

3004--A

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sens. ADDABBO, AVELLA, BRESLIN, COMRIE, DILAN, ESPAILLAT, HAMILTON, HASSELL-THOMPSON, HOYLMAN, KENNEDY, KRUEGER, MONTGOMERY, PANEPINTO, PARKER, PERALTA, PERKINS, RIVERA, SANDERS, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, 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
16 said fund and deposited or invested as herein provided. Said disability
17 benefits fund shall be applicable to the payment of benefits, expenses

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

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1 and assessments on account of insurance written pursuant to article nine
2 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 A. REQUIRES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL
56 HEALTH CARE FACILITY; OR

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

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

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

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

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

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

24 24. "FAMILY CARE COST" SHALL MEAN:

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

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

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

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

38 S 6. The workers' compensation law is amended by adding a new section
39 203-a to read as follows:

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

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

47 S 7. The workers' compensation law is amended by adding a new section
48 203-b to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 S 10. The workers' compensation law is amended by adding a new section
16 205-a to read as follows:

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

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

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

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

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

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

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

54 3. The contribution of every covered employer to the cost of providing
55 [disability] benefits FOR DISABILITY RESULTING FROM INJURY, SICKNESS OR
56 PREGNANCY after June thirtieth, nineteen hundred fifty, shall be the

1 excess of such cost over the amount of the contributions of his employ-
2 ees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 1. Written notice and proof of disability shall be furnished to the
55 employer by or on behalf of the employee claiming benefits or, in the
56 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, are 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]
13 CHAIR, stating that the employer has provided for the payment of disa-
14 bility benefits as required by this article. The [chairman] CHAIR may
15 require any covered employer to furnish a written statement at any time
16 showing the carrier insuring the payment of benefits under this article
17 or the manner in which such employer has complied with section two
18 hundred eleven or any other provision of this article. Failure for a
19 period of ten days to furnish such written statement shall constitute
20 presumptive evidence that such employer has neglected or failed in
21 respect of any of the matters so required. EACH COVERED EMPLOYER SHALL
22 PROVIDE EACH EMPLOYEE WITH A TYPEWRITTEN, PRINTED OR ELECTRONIC NOTICE
23 IN A FORM PRESCRIBED BY THE CHAIR, STATING THAT THE EMPLOYER HAS
24 PROVIDED FOR THE PAYMENT OF DISABILITY BENEFITS AS REQUIRED BY THIS
25 ARTICLE WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THE CHAPTER OF THE
26 LAWS OF TWO THOUSAND SIXTEEN WHICH AMENDED THIS SUBDIVISION. EACH
27 COVERED EMPLOYER SHALL PROVIDE SUCH NOTICE TO ALL NEW EMPLOYEES WITHIN
28 THIRTY DAYS OF THEIR FIRST DAY OF 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 SHALL DEVELOP AND IMPLEMENT A PUBLIC EDUCATION CAMPAIGN TO INFORM WORK-
44 ERS AND EMPLOYERS REGARDING THE AVAILABILITY OF FAMILY CARE UNDER THIS
45 CHAPTER. THE DEPARTMENT'S PUBLIC OUTREACH CAMPAIGN MAY INCLUDE LOCALLY
46 TAILORED PUBLIC EDUCATION STRATEGIES TARGETED TO NEW PARENTS AND FAMILY
47 CAREGIVERS WHO MAY BE ELIGIBLE FOR FAMILY CARE UNDER THIS CHAPTER. AS
48 PART OF THE PUBLIC EDUCATION PROGRAM, PUBLIC OFFICIALS MAY MAINTAIN A
49 SUPPLY OF INFORMATIONAL LEAFLETS IN PUBLIC BUILDINGS, INCLUDING BUT NOT
50 LIMITED TO LOCAL EMPLOYMENT SERVICES OFFICES OF THE DEPARTMENT, INSTI-
51 TUTIONS AND FACILITIES UNDER THE SUPERVISION OR CONTROL OF THE DEPART-
52 MENT OF HEALTH, HOSPITALS, UNION HALLS, COMMUNITY CENTERS, SCHOOLS AND
53 LOCAL AGENCIES PROVIDING SERVICES TO EMPLOYERS AND EMPLOYEES TO HELP
54 ENSURE THAT SUCH PERSONS ARE INFORMED OF THE AVAILABILITY OF FAMILY CARE
55 UNDER THIS CHAPTER. THE DEPARTMENT SHALL MAKE PUBLIC EDUCATION INFORMA-
56 TION AVAILABLE IN ENGLISH, SPANISH, CHINESE, RUSSIAN, ITALIAN, KOREAN,

1 HAITIAN CREOLE, AND ANY OTHER LANGUAGES DEEMED APPROPRIATE BY THE
2 DEPARTMENT.

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 SEVENTEEN, 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, THE DEPART-
26 MENT OF FINANCIAL SERVICES AND THE WORKERS' COMPENSATION BOARD SHALL
27 PROVIDE ALL NECESSARY PERSONNEL AND LOGISTICAL SUPPORT AS MAY BE NECES-
28 SARY TO COMPLETE THE DUTIES OF THE ADVISORY COUNCIL. THE COUNCIL OR ANY
29 OF ITS MEMBERS MAY ISSUE SUCH RECOMMENDATIONS OR REPORTS AS THEY DEEM
30 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, 2017.

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, 2017
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, 2017, 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.