

3004

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sens. ADDABBO, AVELLA, BRESLIN, DILAN, ESPAILLAT, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, MONTGOMERY, PARKER, PERALTA, PERKINS, RIVERA, SAMPSON, SANDERS, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

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

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

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

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

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

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

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

23 S 4. Subdivision 14 of section 201 of the workers' compensation law,
24 as added by chapter 600 of the laws of 1949 and as renumbered by chapter
25 438 of the laws of 1964, is amended to read as follows:

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

30 S 5. Section 201 of the workers' compensation law is amended by adding
31 twelve new subdivisions 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and
32 26 to read as follows:

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

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

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

40 C. BECAUSE OF ANY QUALIFYING EXIGENCY AS INTERPRETED UNDER THE FAMILY
41 AND MEDICAL LEAVE ACT, 29 U.S.C. S 2612(A)(1)(E) AND 29 C.F.R. S
42 825.126(A)(1)-(8), ARISING OUT OF THE FACT THAT THE SPOUSE, DOMESTIC
43 PARTNER, CHILD, OR PARENT OF THE EMPLOYEE IS ON ACTIVE DUTY (OR HAS BEEN
44 NOTIFIED OF AN IMPENDING CALL OR ORDER TO ACTIVE DUTY) IN THE ARMED
45 FORCES OF THE UNITED STATES.

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

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

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

53 A. REQUIRES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL
54 HEALTH CARE FACILITY; OR

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

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

3 20. "FAMILY MEMBER" MEANS A CHILD, SPOUSE, DOMESTIC PARTNER, PARENT,
4 GRANDCHILD, GRANDPARENT, SIBLING OR PARENT OF A SPOUSE OR DOMESTIC PART-
5 NER.

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

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

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

23 24. "FAMILY CARE COST" SHALL MEAN:

24 A. PRIOR TO JULY FIRST, TWO THOUSAND SEVENTEEN, UP TO FORTY-FIVE CENTS
25 PER WEEK; AND

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

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

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

37 S 6. The workers' compensation law is amended by adding a new section
38 203-a to read as follows:

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

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

46 S 7. The workers' compensation law is amended by adding a new section
47 203-b to read as follows:

48 S 203-B. FAMILY CARE LEAVE. ANY ELIGIBLE EMPLOYEE OF A COVERED EMPLOY-
49 ER WHO TAKES LEAVE UNDER THIS SECTION SHALL BE ENTITLED, ON RETURN FROM
50 SUCH LEAVE, TO BE RESTORED BY THE EMPLOYER TO THE POSITION OF EMPLOYMENT
51 HELD BY THE EMPLOYEE WHEN THE LEAVE COMMENCED, OR TO BE RESTORED TO A
52 COMPARABLE POSITION WITH COMPARABLE EMPLOYMENT BENEFITS, PAY AND OTHER
53 TERMS AND CONDITIONS OF EMPLOYMENT. THE TAKING OF LEAVE FOR THE PURPOSE
54 OF FAMILY CARE SHALL NOT RESULT IN THE LOSS OF ANY EMPLOYMENT BENEFIT
55 ACCRUED PRIOR TO THE DATE ON WHICH THE LEAVE COMMENCED. NOTHING IN THIS
56 SECTION SHALL BE CONSTRUED TO ENTITLE ANY RESTORED EMPLOYEE TO THE

1 ACCRUAL OF ANY SENIORITY OR EMPLOYMENT BENEFITS DURING ANY PERIOD OF
2 LEAVE, OR ANY RIGHT, BENEFIT OR POSITION TO WHICH THE EMPLOYEE WOULD
3 HAVE BEEN ENTITLED HAD THE EMPLOYEE NOT TAKEN THE LEAVE. A VIOLATION OF
4 THIS SECTION SHALL BE A VIOLATION OF SECTION ONE HUNDRED TWENTY OF THIS
5 CHAPTER AND ALL REMEDIES AND PENALTIES AVAILABLE UNDER SECTION ONE
6 HUNDRED TWENTY OF THIS CHAPTER SHALL BE AVAILABLE FOR VIOLATIONS OF THIS
7 SECTION AS FULLY AS IF SET FORTH IN THIS SECTION.

8 S 8. Subdivision 1 of section 204 of the workers' compensation law, as
9 added by chapter 600 of the laws of 1949, is amended and two new subdivi-
10 sions 3 and 4 are added to read as follows:

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

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

55 4. NOTWITHSTANDING ANY CONTRARY PROVISIONS IN THIS ARTICLE, AN EMPLOY-
56 EE SHALL BE ENTITLED TO TAKE LEAVE FOR FAMILY CARE UNDER THIS ARTICLE ON

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

10 S 9. Subdivisions 1, 2, 3, 4, 7 and 8 of section 205 of the workers'
11 compensation law, subdivision 1 as amended by chapter 651 of the laws of
12 1958, subdivision 2 as amended by chapter 270 of the laws of 1990 and
13 subdivisions 3, 4, 7 and 8 as added by chapter 600 of the laws of 1949
14 and as renumbered by chapter 352 of the laws of 1981, are amended and a
15 new subdivision 9 is added to read as follows:

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

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

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

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

50 4. for any day of disability during which the employee performed work
51 for remuneration or profit; BUT NOT INCLUDING ANY REMUNERATION RECEIVED
52 FOR CARING FOR A FOSTER OR ADOPTED CHILD OR OTHER INDIVIDUAL RESIDING IN
53 THE EMPLOYEE'S PLACE OF RESIDENCE;

54 7. for any disability due to any act of war, declared or undeclared,
55 if such act shall occur after June thirtieth, nineteen hundred fifty,
56 EXCEPT THAT NOTHING IN THIS SUBDIVISION SHALL BAR AN EMPLOYEE FROM

1 RECEIVING BENEFITS UNDER THIS ARTICLE FOR CARE OF A FAMILY MEMBER DISA-
2 BLED DUE TO AN ACT OF WAR;

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

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

12 S 10. The workers' compensation law is amended by adding a new section
13 205-a to read as follows:

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

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

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

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

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

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

47 2. The special contribution of each covered employer to the accumu-
48 lation of funds to provide benefits for disabled unemployed shall be as
49 provided in subdivision one of section two hundred fourteen OF THIS
50 ARTICLE.

51 3. The contribution of every covered employer to the cost of providing
52 [disability] benefits FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR
53 PREGNANCY after June thirtieth, nineteen hundred fifty, shall be the
54 excess of such cost over the amount of the contributions of his employ-
55 ees.

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

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

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

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

28 S 13. The workers' compensation law is amended by adding a new section
29 211-a to read as follows:

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

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

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

44 A. UPON NOTICE GIVEN PRIOR TO APRIL FIRST, TWO THOUSAND SIXTEEN, WHICH
45 OPT IN SHALL BECOME EFFECTIVE ONLY ON JULY FIRST, TWO THOUSAND SIXTEEN;

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

50 C. FOR ANY EMPLOYER WHO IS PROVIDING DISABILITY BENEFITS FOR INJURY,
51 SICKNESS OR PREGNANCY OF AN EMPLOYEE UNDER SECTION TWO HUNDRED TWELVE OF
52 THIS ARTICLE, UPON NOTICE AT LEAST NINETY DAYS PRIOR TO THE EXPIRATION
53 OF THE EMPLOYER'S INSURANCE POLICY FOR SUCH BENEFITS, WHICH OPT IN SHALL
54 BE EFFECTIVE ONLY FOR THE TIME PERIOD COVERED BY ANY SUBSEQUENT POLICY
55 OR RENEWAL; OR

1 D. AT ANY TIME AS IS MUTUALLY AGREED UPON BETWEEN THE EMPLOYEE ORGAN-
2 IZATION AND ANY PUBLIC EMPLOYER.

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

6 4. IN THE ABSENCE OF ANY CONTRARY STATEMENT IN A COLLECTIVELY NEGOTI-
7 ATED AGREEMENT UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, A PUBLIC
8 EMPLOYER MAY REQUIRE PUBLIC EMPLOYEES WHO OPT IN UNDER THIS SECTION TO
9 CONTRIBUTE UP TO THE FAMILY CARE COST, AS DEFINED IN SUBDIVISION TWEN-
10 TY-FOUR OF SECTION TWO HUNDRED ONE OF THIS ARTICLE, PER WEEK IN ACCORD-
11 ANCE WITH THE PROCEDURE SET FORTH IN SECTION TWO HUNDRED NINE OF THIS
12 ARTICLE.

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

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

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

47 S 15. Subdivisions 1, 2, 3 and 4 of section 217 of the workers'
48 compensation law, subdivision 1 as amended by chapter 167 of the laws of
49 1999, subdivisions 2 and 3 as amended by chapter 270 of the laws of 1990
50 and subdivision 4 as added by chapter 600 of the laws of 1949, are
51 amended to read as follows:

52 1. Written notice and proof of disability shall be furnished to the
53 employer by or on behalf of the employee claiming benefits or, in the
54 case of a claimant under section two hundred seven of this article, to
55 the chair, within thirty days after commencement of the period of disa-
56 bility. Additional proof shall be furnished thereafter from time to time

1 as the employer or carrier or chair may require but not more often than
2 once each week. Such proof shall include:

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

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

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

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

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

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

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

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

54 3. The chair may direct the claimant WHO SEEKS DISABILITY BENEFITS FOR
55 HIS OR HER INJURY, SICKNESS OR PREGNANCY, OR THE CLAIMANT'S FAMILY
56 MEMBER WHERE THE CLAIMANT SEEKS DISABILITY BENEFITS FOR FAMILY LEAVE TO

1 PROVIDE CARE TO THAT FAMILY MEMBER to submit to examination by a [physi-
2 cian or podiatrist or chiropractor or dentist or psychologist] RELEVANT
3 HEALTH CARE PROVIDER designated by him or her in any case in which the
4 claim to disability benefits is contested and in claims arising under
5 section two hundred seven OF THIS ARTICLE, and in other cases as the
6 chair or board may require.

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

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

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

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

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

47 2. Every such policy shall contain a provision that, as between the
48 employee and the insurance carrier, the notice to or knowledge of the
49 occurrence of the [injury or sickness] DISABILITY on the part of the
50 employer shall be deemed notice or knowledge as the case may be, on the
51 part of the insurance carrier; that jurisdiction of the employer shall,
52 for the purpose of this chapter, be jurisdiction of the insurance carri-
53 er and that the insurance carrier shall in all things be bound by and
54 subject to the orders, findings or decisions rendered in connection with
55 the payment of benefits under the provisions of this article.

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

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

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

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

38 S 18. The workers' compensation law is amended by adding a new section
39 239-a to read as follows:

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

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

3. THERE SHALL BE CREATED THE FAMILY CARE ADVISORY COUNCIL, WHICH SHALL CONSIST OF FIFTEEN MEMBERS TO BE APPOINTED BY THE GOVERNOR AS FOLLOWS: TWO ON RECOMMENDATION BY THE NEW YORK STATE AMERICAN FEDERATION OF LABOR-CONGRESS OF INDUSTRIAL ORGANIZATIONS, ONE OF WHOM SHALL BE REPRESENTATIVE OF PUBLIC EMPLOYEE ORGANIZATIONS CERTIFIED UNDER ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, PARTICIPATING IN THE PAID FAMILY CARE PLAN, ONE OF WHOM IS REPRESENTATIVE OF UNIONS REPRESENTING WORKERS EMPLOYED IN THE PRIVATE SECTOR; TWO WHO ARE REPRESENTATIVES OF ORGANIZATIONS THAT REPRESENT EITHER COVERED BUSINESS OR PUBLIC EMPLOYERS IN NEW YORK STATE PARTICIPATING IN THE PAID FAMILY LEAVE PLAN; TWO ON NOMINATION OF THE SPEAKER OF THE ASSEMBLY; ONE ON NOMINATION BY THE MINORITY LEADER OF THE ASSEMBLY; TWO ON NOMINATION BY THE TEMPORARY PRESIDENT OF THE SENATE; ONE ON NOMINATION BY THE MINORITY LEADER OF THE SENATE; AND THE SUPERINTENDENT OF FINANCIAL SERVICES, COMMISSIONER OF LABOR AND CHAIR OF THE WORKERS' COMPENSATION BOARD, WHO SHALL SERVE AS MEMBERS EX OFFICIO. THE COMMISSIONER OF LABOR SHALL SERVE AS CHAIR OF THE COUNCIL. THE SUPERINTENDENT OF FINANCIAL SERVICES AND CHAIR OF THE WORKERS' COMPENSATION BOARD SHALL CONSULT REGULARLY WITH THE COUNCIL ON THE IMPLEMENTATION OF THE FAMILY CARE BENEFIT. THE DEPARTMENT OF LABOR, THE DEPARTMENT OF FINANCIAL SERVICES AND THE WORKERS' COMPENSATION BOARD SHALL PROVIDE ALL NECESSARY PERSONNEL AND LOGISTICAL SUPPORT AS MAY BE NECESSARY TO COMPLETE THE DUTIES OF THE ADVISORY COUNCIL. THE COUNCIL OR ANY OF ITS MEMBERS MAY ISSUE SUCH RECOMMENDATIONS OR REPORTS AS THEY DEEM WARRANTED ON THE FAMILY CARE BENEFIT, INCLUDING ON THE SCOPE OF THE BENEFIT, PROBLEMS WITH THE BENEFIT; FUNDING OF THE BENEFIT INCLUDING PASS-THROUGH COSTS; POSSIBLE STATUTORY AMENDMENTS AND REGULATORY CHANGES; USAGE RATES; OUTREACH; AND COMMUNITY RATING. ANY SUCH RECOMMENDATIONS OR REPORTS SHALL BE PROVIDED TO THE GOVERNOR, SUPERINTENDENT OF FINANCIAL SERVICES, SPEAKER OF THE ASSEMBLY, TEMPORARY PRESIDENT OF THE SENATE AND MINORITY LEADERS OF THE SENATE AND ASSEMBLY. EACH MEMBER OF THE COMMISSION SHALL SERVE A TERM OF THREE YEARS. AN APPOINTMENT TO FILL A VACANCY SHALL BE MADE FOR THE REMAINDER OF THE AFFECTED TERM. MEMBERS SHALL RECEIVE NO COMPENSATION.

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

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

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

(a) Sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and nineteen of this act shall take effect January 1, 2016.

1 (b) Paragraph a of subdivision 3 of section 211-a of the workers'
2 compensation law, as added by section thirteen of this act allowing
3 public employees to opt in to family care benefits prior to July 1, 2016
4 and subdivision 1 of section 212 of the workers' compensation law as
5 amended by section fourteen of this act allowing public employers to opt
6 in to family care benefits prior to July 1, 2016, shall take effect
7 immediately.

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