costs and benefits resulting from the provisions
20 of this Act for:

21 (1) employees and their families, including surveys
22 and evaluations of what portion of the total number of
23 employees taking family and medical leave would not have
24 taken leave, or would have taken less leave, without the
25 availability of benefits; what portion of employees return
26 to work after receiving benefits and what portion are not

1 permitted to return to work; and what portion of employees
2 who are eligible for benefits do not claim or receive them
3 and why they do not;

4 (2) employers, including benefits such as reduced
5 training and other costs related to reduced turnover of
6 personnel, and increased affordability of family and
7 medical leave through the State, with special attention
8 given to small businesses; and

9 (3) the public, including savings caused by any
10 reduction in the number of people receiving public
11 assistance.

12 (c) The total amount of any expenses that the Department
13 determines are necessary to carry out its duties pursuant to
14 this Section shall be charged to the Administration Account of
15 the Fund.

16 Section 55. Prohibited acts; enforcement.

17 (a) No employer, temporary employment agency, employment
18 agency, employee organization, or other person shall
19 discharge, expel, or otherwise retaliate or discriminate
20 against a person because the person has requested family and
21 medical leave, attempted to claim family and medical leave
22 benefits, taken family and medical leave, filed or communicated
23 to the employer an intent to file a claim, a complaint, or an
24 appeal, or has testified or is about to testify or has assisted
25 in any proceeding, under this Act, at any time.

1 (b) Any employer who violates subsection (a) shall be
2 liable to the individual employed by such a person who is
3 affected by the violation for damages equal to the sum of:

4 (1) the amount of:

5 (A) any wages, salary, employment benefits, or
6 other compensation denied or lost to such individual by
7 reason of the violation; or

8 (B) in a case in which wages, salary, employment
9 benefits, or other compensation have not been denied or
10 lost to the individual, any actual monetary losses
11 sustained by the individual as a direct violation, such
12 as the cost of providing care, up to a sum equal to 60
13 calendar days of wages or salary for the individual;
14 and

15 (2) the interest on the amount described under item (A)
16 calculated at the prevailing rate; and

17 (3) an additional amount as liquidated damages equal to
18 the sum of the amount described in item (1) and the
19 interest described in item (2), except if a person who has
20 violated subsection (a) proves to the satisfaction of the
21 court that the act or omission was in good faith and that
22 the person had reasonable grounds for believing that the
23 act or omission was not a violation of subsection (a), the
24 court may, in the discretion of the court, reduce the
25 amount of the liability to the amount and interest
26 determined under item (A) and (B), respectively.

1 In addition, a court may order such equitable relief as may
2 be appropriate, including employment, reinstatement, and
3 promotion.

4 (c) An action to recover the damages or obtain equitable
5 relief subsection (a) may be maintained against any person in
6 any court on behalf of:

7 (1) the individual; or

8 (2) the individual or other individuals similarly
9 situated.

10 (d) The court in such an action shall, in addition to any
11 judgment awarded to the plaintiff, allow a reasonable
12 attorney's fee, reasonable expert witness fees, and other costs
13 of the action to be paid by the defendant.

14 (e) The right under subsection (c) to bring an action by or
15 on behalf of any individual shall terminate:

16 (1) on the filing of a complaint by the Department in
17 an action in which restraint is sought of any further delay
18 in the payment of the amount described in item (1) of
19 subsection (b) to such individual by the person responsible
20 under subsection (a) for the payment; or

21 (2) on the filing of a complaint by the Department in
22 an action under subsection (f) in which a recovery is
23 sought of the damages described in item (1) of subsection
24 (b) owing to an individual by a person liable under
25 subsection (a).

26 (f) Action by the Department.

1 (1) The Department may bring an action in any court to
2 recover the damages described in item (1) of subsection
3 (b).

4 (2) Any sums recovered pursuant to item (1) of this
5 subsection shall be held in a special deposit account and
6 shall be paid, on order of the Department, directly to each
7 individual affected. Any such sums not paid to an
8 individual because of inability to do so within a period of
9 3 years shall be deposited into the Fund.

10 (3) An action may be brought under this subsection not
11 later than 3 years after the date of the last event
12 constituting the alleged violation for which the action is
13 brought.

14 (4) An action brought by the Department under this
15 subsection shall be considered to be commenced on the date
16 when the complaint is filed.

17 (5) The Department may bring an action to restrain
18 violations of subsection (a), including the restraint of
19 any withholding of payment of wages, salary, employment
20 benefits, or other compensation, plus interest, found by
21 the court to be due to the individual, or to award such
22 other equitable relief as may be appropriate, including
23 employment, reinstatement, and promotion.

24 (g) A person aggrieved by a decision of the Department
25 under this Act may request a hearing. The Department shall
26 adopt rules governing hearings and the issuance of final orders

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

5 Section 60. Penalties.

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

24 (b) A person who willfully violates any provision of this
25 Act or any rule adopted under this Act for which a civil

1 penalty is neither prescribed in this Act nor provided by any
2 other applicable law shall be subject to a civil penalty of
3 \$500 to be paid to the Fund. Upon the refusal to pay such civil
4 penalty, the civil penalty shall be recovered in a civil action
5 by the Attorney General on behalf of the Department in the name
6 of the State of Illinois.

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

13 Section 65. Leave and employment protection.

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

19 (b) Except as provided in subsection (f), an employee who
20 receives family and medical leave benefits under this Act for
21 the intended purpose of the family and medical leave is
22 entitled, on return from the leave:

23 (1) to be restored by the employer to the position of
24 employment held by the employee when the family and medical
25 leave commenced; or

1 (2) to be restored to an equivalent position with
2 equivalent employment benefits, pay, and other terms and
3 conditions of employment at a workplace within 5 miles of
4 the employee's workplace when the family and medical leave
5 commenced.

6 (c) The taking of family and medical leave under this Act
7 may not result in the loss of any employment benefits accrued
8 before the date on which the family and medical leave
9 commenced.

10 (d) Nothing in this Section entitles a restored employee
11 to:

12 (1) the accrual of any seniority or employment benefits
13 during any period of family and medical leave; or

14 (2) any right, benefit, or position of employment other
15 than any right, benefit, or position to which the employee
16 would have been entitled to had the employee not taken the
17 family and medical leave.

18 (e) Nothing in this Section prohibits an employer from
19 requiring an employee on family and medical leave to report
20 periodically to the employer on the status and intention of the
21 employee to return to work.

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

26 (1) denial is necessary to prevent substantial and

1 grievous economic injury to the operations of the employer;

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

5 (3) the family and medical leave has commenced and the
6 employee elects not to return to employment after receiving
7 the notice.

8 Section 70. Notice to employer.

9 (a) If the necessity for family and medical leave for the
10 birth or placement of a child or for any other reason under
11 item (14) of Section 10 is foreseeable, the employee shall
12 provide the employer with not less than 30 days' notice, before
13 the date the leave is to begin, of the employee's intention to
14 take leave for the birth or placement of a child or for any
15 other reason under item (14) of Section 10, except that if the
16 expected date requires leave to begin in less than 30 days, the
17 employee shall provide such notice as is practical.

18 Section 75. Employment by same employer. If spouses or
19 parties to a civil union who are entitled to leave under this
20 Act are employed by the same employer, the employer may not
21 require that spouses or parties to a civil union not take such
22 leave concurrently.

23 Section 80. Coordination of leave.

1 (a) Family and medical leave taken under this Act must be
2 taken concurrently with any leave taken under the federal
3 Family and Medical Leave Act of 1993.

4 (b) An employer may require that family and medical leave
5 taken under this Act be taken concurrently with leave allowed
6 under the terms of a collective bargaining agreement or
7 employer policy. The employer must give employees written
8 notice of this requirement.

9 Section 85. 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 as of the effective date of this Act to the
14 extent such regulations are not in conflict with this Act.

15 Section 90. 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 and
18 Medical Leave Insurance Act

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 5.891 as follows:

1 (30 ILCS 105/5.891 new)

2 Sec. 5.891. The Family and Medical Leave Insurance Fund.

3 Section 999. Effective date. This Act takes effect January
4 1, 2020.".