



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2625

Introduced 2/19/2021, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.935 new

Creates the Family Leave Insurance Act. Requires the Department of Employment Security to establish and administer a family leave insurance program. Provides family leave insurance benefits to eligible employees who take unpaid family leave to care for a newborn child, a newly adopted or newly placed foster child, or a family member with a serious health condition. Authorizes family leave of up to 12 weeks during any 24-month period. Authorizes compensation for leave in the amount of 85% of the employee's average weekly wage subject to a maximum of \$881 per week. Contains provisions concerning disqualification from benefits; premium payments; the amount and duration of benefits; the recovery of erroneous payments; hearings; defaulted premium payments; elective coverage; employment protection; coordination of family leave; defined terms; and other matters. Amends the State Finance Act. Creates the State Benefits Fund. Effective January 1, 2022.

LRB102 10207 JLS 15530 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning employment.

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

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

6 Section 5. Declaration of policy and intent.

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

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

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

23 It is therefore desirable and necessary to develop systems

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

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

11 Section 10. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) the employee works in Illinois; or

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

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

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

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

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

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

25 (14) "Health care provider" means any person licensed
26 under federal, State, or local law or the laws of a foreign

1 nation to provide health care services or any other person who
2 has been authorized to provide health care by a licensed
3 health care provider.

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

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

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

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

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

25 Section 15. Family leave program.

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

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

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

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

15 Section 20. Eligibility for benefits.

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

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

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

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

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

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

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

26 (g) An agreement by an employee to waive the employee's

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

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

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

15 Section 25. Disqualification from benefits.

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

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

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

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

25 (b) A disqualification for family leave benefits is for a

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

6 Section 30. State Benefits Fund.

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

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

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

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

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

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

4 (e) A board of trustees, consisting of the State
5 Treasurer, the Secretary of State, the Director of Labor, the
6 Director of Employment Security, and the State Comptroller, is
7 hereby created. The board shall invest and reinvest all moneys
8 in the Fund in excess of its cash requirements in obligations
9 legal 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
17 12 months of projected expenditures from the Fund, considering
18 the functions and duties of the Department under this Act.

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

25 (h) If the employer is a temporary employment agency that
26 provides employees on a temporary basis to its customers, the

1 temporary employment agency is considered the employer for
2 purposes of this Section.

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

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

1 Section 35. Compensation for family leave.

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

13 (b) With respect to any period of family leave and while an
14 individual is an eligible employee, family benefits not in
15 excess of the individual's maximum benefits shall be payable
16 with respect to the first day of leave taken after the first
17 one-week period following the commencement of the period of
18 family leave and each subsequent day of family leave during
19 that period of family leave; and if benefits become payable on
20 any day after the first 3 weeks in which leave is taken, then
21 benefits shall also be payable with respect to any leave taken
22 during the first one-week period in which leave is taken. The
23 maximum total benefits payable to any eligible individual
24 commencing on or after the effective date of this Act shall be
25 12 times the individual's weekly benefit amount or one-third

1 of his or her total wages in his or her base year, whichever is
2 the lesser; provided that the maximum amount shall be computed
3 in the next lower multiple of \$1 if not already a multiple
4 thereof.

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

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

23 Section 40. Family leave; duration. An eligible employee
24 may take 12 weeks of family leave within any 24-month period in
25 order to provide care made necessary by reasons identified in

1 Section 10. An eligible employee may take family leave on an
2 intermittent schedule in which all of the leave authorized
3 under this Act is not taken sequentially.

4 Section 45. Annual reports; contents.

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

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

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

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

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

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

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

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

16 Section 60. Penalties.

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

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

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

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

1 Section 65. Leave and employment protection.

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

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

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

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

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

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

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

25 (2) any right, benefit, or position of employment
26 other than any right, benefit, or position to which the

1 employee would have been entitled to had the employee not
2 taken the family leave.

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

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

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

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

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

21 Section 70. Notice to employer.

22 (a) If the necessity for family leave for the birth or
23 placement of a child is foreseeable based on an expected birth
24 or placement, the employee shall provide the employer with not
25 less than 30 days' notice, before the date the leave is to

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

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

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

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

18 Section 75. Coordination of leave.

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

22 (b) An employer may require that family leave taken under
23 this Act be taken concurrently or otherwise coordinated with
24 leave allowed under the terms of a collective bargaining
25 agreement or employer policy, as applicable, for the birth or

1 placement of a child. The employer must give his or her
2 employees written notice of this requirement.

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

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

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

15 Section 900. The State Finance Act is amended by adding
16 Section 5.935 as follows:

17 (30 ILCS 105/5.935 new)

18 Sec. 5.935. The State Benefits Fund.

19 Section 999. Effective date. This Act takes effect January
20 1, 2022.