

1793--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. NOLAN, SILVER, HEASTIE, TITUS, GUNTHER, LUPARDO, RUSSELL, COOK, WEPRIN, JAFFEE, JACOBS, WEISENBERG, SCHIMEL, HOOPER, COLTON, ROSENTHAL, SIMOTAS, ROZIC -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, GLICK, GOTTFRIED, MARKEY, MILLMAN, SCARBOROUGH, SEPULVEDA, WEINSTEIN -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law and the insurance law, in relation to providing benefits for injury or sickness, pregnancy or family leave

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 2 of section 76 of the workers' compensation  
2 law, as added by chapter 600 of the laws of 1949, is amended to read as  
3 follows:  
4     2. The purposes of the state insurance fund herein created are hereby  
5 enlarged to provide [for the] insurance [by the state insurance fund of]  
6 FOR the payment of the benefits required by section two hundred four of  
7 this chapter, INCLUDING BENEFITS FOR FAMILY CARE PROVIDED EITHER IN THE  
8 SAME POLICY WITH OR IN A SEPARATE POLICY FROM BENEFITS FOR DISABILITY  
9 RESULTING FROM INJURY, SICKNESS OR PREGNANCY OF AN EMPLOYEE, AND AS  
10 PROVIDED PURSUANT TO SECTION TWO HUNDRED ELEVEN-A OF THIS CHAPTER. A  
11 separate fund is hereby created within the state insurance fund, which  
12 shall be known as the "disability benefits fund", and which shall  
13 consist of all premiums received and paid into said fund on account of  
14 such insurance, all securities acquired by and through the use of moneys  
15 belonging to said fund and of interest earned upon moneys belonging to

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 said fund and deposited or invested as herein provided. Said disability  
2 benefits fund shall be applicable to the payment of benefits, expenses  
3 and assessments on account of insurance written pursuant to article nine  
4 of this chapter.

5 S 2. The section heading and the first undesignated paragraph of  
6 section 120 of the workers' compensation law, as amended by chapter 61  
7 of the laws of 1989, are amended to read as follows:

8 Discrimination against employees [who bring proceedings]. It shall be  
9 unlawful for any employer or his or her duly authorized agent to  
10 discharge or in any other manner discriminate against an employee as to  
11 his or her employment because such employee has claimed or attempted to  
12 claim compensation from such employer, OR CLAIMED OR ATTEMPTED TO CLAIM  
13 ANY BENEFITS PROVIDED UNDER THIS CHAPTER, or because he or she has  
14 testified or is about to testify in a proceeding under this chapter and  
15 no other valid reason is shown to exist for such action by the employer.

16 S 3. Subdivision 9 of section 201 of the workers' compensation law is  
17 amended by adding two new paragraphs C and D to read as follows:

18 C. "DISABILITY" ALSO INCLUDES FAMILY CARE, AS DEFINED IN SUBDIVISION  
19 FIFTEEN OF THIS SECTION.

20 D. UNLESS OTHERWISE SET FORTH IN THIS ARTICLE, ALL PROVISIONS OF THIS  
21 ARTICLE APPLICABLE TO "DISABILITY" SHALL APPLY TO (I) DISABILITY ARISING  
22 FROM INJURY OR SICKNESS; (II) DISABILITY CAUSED BY OR IN CONNECTION WITH  
23 PREGNANCY; AND (III) FAMILY CARE. UNLESS OTHERWISE SET FORTH IN THIS  
24 ARTICLE, ALL PROVISIONS OF THIS ARTICLE APPLICABLE TO A "DISABLED  
25 EMPLOYEE" SHALL APPLY TO EMPLOYEES IN NEED OF TIME OFF FOR THE PURPOSES  
26 OF SUBPARAGRAPHS (I), (II) AND (III) OF THIS PARAGRAPH.

27 S 4. Subdivision 14 of section 201 of the workers' compensation law,  
28 as added by chapter 600 of the laws of 1949 and as renumbered by chapter  
29 438 of the laws of 1964, is amended to read as follows:

30 14. "A day of disability" means any day on which the employee was  
31 prevented from performing work because of disability, INCLUDING ANY DAY  
32 WHICH THE EMPLOYEE USES FOR FAMILY CARE, and for which [he] THE EMPLOYEE  
33 has not received his OR HER regular remuneration.

34 S 5. Section 201 of the workers' compensation law is amended by adding  
35 twelve new subdivisions 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and  
36 26 to read as follows:

37 15. "FAMILY CARE" SHALL MEAN ANY LEAVE TAKEN BY AN EMPLOYEE FROM WORK:

38 A. TO PARTICIPATE IN PROVIDING CARE, INCLUDING PHYSICAL OR PSYCHOLOG-  
39 ICAL CARE, FOR A FAMILY MEMBER OF THE EMPLOYEE MADE NECESSARY BY A SERI-  
40 OUS HEALTH CONDITION OF THE FAMILY MEMBER; OR

41 B. TO BOND WITH THE EMPLOYEE'S CHILD DURING THE FIRST TWELVE MONTHS  
42 AFTER THE CHILD'S BIRTH, OR THE FIRST TWELVE MONTHS AFTER THE PLACEMENT  
43 OF THE CHILD FOR ADOPTION OR FOSTER CARE WITH THE EMPLOYEE.

44 C. BECAUSE OF ANY QUALIFYING EXIGENCY AS INTERPRETED UNDER THE FAMILY  
45 AND MEDICAL LEAVE ACT, 29 U.S.C. S 2612(A)(1)(E) AND 29 C.F.R. S  
46 825.126(A)(1)-(8), ARISING OUT OF THE FACT THAT THE SPOUSE, DOMESTIC  
47 PARTNER, CHILD, OR PARENT OF THE EMPLOYEE IS ON ACTIVE DUTY (OR HAS BEEN  
48 NOTIFIED OF AN IMPENDING CALL OR ORDER TO ACTIVE DUTY) IN THE ARMED  
49 FORCES OF THE UNITED STATES.

50 16. "CHILD" MEANS A BIOLOGICAL, ADOPTED OR FOSTER CHILD, A STEP-CHILD,  
51 A LEGAL WARD OR A CHILD OF A PERSON WHO STANDS IN PARENTAL RELATIONSHIP  
52 TO THE CHILD.

53 17. "DOMESTIC PARTNER" HAS THE MEANING SET FORTH IN SUBDIVISION ONE OF  
54 SECTION FOUR OF THIS CHAPTER.

55 18. "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY, IMPAIRMENT,  
56 OR PHYSICAL OR MENTAL CONDITION THAT:

1 A. REQUIRES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL  
2 HEALTH CARE FACILITY; OR

3 B. REQUIRES CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

4 19. "PARENT" MEANS BIOLOGICAL OR ADOPTIVE PARENT, STEP-PARENT OR  
5 PERSON WHO STOOD IN PARENTAL RELATIONSHIP TO AN EMPLOYEE.

6 20. "FAMILY MEMBER" MEANS A CHILD, SPOUSE, DOMESTIC PARTNER, PARENT,  
7 GRANDCHILD, GRANDPARENT, SIBLING OR PARENT OF A SPOUSE OR DOMESTIC PART-  
8 NER.

9 21. "PARENTAL RELATIONSHIP" IS A RELATIONSHIP IN WHICH A PERSON  
10 ASSUMES THE OBLIGATIONS INCIDENT TO PARENTHOOD FOR A CHILD AND ACTUALLY  
11 DISCHARGES THOSE OBLIGATIONS, OR A RELATIONSHIP IN WHICH A PERSON  
12 ASSUMED THOSE OBLIGATIONS AND DISCHARGED THEM BEFORE THE CHILD ATTAINED  
13 ADULTHOOD. A BIOLOGICAL OR LEGAL RELATIONSHIP IS NOT NECESSARY.

14 22. "GRANDCHILD" MEANS THE CHILD OF A CHILD.

15 23. "HEALTH CARE PROVIDER" MEANS A HEALTH CARE PRACTITIONER WHO IS  
16 LICENSED UNDER RELEVANT FEDERAL OR STATE LAWS TO PROVIDE MEDICAL, EMER-  
17 GENCY OR HEALTH SERVICES AND IS TREATING AN EMPLOYEE'S DISABILITY  
18 RESULTING FROM INJURY, SICKNESS OR PREGNANCY, OR A FAMILY MEMBER FOR A  
19 SERIOUS HEALTH CONDITION. FOR AN EMPLOYEE OR A FAMILY MEMBER WHO  
20 ADHERES TO THE FAITH OR TEACHINGS OF ANY CHURCH OR DENOMINATION AND WHO  
21 IN ACCORDANCE WITH ITS CREED, TENETS OR PRINCIPLES DEPENDS FOR HEALING  
22 UPON PRAYER THROUGH SPIRITUAL MEANS ALONE IN THE PRACTICE OF RELIGION,  
23 "HEALTH CARE PROVIDER" INCLUDES A PRACTITIONER DULY ACCREDITED BY THE  
24 CHURCH OR DENOMINATION WHO IS PROVIDING CARE TO THE EMPLOYEE OR FAMILY  
25 MEMBER.

26 24. "FAMILY CARE COST" SHALL MEAN:

27 A. PRIOR TO JULY FIRST, TWO THOUSAND SIXTEEN, UP TO FORTY-FIVE CENTS  
28 PER WEEK; AND

29 B. DURING EVERY SUBSEQUENT YEAR COMMENCING ON JULY FIRST SUCH MAXIMUM  
30 AMOUNT AS SHALL BE SET BY REGULATION OF THE SUPERINTENDENT OF FINANCIAL  
31 SERVICES FOLLOWING CONSULTATION WITH THE FAMILY CARE ADVISORY COUNCIL BY  
32 APRIL FIRST OF THE SAME YEAR BASED ON THE SUPERINTENDENT'S ACTUARIALLY  
33 SOUND ESTIMATION OF THE COST PER EMPLOYEE OF PROVIDING FAMILY CARE BENE-  
34 FITS, BUT IN NO EVENT MORE THAN ONE HUNDRED FIFTEEN PERCENT OF SUCH  
35 ESTIMATION OF THE COST PER EMPLOYEE OF PROVIDING FAMILY CARE BENEFITS  
36 THROUGH THE STATE INSURANCE FUND.

37 25. "GRANDPARENT" MEANS THE PARENT OF A PARENT.

38 26. "SIBLING" MEANS A BROTHER OR A SISTER, WHETHER RELATED THROUGH  
39 HALF BLOOD, WHOLE BLOOD OR ADOPTION OR A STEP-SIBLING.

40 S 6. The workers' compensation law is amended by adding a new section  
41 203-a to read as follows:

42 S 203-A. RETALIATORY ACTION PROHIBITED. 1. THE PROVISIONS OF SECTION  
43 ONE HUNDRED TWENTY OF THIS CHAPTER AND SECTION TWO HUNDRED FORTY-ONE OF  
44 THIS ARTICLE SHALL BE APPLICABLE TO FAMILY CARE LEAVE AS FULLY AS IF SET  
45 FORTH IN THIS SECTION.

46 2. NOTHING IN THIS SECTION SHALL BE DEEMED TO DIMINISH THE RIGHTS,  
47 PRIVILEGES, OR REMEDIES OF ANY EMPLOYEE UNDER ANY COLLECTIVE BARGAINING  
48 AGREEMENT OR EMPLOYMENT CONTRACT.

49 S 7. The workers' compensation law is amended by adding a new section  
50 203-b to read as follows:

51 S 203-B. FAMILY CARE LEAVE. ANY ELIGIBLE EMPLOYEE OF A COVERED EMPLOY-  
52 ER WHO TAKES LEAVE UNDER THIS SECTION SHALL BE ENTITLED, ON RETURN FROM  
53 SUCH LEAVE, TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF EMPLOYMENT  
54 HELD BY THE EMPLOYEE WHEN THE LEAVE COMMENCED, OR TO BE RESTORED TO A  
55 COMPARABLE POSITION WITH COMPARABLE EMPLOYMENT BENEFITS, PAY AND OTHER  
56 TERMS AND CONDITIONS OF EMPLOYMENT. THE TAKING OF LEAVE FOR THE PURPOSE

1 OF FAMILY CARE SHALL NOT RESULT IN THE LOSS OF ANY EMPLOYMENT BENEFIT  
2 ACCRUED PRIOR TO THE DATE ON WHICH THE LEAVE COMMENCED. NOTHING IN THIS  
3 SECTION SHALL BE CONSTRUED TO ENTITLE ANY RESTORED EMPLOYEE TO THE  
4 ACCRUAL OF ANY SENIORITY OR EMPLOYMENT BENEFITS DURING ANY PERIOD OF  
5 LEAVE, OR ANY RIGHT, BENEFIT OR POSITION TO WHICH THE EMPLOYEE WOULD  
6 HAVE BEEN ENTITLED HAD THE EMPLOYEE NOT TAKEN THE LEAVE. A VIOLATION OF  
7 THIS SECTION SHALL BE A VIOLATION OF SECTION ONE HUNDRED TWENTY OF THIS  
8 CHAPTER AND ALL REMEDIES AND PENALTIES AVAILABLE UNDER SECTION ONE  
9 HUNDRED TWENTY OF THIS CHAPTER SHALL BE AVAILABLE FOR VIOLATIONS OF THIS  
10 SECTION AS FULLY AS IF SET FORTH IN THIS SECTION.

11 S 8. Subdivision 1 of section 204 of the workers' compensation law, as  
12 added by chapter 600 of the laws of 1949, is amended and two new subdi-  
13 visions 3 and 4 are added to read as follows:

14 1. Disability benefits shall be payable to an eligible employee for  
15 disabilities commencing after June thirtieth, nineteen hundred fifty,  
16 beginning with the eighth consecutive day of disability and thereafter  
17 during the continuance of disability, subject to the limitations as to  
18 maximum and minimum amounts and duration and other conditions and limi-  
19 tations in this section and in sections two hundred five and two hundred  
20 six OF THIS ARTICLE. WHEN AN EMPLOYEE IS ELIGIBLE TO RECEIVE BENEFITS  
21 FOR FAMILY CARE REASONS IMMEDIATELY AFTER RECEIVING BENEFITS FOR THE  
22 EMPLOYEE'S OWN INJURY, SICKNESS OR PREGNANCY, BENEFITS SHALL BE PAYABLE  
23 TO THE EMPLOYEE BEGINNING ON THE FIRST DAY OF ELIGIBLE FAMILY CARE.  
24 Successive periods of disability caused by the same or related injury or  
25 sickness OR REASON FOR FAMILY CARE shall be deemed a single period of  
26 disability only if separated by less than three months.

27 3. THE WEEKLY BENEFIT WHICH THE DISABLED EMPLOYEE IS ENTITLED TO  
28 RECEIVE FOR DISABILITY COMMENCING ON OR AFTER JANUARY FIRST, TWO THOU-  
29 SAND FIFTEEN SHALL BE TWO-THIRDS OF THE EMPLOYEE'S AVERAGE WEEKLY WAGE,  
30 BUT IN NO CASE SHALL SUCH BENEFIT EXCEED THIRTY-FIVE PERCENT OF THE  
31 STATEWIDE AVERAGE WEEKLY WAGE AS DETERMINED BY THE STATE DEPARTMENT OF  
32 LABOR PURSUANT TO SUBDIVISION SIXTEEN OF SECTION TWO OF THIS CHAPTER.  
33 THE WEEKLY BENEFIT WHICH THE DISABLED EMPLOYEE IS ENTITLED TO RECEIVE  
34 FOR DISABILITY COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN  
35 SHALL BE TWO-THIRDS OF THE EMPLOYEE'S AVERAGE WEEKLY WAGE, BUT IN NO  
36 CASE SHALL SUCH BENEFIT EXCEED FORTY PERCENT OF THE STATEWIDE AVERAGE  
37 WEEKLY WAGE AS DETERMINED BY THE STATE DEPARTMENT OF LABOR PURSUANT TO  
38 SUBDIVISION SIXTEEN OF SECTION TWO OF THIS CHAPTER. THE WEEKLY BENEFIT  
39 WHICH THE DISABLED EMPLOYEE IS ENTITLED TO RECEIVE FOR DISABILITY  
40 COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN SHALL BE  
41 TWO-THIRDS OF THE EMPLOYEE'S AVERAGE WEEKLY WAGE BUT IN NO CASE SHALL  
42 SUCH BENEFIT EXCEED FORTY-FIVE PERCENT OF THE STATEWIDE AVERAGE WEEKLY  
43 WAGE AS DETERMINED BY THE STATE DEPARTMENT OF LABOR PURSUANT TO SUBDIVI-  
44 SION SIXTEEN OF SECTION TWO OF THIS CHAPTER. THE WEEKLY BENEFIT WHICH  
45 THE DISABLED EMPLOYEE IS ENTITLED TO RECEIVE FOR DISABILITY COMMENCING  
46 ON OR AFTER APRIL FIRST, TWO THOUSAND EIGHTEEN AND SUBSEQUENTLY SHALL BE  
47 TWO-THIRDS OF THE EMPLOYEE'S AVERAGE WEEKLY WAGE BUT IN NO CASE SHALL  
48 SUCH BENEFIT EXCEED FIFTY PERCENT OF THE STATEWIDE AVERAGE WEEKLY WAGE  
49 AS DETERMINED BY THE STATE DEPARTMENT OF LABOR PURSUANT TO SUBDIVISION  
50 SIXTEEN OF SECTION TWO OF THIS CHAPTER. FOR DISABILITY COMMENCING ON OR  
51 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE WEEKLY BENEFIT FOR A  
52 DISABLED EMPLOYEE WHO IS CONCURRENTLY ELIGIBLE FOR BENEFITS IN THE  
53 EMPLOYMENT OF MORE THAN ONE COVERED EMPLOYER SHALL, WITHIN THE MAXIMUM  
54 HEREIN PROVIDED, BE TWO-THIRDS OF THE TOTAL OF THE EMPLOYEE'S AVERAGE  
55 WEEKLY WAGES RECEIVED FROM ALL SUCH COVERED EMPLOYERS, AND SHALL BE

1 ALLOCATED IN THE PROPORTION OF THEIR RESPECTIVE AVERAGE WEEKLY WAGE  
2 PAYMENTS.

3 4. NOTWITHSTANDING ANY CONTRARY PROVISIONS IN THIS ARTICLE, AN EMPLOY-  
4 EE SHALL BE ENTITLED TO TAKE LEAVE FOR FAMILY CARE UNDER THIS ARTICLE ON  
5 AN INTERMITTENT OR REDUCED LEAVE SCHEDULE, EXCEPT THAT AN EMPLOYEE SHALL  
6 NOT BE ENTITLED TO INTERMITTENT OR REDUCED LEAVE TO PROVIDE FAMILY CARE  
7 UNDER PARAGRAPH A OF SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED ONE OF  
8 THIS ARTICLE UNLESS SHOWN TO BE MEDICALLY NECESSARY. THE EMPLOYEE SHALL  
9 MAKE A REASONABLE EFFORT TO SCHEDULE INTERMITTENT OR REDUCED LEAVE SO AS  
10 NOT TO UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER. LEAVE TAKEN ON AN  
11 INTERMITTENT OR REDUCED LEAVE SCHEDULE SHALL NOT RESULT IN A REDUCTION  
12 OF THE TOTAL AMOUNT OF LEAVE TO WHICH AN EMPLOYEE IS ENTITLED UNDER THIS  
13 ARTICLE BEYOND THE AMOUNT OF LEAVE ACTUALLY TAKEN.

14 S 9. Subdivisions 1, 2, 3, 4, 7 and 8 of section 205 of the workers'  
15 compensation law, subdivision 1 as amended by chapter 651 of the laws of  
16 1958, subdivision 2 as amended by chapter 270 of the laws of 1990 and  
17 subdivisions 3, 4, 7 and 8 as added by chapter 600 of the laws of 1949  
18 and as renumbered by chapter 352 of the laws of 1981, are amended and a  
19 new subdivision 9 is added to read as follows:

20 1. (A) For DISABILITY RESULTING FROM INJURY, SICKNESS OR PREGNANCY OF  
21 AN EMPLOYEE, FOR more than twenty-six weeks during a period of fifty-two  
22 consecutive calendar weeks or during any one period of disability; OR

23 (B) FOR FAMILY CARE, FOR MORE THAN TWELVE WEEKS DURING A PERIOD OF  
24 FIFTY-TWO CONSECUTIVE CALENDAR WEEKS OR DURING ANY ONE PERIOD OF FAMILY  
25 CARE;

26 2. for any period of disability RESULTING FROM THE INJURY, SICKNESS OR  
27 PREGNANCY OF AN EMPLOYEE during which an employee is not under the care  
28 of a [duly licensed physician or with respect to disability resulting  
29 from a condition of the foot which may lawfully be treated by a duly  
30 registered and licensed podiatrist of the state of New York or with  
31 respect to a disability resulting from a condition which may lawfully be  
32 treated by a duly registered and licensed chiropractor of the state of  
33 New York or with respect to a disability resulting from a condition  
34 which may lawfully be treated by a duly licensed dentist of the state of  
35 New York or with respect to a disability resulting from a condition  
36 which may lawfully be treated by a duly registered and licensed psychol-  
37 ogist of the state of New York or with respect to a disability resulting  
38 from a condition which may lawfully be treated by a duly certified nurse  
39 midwife, for any period of such disability during which an employee is  
40 neither under the care of a physician nor a podiatrist, nor a chiroprac-  
41 tor, nor a dentist, nor a psychologist, nor a certified nurse midwife;  
42 and for any period of disability during which an employee who adheres to  
43 the faith or teachings of any church or denomination and who in accord-  
44 ance with its creed, tenets or principles depends for healing upon pray-  
45 er through spiritual means alone in the practice of religion, is not  
46 under the care of a practitioner duly accredited by the church or denom-  
47 ination, and provided such employee shall submit to all physical exam-  
48 inations as required by this chapter.] HEALTH CARE PROVIDER;

49 3. for any disability RESULTING FROM INJURY OR SICKNESS OF AN EMPLOYEE  
50 occasioned by the wilful intention of the employee to bring about injury  
51 to or the sickness of himself or another, or resulting from any injury  
52 or sickness sustained in the perpetration by the employee of an illegal  
53 act;

54 4. for any day of disability during which the employee performed work  
55 for remuneration or profit; BUT NOT INCLUDING ANY REMUNERATION RECEIVED

1 FOR CARING FOR A FOSTER OR ADOPTED CHILD OR OTHER INDIVIDUAL RESIDING IN  
2 THE EMPLOYEE'S PLACE OF RESIDENCE;

3 7. for any disability due to any act of war, declared or undeclared,  
4 if such act shall occur after June thirtieth, nineteen hundred fifty,  
5 EXCEPT THAT NOTHING IN THIS SUBDIVISION SHALL BAR AN EMPLOYEE FROM  
6 RECEIVING BENEFITS UNDER THIS ARTICLE FOR CARE OF A FAMILY MEMBER DISA-  
7 BLED DUE TO AN ACT OF WAR;

8 8. for any disability RESULTING FROM AN INJURY, SICKNESS OR PREGNANCY  
9 OF THE EMPLOYEE commencing before the employee becomes eligible to bene-  
10 fits hereunder [or commencing prior to July first, nineteen hundred  
11 fifty, but this shall not preclude benefits for recurrence after July  
12 first, nineteen hundred fifty, of a disability commencing prior there-  
13 to.];

14 9. FOR ANY DAY OF ABSENCE FROM WORK RESULTING FROM INJURY, SICKNESS OR  
15 PREGNANCY OF THE EMPLOYEE TAKEN UNDER SECTION SEVENTY-ONE OR  
16 SEVENTY-THREE OF THE CIVIL SERVICE LAW.

17 S 10. The workers' compensation law is amended by adding a new section  
18 205-a to read as follows:

19 S 205-A. RELATIONSHIP BETWEEN DISABILITY BENEFITS FOR FAMILY CARE AND  
20 FOR THE EMPLOYEE'S OWN INJURY, SICKNESS OR PREGNANCY. 1. THE RECEIPT OF  
21 BENEFITS FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR PREGNANCY OF  
22 THE EMPLOYEE, SHALL NOT COUNT TOWARD ANY TIME LIMITATION UNDER SUBDIVI-  
23 SION ONE OF SECTION TWO HUNDRED FIVE OF THIS ARTICLE ON THE RECEIPT OF  
24 BENEFITS FOR FAMILY CARE, AND THE RECEIPT OF BENEFITS FOR FAMILY CARE  
25 SHALL NOT COUNT TOWARD ANY TIME LIMITATION UNDER SUBDIVISION ONE OF  
26 SECTION TWO HUNDRED FIVE OF THIS ARTICLE ON THE RECEIPT OF BENEFITS FOR  
27 DISABILITY RESULTING FROM INJURY, SICKNESS OR PREGNANCY TO THE EMPLOYEE,  
28 EXCEPT THAT AN EMPLOYEE MAY RECEIVE DISABILITY BENEFITS ON ONLY ONE  
29 CLAIM AT ANY TIME.

30 2. AN EMPLOYER MAY REQUIRE THAT AN INDIVIDUAL WHO IS ENTITLED TO LEAVE  
31 UNDER THE PROVISIONS OF THE FAMILY AND MEDICAL LEAVE ACT OF 1993, 29  
32 U.S.C. SEC. 2601 ET SEQ. SHALL TAKE ANY FAMILY CARE BENEFITS PROVIDED  
33 UNDER THIS ARTICLE CONCURRENTLY WITH LEAVE TAKEN PURSUANT TO THE FAMILY  
34 AND MEDICAL LEAVE ACT.

35 S 11. Subdivision 3 of section 209 of the workers' compensation law,  
36 as amended by chapter 415 of the laws of 1983, is amended to read as  
37 follows:

38 3. The contribution of each such employee to the cost of disability  
39 benefits provided by this article shall be one-half of one per centum of  
40 the employee's wages paid to him on and after July first, nineteen  
41 hundred fifty, but not in excess of sixty cents per week FOR THE COST OF  
42 DISABILITY BENEFITS FOR INJURY, SICKNESS OR PREGNANCY OF THE EMPLOYEE  
43 PLUS THE FAMILY CARE COST, AS DEFINED IN SUBDIVISION TWENTY-FOUR OF  
44 SECTION TWO HUNDRED ONE OF THIS ARTICLE.

45 S 11-a. Section 210 of the workers' compensation law, as added by  
46 chapter 600 of the laws of 1949, is amended to read as follows:

47 S 210. Employer contributions. 1. Every covered employer shall, on and  
48 after January first, nineteen hundred fifty, contribute the cost of  
49 providing [disability] benefits FOR DISABILITY RESULTING FROM INJURY,  
50 SICKNESS OR PREGNANCY in excess of the contributions collected from his  
51 employees, to the extent and in the manner provided in this article.

52 2. The special contribution of each covered employer to the accumu-  
53 lation of funds to provide benefits for disabled unemployed shall be as  
54 provided in subdivision one of section two hundred fourteen.

55 3. The contribution of every covered employer to the cost of providing  
56 [disability] benefits FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR

1 PREGNANCY after June thirtieth, nineteen hundred fifty, shall be the  
2 excess of such cost over the amount of the contributions of his employ-  
3 ees.

4 4. No profit shall be derived by any employer or association of  
5 employers or of employees from providing payment of disability benefits  
6 under this article. All funds representing contributions of employers  
7 and employees, and increments thereon, held by employers or associations  
8 of employers or of employees authorized or permitted to pay benefits  
9 under the provisions of this article, and by trustees paying benefits  
10 under plans or agreements meeting the requirements of section two  
11 hundred eleven, shall be trust funds and shall be expended only to  
12 provide for the payment of benefits to employees and for the costs of  
13 administering this article and for the support of the fund established  
14 under section two hundred fourteen.

15 S 12. Section 211 of the workers' compensation law is amended by  
16 adding two new subdivisions 7 and 8 to read as follows:

17 7. SUCH FAMILY CARE BENEFITS AS ARE PROVIDED FOR IN THIS ARTICLE SHALL  
18 BE IN ADDITION TO, AND SHALL NOT AMEND, REPEAL OR REPLACE, THE TERMS OF  
19 ANY AGREEMENT THAT IS COLLECTIVELY NEGOTIATED BETWEEN AN EMPLOYER AND  
20 AN EMPLOYEE ORGANIZATION, INCLUDING AGREEMENT OR INTEREST ARBITRATION  
21 AWARDS MADE PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

22 8. NOTHING IN THIS ARTICLE SHALL REQUIRE AN EMPLOYER TO USE THE SAME  
23 CARRIER TO PROVIDE BENEFITS REQUIRED BY OR PERMISSIBLE UNDER THIS ARTI-  
24 CLE FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR PREGNANCY OF THE  
25 EMPLOYEE AS IT USES TO PROVIDE BENEFITS REQUIRED BY OR PERMISSIBLE UNDER  
26 THIS ARTICLE FOR FAMILY CARE. AN EMPLOYER MAY USE A DIFFERENT MEANS,  
27 AMONG THOSE SET FORTH IN SUBDIVISIONS ONE THROUGH FIVE OF THIS SECTION,  
28 TO PROVIDE BENEFITS REQUIRED BY THIS ARTICLE FOR DISABILITY RESULTING  
29 FROM INJURY, SICKNESS OR PREGNANCY OF THE EMPLOYEE, FROM THE MEANS USED  
30 TO PROVIDE BENEFITS REQUIRED BY THIS ARTICLE FOR FAMILY CARE.

31 S 13. The workers' compensation law is amended by adding a new section  
32 211-a to read as follows:

33 S 211-A. PUBLIC EMPLOYEES; EMPLOYEE OPT IN. 1. FOR PURPOSES OF THIS  
34 SECTION, "PUBLIC EMPLOYEE" MEANS ANY EMPLOYEE OF THE STATE, ANY POLI-  
35 TICAL SUBDIVISION OF THE STATE, A PUBLIC AUTHORITY OR ANY OTHER GOVERN-  
36 MENTAL AGENCY OR INSTRUMENTALITY. "PUBLIC EMPLOYER" MEANS THE STATE, ANY  
37 POLITICAL SUBDIVISION OF THE STATE, A PUBLIC AUTHORITY OR ANY OTHER  
38 GOVERNMENTAL AGENCY OR INSTRUMENTALITY THEREOF. "EMPLOYEE ORGANIZATION"  
39 SHALL HAVE THE MEANING SET FORTH IN SECTION TWO HUNDRED ONE OF THE CIVIL  
40 SERVICE LAW.

41 2. PUBLIC EMPLOYERS SHALL PROVIDE BENEFITS FOR FAMILY CARE TO PUBLIC  
42 EMPLOYEES WHERE AN EMPLOYEE ORGANIZATION THAT REPRESENTS THOSE EMPLOYEES  
43 OPTS IN TO FAMILY CARE IN ACCORDANCE WITH THE PROCEDURES AND TERMS SET  
44 FORTH IN SUBDIVISION THREE OF THIS SECTION.

45 3. AN EMPLOYEE ORGANIZATION MAY OPT IN TO THE FAMILY CARE BENEFIT ON  
46 BEHALF OF THOSE EMPLOYEES IT REPRESENTS:

47 A. UPON NOTICE GIVEN PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN, WHICH  
48 OPT IN SHALL BECOME EFFECTIVE ONLY ON JULY FIRST, TWO THOUSAND FIFTEEN;

49 B. AT ANY TIME UPON NINETY DAYS NOTICE FOR ANY EMPLOYER WHO IS NOT  
50 PROVIDING DISABILITY BENEFITS FOR INJURY, SICKNESS OR PREGNANCY OF AN  
51 EMPLOYEE UNDER SECTION TWO HUNDRED TWELVE OF THIS ARTICLE, OR WHO IS  
52 SELF-INSURED FOR SUCH BENEFITS;

53 C. FOR ANY EMPLOYER WHO IS PROVIDING DISABILITY BENEFITS FOR INJURY,  
54 SICKNESS OR PREGNANCY OF AN EMPLOYEE UNDER SECTION TWO HUNDRED TWELVE OF  
55 THIS ARTICLE, UPON NOTICE AT LEAST NINETY DAYS PRIOR TO THE EXPIRATION  
56 OF THE EMPLOYER'S INSURANCE POLICY FOR SUCH BENEFITS, WHICH OPT IN SHALL

BE EFFECTIVE ONLY FOR THE TIME PERIOD COVERED BY ANY SUBSEQUENT POLICY OR RENEWAL; OR

D. AT ANY TIME AS IS MUTUALLY AGREED UPON BETWEEN THE EMPLOYEE ORGANIZATION AND ANY PUBLIC EMPLOYER.

AN EMPLOYEE ORGANIZATION THAT HAS OPTED IN TO THE FAMILY CARE BENEFIT MAY OPT OUT OF IT WITHIN THE TIME PERIODS, AND EFFECTIVE UPON THE SAME DATES, SET FORTH IN THIS PARAGRAPH.

4. IN THE ABSENCE OF ANY CONTRARY STATEMENT IN A COLLECTIVELY NEGOTIATED AGREEMENT UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, A PUBLIC EMPLOYER MAY REQUIRE PUBLIC EMPLOYEES WHO OPT IN UNDER THIS SECTION TO CONTRIBUTE UP TO THE FAMILY CARE COST, AS DEFINED IN SUBDIVISION TWENTY-FOUR OF SECTION TWO HUNDRED ONE OF THIS ARTICLE, PER WEEK IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION TWO HUNDRED NINE OF THIS ARTICLE.

S 14. Subdivisions 1 and 2 of section 212 of the workers' compensation law, subdivision 1 as amended by chapter 740 of the laws of 1960 and subdivision 2 as amended by chapter 120 of the laws of 1969, are amended to read as follows:

1. Any employer not required by this article to provide for the payment of disability benefits to his employees, or to any class or classes thereof, may become a covered employer or bring within the provisions of this article such employees or class or classes thereof by voluntarily electing to provide for payment of [such] benefits FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR PREGNANCY OF AN EMPLOYEE OR FOR FAMILY CARE, OR BOTH, in one or more of the ways set forth in section two hundred eleven OF THIS ARTICLE; but such election shall be subject to the approval of the [chairman] CHAIR, and if the employees are required to contribute to the cost of such benefits the assent within thirty days before such approval is granted, of more than one-half of such employees shall be evidenced to the satisfaction of the [chairman] CHAIR. On approval by the [chairman] CHAIR of such election to provide benefits, all the provisions of this article shall become and continue applicable as if the employer were a covered employer as defined in this article. The obligation to continue as a covered employer with respect to employees for whom provision of benefits is not required under this article, may be discontinued by such employer on ninety days notice to the [chairman] CHAIR in writing and to his employees, after he has provided for payment of benefits for not less than one year and with such provision for payment of obligations incurred on and prior to the termination date as the [chairman] CHAIR may approve. ANY ELECTION BY A PUBLIC EMPLOYER TO PROVIDE FAMILY CARE BENEFITS MADE PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN SHALL BE EFFECTIVE ON THAT DATE.

2. Notwithstanding the definition of "employer" and "employment" in section two hundred one of this article, THE STATE, a public authority, a municipal corporation or a fire district or other political subdivision may become a covered employer under this article by complying with the provisions of subdivision one of this section and may discontinue such status only as provided in [that] SUCH subdivision.

S 15. Subdivisions 1, 2, 3 and 4 of section 217 of the workers' compensation law, subdivision 1 as amended by chapter 167 of the laws of 1999, subdivisions 2 and 3 as amended by chapter 270 of the laws of 1990 and subdivision 4 as added by chapter 600 of the laws of 1949, are amended to read as follows:

1. Written notice and proof of disability shall be furnished to the employer by or on behalf of the employee claiming benefits or, in the case of a claimant under section two hundred seven of this article, to



1 the chair, within thirty days after commencement of the period of disa-  
2 bility. Additional proof shall be furnished thereafter from time to time  
3 as the employer or carrier or chair may require but not more often than  
4 once each week. Such proof shall include:

5 (A) IN THE CASE OF DISABILITY RESULTING FROM INJURY, SICKNESS OR PREG-  
6 NANCY OF THE EMPLOYEE, a statement of disability by the employee's  
7 attending [physician or attending podiatrist or attending chiropractor  
8 or attending dentist or attending psychologist or attending certified  
9 nurse midwife, or in the case of an employee who adheres to the faith or  
10 teachings of any church or denomination, and who in accordance with its  
11 creed, tenets or principles depends for healing upon prayer through  
12 spiritual means alone in the practice of religion, by an accredited  
13 practitioner, containing facts and opinions as to such disability in  
14 compliance with regulations of the chair.] HEALTH CARE PROVIDER;

15 (B) IN THE CASE OF FAMILY CARE FOR BONDING WITH A NEW CHILD, A BIRTH  
16 CERTIFICATE, CERTIFICATE OF ADOPTION, OR OTHER COMPETENT EVIDENCE SHOW-  
17 ING THAT THE EMPLOYEE IS THE PARENT OF A CHILD WITHIN TWELVE MONTHS OF  
18 THAT CHILD'S BIRTH OR PLACEMENT FOR ADOPTION OR FOSTER CARE WITH THE  
19 EMPLOYEE;

20 (C) IN THE CASE OF BENEFITS FOR CARE OF A FAMILY MEMBER WITH A SERIOUS  
21 HEALTH CONDITION:

22 (I) A STATEMENT BY THE FAMILY MEMBER'S HEALTH CARE PROVIDER, CONTAIN-  
23 ING FACTS AND OPINIONS AS TO SUCH HEALTH CONDITION IN COMPLIANCE WITH  
24 REGULATIONS OF THE CHAIR; AND

25 (II) A STATEMENT SUBSCRIBED BY THE EMPLOYEE AND AFFIRMED BY HIM OR HER  
26 AS TRUE UNDER PENALTIES OF PERJURY, OR OTHER EQUIVALENT DOCUMENTARY  
27 PROOF, THAT THE EMPLOYEE IS A PRIMARY CARE GIVER FOR THE FAMILY MEMBER  
28 DURING THE TIME OF DISABILITY;

29 (D) IN THE CASE OF BENEFITS DUE TO A MILITARY EXIGENCY, PROOF OF CALL  
30 TO ACTIVE DUTY AND CERTIFICATION THAT THE LEAVE IS FOR ONE OF THE  
31 EXIGENCIES AUTHORIZED FOR LEAVE UNDER REGULATION OF THE FAMILY AND  
32 MEDICAL LEAVE ACT, 29 CFR SEC. 825.309(6).

33 Failure to furnish notice or proof within the time and in the manner  
34 above provided shall not invalidate the claim but no benefits shall be  
35 required to be paid for any period more than two weeks prior to the date  
36 on which the required proof is furnished unless it shall be shown to the  
37 satisfaction of the chair not to have been reasonably possible to  
38 furnish such notice or proof and that such notice or proof was furnished  
39 as soon as possible; provided, however, that no benefits shall be paid  
40 unless the required proof of disability is furnished within twenty-six  
41 weeks after commencement of the period of disability. No limitation of  
42 time provided in this section shall run as against any person who is  
43 mentally incompetent, or physically incapable of providing such notice  
44 as a result of a serious medical condition, or a minor so long as such  
45 person has no guardian of the person and/or property.

46 2. An employee claiming benefits FOR THE EMPLOYEE'S INJURY, SICKNESS  
47 OR PREGNANCY, OR THE FAMILY MEMBER OF SUCH EMPLOYEE IN ANY CASE WHERE  
48 THE EMPLOYEE CLAIMS FAMILY CARE BENEFITS FOR PROVIDING CARE TO THAT  
49 FAMILY MEMBER shall, as requested by the employer or carrier, submit  
50 himself or herself at intervals, but not more than once a week, for  
51 examination by a [physician or podiatrist or chiropractor or dentist or  
52 psychologist or certified nurse midwife] RELEVANT HEALTH CARE PROVIDER  
53 designated by the employer or carrier. All such examinations shall be  
54 without cost to the employee OR FAMILY MEMBER and shall be held at a  
55 reasonable time and place.

1 3. The chair may direct the claimant WHO SEEKS DISABILITY BENEFITS FOR  
2 HIS OR HER INJURY, SICKNESS OR PREGNANCY, OR THE CLAIMANT'S FAMILY  
3 MEMBER WHERE THE CLAIMANT SEEKS DISABILITY BENEFITS FOR FAMILY LEAVE TO  
4 PROVIDE CARE TO THAT FAMILY MEMBER to submit to examination by a [physi-  
5 cian or podiatrist or chiropractor or dentist or psychologist] RELEVANT  
6 HEALTH CARE PROVIDER designated by him or her in any case in which the  
7 claim to disability benefits is contested and in claims arising under  
8 section two hundred seven OF THIS ARTICLE, and in other cases as the  
9 chair or board may require.

10 4. Refusal of the claimant OR FAMILY MEMBER without good cause to  
11 submit to any such examination shall disqualify [him] THE CLAIMANT from  
12 all benefits hereunder for the period of such refusal, except as to  
13 benefits already paid.

14 S 16. Section 221 of the workers' compensation law, as separately  
15 amended by chapters 425 and 500 of the laws of 1985, is amended to read  
16 as follows:

17 S 221. Determination of contested claims for disability benefits.  
18 Within twenty-six weeks of written notice of rejection of claim, the  
19 employee may file with the [chairman] CHAIR a notice that his or her  
20 claim for disability benefits has not been paid, and the employee shall  
21 submit proof of disability and of his or her employment, wages and other  
22 facts reasonably necessary for determination of the employee's right to  
23 such benefits. Failure to file such notice within the time provided,  
24 may be excused by the [chairman] CHAIR if it can be shown to the satis-  
25 faction of the [chairman] CHAIR not to have been reasonably possible to  
26 furnish such notice and that such notice was furnished as soon as possi-  
27 ble. On demand of the [chairman] CHAIR the employer or carrier shall  
28 forthwith deliver to the [chairman] CHAIR PROOF OF DISABILITY, INCLUDING  
29 IF RELEVANT the original or a true copy of the [attending physician's or  
30 attending podiatrist's or accredited practitioner's] HEALTH CARE PROVID-  
31 ER'S statement, wage and employment data and all other papers in the  
32 possession of the employer or carrier with respect to such claim OR  
33 COMPLAINT.

34 The board shall have full power and authority to determine all issues  
35 in relation to every such claim for disability benefits required or  
36 provided under this article, and shall file its decision in the office  
37 of the [chairman] CHAIR. Upon such filing, the [chairman] CHAIR shall  
38 send to the parties a copy of the decision. Either party may present  
39 evidence and be represented by counsel at any hearing on such claim.  
40 The decision of the board shall be final as to all questions of fact  
41 and, except as provided in section twenty-three of this chapter, as to  
42 all questions of law. Every decision of the board shall be complied with  
43 in accordance with its terms within ten days thereafter except in case  
44 of appeal, and any payments due under such decision shall draw simple  
45 interest from thirty days after the making thereof at the rate provided  
46 in section five thousand four of the civil practice law and rules.

47 S 16-a. Subdivisions 2 and 3 of section 226 of the workers' compen-  
48 sation law, as added by chapter 600 of the laws of 1949, are amended to  
49 read as follows:

50 2. Every such policy shall contain a provision that, as between the  
51 employee and the insurance carrier, the notice to or knowledge of the  
52 occurrence of the [injury or sickness] DISABILITY on the part of the  
53 employer shall be deemed notice or knowledge as the case may be, on the  
54 part of the insurance carrier; that jurisdiction of the employer shall,  
55 for the purpose of this chapter, be jurisdiction of the insurance carri-  
56 er and that the insurance carrier shall in all things be bound by and

1 subject to the orders, findings or decisions rendered in connection with  
2 the payment of benefits under the provisions of this article.

3 3. Every such policy shall contain a provision to the effect that the  
4 insolvency or bankruptcy of the employer shall not relieve the insurance  
5 carrier from the payment of benefits for disability [suffered by an  
6 employee] THAT OCCURS during the life of such policy.

7 S 17. Subdivisions 1 and 2 of section 229 of the workers' compensation  
8 law, subdivision 1 as amended and subdivision 2 as added by chapter 271  
9 of the laws of 1985, is amended to read as follows:

10 1. Each covered employer shall post and maintain in a conspicuous  
11 place or places in and about the employer's place or places of business  
12 typewritten or printed notices in form prescribed by the chairman, stat-  
13 ing that the employer has provided for the payment of disability bene-  
14 fits as required by this article. The chairman may require any covered  
15 employer to furnish a written statement at any time showing the carrier  
16 insuring the payment of benefits under this article or the manner in  
17 which such employer has complied with section two hundred eleven or any  
18 other provision of this article. Failure for a period of ten days to  
19 furnish such written statement shall constitute presumptive evidence  
20 that such employer has neglected or failed in respect of any of the  
21 matters so required. EACH COVERED EMPLOYER SHALL PROVIDE EACH EMPLOYEE  
22 WITH A TYPEWRITTEN, PRINTED OR ELECTRONIC NOTICE IN A FORM PRESCRIBED BY  
23 THE CHAIR, STATING THAT THE EMPLOYER HAS PROVIDED FOR THE PAYMENT OF  
24 DISABILITY BENEFITS AS REQUIRED BY THIS ARTICLE WITHIN THIRTY DAYS OF  
25 THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN  
26 WHICH AMENDED THIS SUBDIVISION. EACH COVERED EMPLOYER SHALL PROVIDE SUCH  
27 NOTICE TO ALL NEW EMPLOYEES WITHIN THIRTY DAYS OF THEIR FIRST DAY OF  
28 WORK.

29 2. Whenever an employee of a covered employer who is eligible for  
30 benefits under section two hundred four of this article shall be absent  
31 from work due to a disability as defined in subdivision nine of section  
32 two hundred one of this article for more than seven consecutive days,  
33 the employer shall provide the employee with a written statement of the  
34 employee's rights under this article in a form prescribed by the [chair-  
35 man] CHAIR. The statement shall be provided to the employee within five  
36 business days after the employee's seventh consecutive day of absence  
37 due to disability or within five business days after the employer knows  
38 or should know that the employee's absence is due to disability, which-  
39 ever is later.

40 S 18. The workers' compensation law is amended by adding a new section  
41 239-a to read as follows:

42 S 239-A. FAMILY CARE OUTREACH STUDY AND MONITORING. 1. THE DEPARTMENT  
43 OF LABOR SHALL DEVELOP AND IMPLEMENT A PUBLIC EDUCATION CAMPAIGN TO  
44 INFORM WORKERS AND EMPLOYERS REGARDING THE AVAILABILITY OF FAMILY CARE  
45 UNDER THIS CHAPTER. THE DEPARTMENT OF LABOR'S PUBLIC OUTREACH CAMPAIGN  
46 MAY INCLUDE LOCALLY TAILORED PUBLIC EDUCATION STRATEGIES TARGETED TO NEW  
47 PARENTS AND FAMILY CAREGIVERS WHO MAY BE ELIGIBLE FOR FAMILY CARE UNDER  
48 THIS CHAPTER. AS PART OF THE PUBLIC EDUCATION PROGRAM, PUBLIC OFFICIALS  
49 MAY MAINTAIN A SUPPLY OF INFORMATIONAL LEAFLETS IN PUBLIC BUILDINGS,  
50 INCLUDING BUT NOT LIMITED TO LOCAL EMPLOYMENT SERVICES OFFICES OF THE  
51 DEPARTMENT OF LABOR, INSTITUTIONS AND FACILITIES UNDER THE SUPERVISION  
52 OR CONTROL OF THE DEPARTMENT OF HEALTH, HOSPITALS, UNION HALLS, COMMUNI-  
53 TY CENTERS, SCHOOLS AND LOCAL AGENCIES PROVIDING SERVICES TO EMPLOYERS  
54 AND EMPLOYEES TO HELP ENSURE THAT SUCH PERSONS ARE INFORMED OF THE  
55 AVAILABILITY OF FAMILY CARE UNDER THIS CHAPTER. THE DEPARTMENT OF LABOR  
56 SHALL MAKE PUBLIC EDUCATION INFORMATION AVAILABLE IN ENGLISH, SPANISH,

1 CHINESE, RUSSIAN, ITALIAN, KOREAN, HAITIAN CREOLE, AND ANY OTHER  
2 LANGUAGES DEEMED APPROPRIATE BY THE DEPARTMENT OF LABOR.

3 2. THE DEPARTMENT OF FINANCIAL SERVICES SHALL STUDY, AND REPORT TO THE  
4 GOVERNOR AND BOTH HOUSES OF THE LEGISLATURE BY APRIL FIRST, TWO THOUSAND  
5 FIFTEEN, ON THE FEASIBILITY AND IMPACT OF COMMUNITY RATING DISABILITY  
6 INSURANCE OR ANY ASPECT THEREOF.

7 3. THERE SHALL BE CREATED THE FAMILY CARE ADVISORY COUNCIL, WHICH  
8 SHALL CONSIST OF FIFTEEN MEMBERS TO BE APPOINTED BY THE GOVERNOR AS  
9 FOLLOWS: TWO ON RECOMMENDATION BY THE NEW YORK STATE AMERICAN FEDERATION  
10 OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS, ONE OF WHOM SHALL BE  
11 REPRESENTATIVE OF PUBLIC EMPLOYEE ORGANIZATIONS CERTIFIED UNDER ARTICLE  
12 FOURTEEN OF THE CIVIL SERVICE LAW, PARTICIPATING IN THE PAID FAMILY CARE  
13 PLAN, ONE OF WHOM IS REPRESENTATIVE OF UNIONS REPRESENTING WORKERS  
14 EMPLOYED IN THE PRIVATE SECTOR; TWO WHO ARE REPRESENTATIVES OF ORGANIZA-  
15 TIONS THAT REPRESENT EITHER COVERED BUSINESS OR PUBLIC EMPLOYERS IN NEW  
16 YORK STATE PARTICIPATING IN THE PAID FAMILY LEAVE PLAN; TWO ON NOMI-  
17 NATION OF THE SPEAKER OF THE ASSEMBLY; ONE ON NOMINATION BY THE MINORITY  
18 LEADER OF THE ASSEMBLY; TWO ON NOMINATION BY THE TEMPORARY PRESIDENT OF  
19 THE SENATE; ONE ON NOMINATION BY THE MINORITY LEADER OF THE SENATE; AND  
20 THE SUPERINTENDENT OF FINANCIAL SERVICES, COMMISSIONER OF LABOR AND  
21 CHAIR OF THE WORKERS' COMPENSATION BOARD, WHO SHALL SERVE AS MEMBERS EX  
22 OFFICIO. THE COMMISSIONER OF LABOR SHALL SERVE AS CHAIR OF THE COUNCIL.  
23 THE SUPERINTENDENT OF FINANCIAL SERVICES AND CHAIR OF THE WORKERS'  
24 COMPENSATION BOARD SHALL CONSULT REGULARLY WITH THE COUNCIL ON THE  
25 IMPLEMENTATION OF THE FAMILY CARE BENEFIT. THE DEPARTMENT OF LABOR, THE  
26 DEPARTMENT OF FINANCIAL SERVICES AND THE WORKERS' COMPENSATION BOARD  
27 SHALL PROVIDE ALL NECESSARY PERSONNEL AND LOGISTICAL SUPPORT AS MAY BE  
28 NECESSARY TO COMPLETE THE DUTIES OF THE ADVISORY COUNCIL. THE COUNCIL OR  
29 ANY OF ITS MEMBERS MAY ISSUE SUCH RECOMMENDATIONS OR REPORTS AS THEY  
30 DEEM WARRANTED ON THE FAMILY CARE BENEFIT, INCLUDING ON THE SCOPE OF THE  
31 BENEFIT, PROBLEMS WITH THE BENEFIT; FUNDING OF THE BENEFIT INCLUDING  
32 PASS-THROUGH COSTS; POSSIBLE STATUTORY AMENDMENTS AND REGULATORY CHANG-  
33 ES; USAGE RATES; OUTREACH; AND COMMUNITY RATING. ANY SUCH RECOMMENDA-  
34 TIONS OR REPORTS SHALL BE PROVIDED TO THE GOVERNOR, SUPERINTENDENT OF  
35 FINANCIAL SERVICES, SPEAKER OF THE ASSEMBLY, TEMPORARY PRESIDENT OF THE  
36 SENATE AND MINORITY LEADERS OF THE SENATE AND ASSEMBLY. EACH MEMBER OF  
37 THE COMMISSION SHALL SERVE A TERM OF THREE YEARS. AN APPOINTMENT TO FILL  
38 A VACANCY SHALL BE MADE FOR THE REMAINDER OF THE AFFECTED TERM. MEMBERS  
39 SHALL RECEIVE NO COMPENSATION.

40 S 19. Paragraph 3 of subsection (a) of section 1113 of the insurance  
41 law is amended to read as follows:

42 (3) "Accident and health insurance," means (i) insurance against death  
43 or personal injury by accident or by any specified kind or kinds of  
44 accident and insurance against sickness, ailment or bodily injury,  
45 including insurance providing disability benefits pursuant to article  
46 nine of the workers' compensation law, INCLUDING ANY INSURANCE UNDER  
47 THAT ARTICLE FOR FAMILY CARE BENEFITS, DISABILITY BENEFITS RESULTING  
48 FROM INJURY, SICKNESS OR PREGNANCY OF AN EMPLOYEE, OR ALL, except as  
49 specified in item (ii) [hereof] OF THIS PARAGRAPH; and (ii) non-cancell-  
50 able disability insurance, meaning insurance against disability result-  
51 ing from sickness, ailment or bodily injury (but excluding insurance  
52 solely against accidental injury) under any contract which does not give  
53 the insurer the option to cancel or otherwise terminate the contract at  
54 or after one year from its effective date or renewal date.

55 S 20. This act shall take effect immediately; provided, however, that:

1 (a) Sections two, three, four, five, six, seven, eight, nine, ten,  
2 eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and  
3 nineteen of this act shall take effect January 1, 2015.

4 (b) Paragraph a of subdivision 3 of section 211-a of the workers'  
5 compensation law, as added by section thirteen of this act allowing  
6 public employees to opt in to family care benefits prior to July 1, 2015  
7 and subdivision 1 of section 212 of the workers' compensation law as  
8 amended by section fourteen of this act allowing public employers to opt  
9 in to family care benefits prior to July 1, 2015, shall take effect  
10 immediately.

11 (c) Effective immediately, the addition, amendment and/or repeal of  
12 any rules or regulations necessary for the implementation of this act on  
13 its effective date are authorized and directed to be made and completed  
14 on or before such effective date.