

# STATE OF NEW YORK

4947

2017-2018 Regular Sessions

## IN ASSEMBLY

February 6, 2017

Introduced by M. of A. SIMOTAS, ROSENTHAL, MONTESANO, TITUS, DINOWITZ, AUBRY, WEPRIN, ROZIC -- Multi-Sponsored by -- M. of A. GLICK, GOTTFRIED, RA, TITONE -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, the civil service law and the insurance law, in relation to establishing the New York family leave act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York family leave act".

3 § 2. The labor law is amended by adding a new section 202-n to read as  
4 follows:

5 § 202-n. Leave of absence upon the birth or adoption of a child grant-  
6 ed to employees. 1. For the purposes of this section, the following  
7 terms shall have the following meanings:

8 (a) "Commencement of the parent-child relationship" shall mean:

9 (i) When the adoption occurs under sponsorship of an authorized agen-  
10 cy, as defined in subdivision ten of section three hundred seventy-one  
11 of the social services law, the date the child is placed by the author-  
12 ized agency in the home of the adoptive parents pursuant to section  
13 three hundred eighty-four of the social services law.

14 (ii) When the adoption occurs without the sponsorship of an authorized  
15 agency, the date a petition for the adoption of a child residing with  
16 the adoptive parents is filed in a court.

17 (b) "Employee" means a person who performs services for hire for an  
18 employer, for an average of twenty or more hours per week, and includes  
19 all individuals employed at any site owned or operated by an employer  
20 but shall not include an independent contractor.

21 (c) "Employer" means a person or entity that employs fifty or more  
22 employees at at least one site and includes an individual, corporation,  
23 partnership, association, nonprofit organization, group of persons,

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

LBD04147-01-7

1 state, county, town, city, school district, public authority or other  
2 governmental subdivision of any kind.

3 2. (a) An employer shall permit any employee, male or female, to take  
4 a leave of absence from employment without loss of pay or diminution of  
5 any other privilege, benefit or right arising out of such employment,  
6 for up to twelve weeks upon the birth of such employee's child. An  
7 adoptive parent, following the commencement of the parent-child  
8 relationship, shall be entitled to the same leave and upon the same  
9 terms.

10 (b) In addition to the leave of absence granted in paragraph (a) of  
11 this subdivision, an employer shall permit any employee, male or female,  
12 to take an additional twelve weeks leave of absence from employment  
13 without pay or any other privilege, benefit or right arising out of such  
14 employment, but without demotion. An adoptive parent, following the  
15 commencement of the parent-child relationship, shall be entitled to the  
16 same additional leave and upon the same terms.

17 3. An employer shall not retaliate against an employee for requesting  
18 or obtaining a leave of absence under this section.

19 4. This section shall not prevent an employer from providing leave  
20 upon the birth or adoption of a child in addition to leave allowed under  
21 any other provision of law. This section shall not affect an employee's  
22 rights with respect to any other employee benefit otherwise provided by  
23 law.

24 5. The commissioner is hereby authorized and directed to establish any  
25 necessary guidelines, including requirements for notice, request and  
26 approval of leave, and documentation, for the timely implementation of  
27 the program.

28 § 3. The civil service law is amended by adding a new section 159-d to  
29 read as follows:

30 § 159-d. Excused leave for the birth or adoption of a child. 1. a.  
31 Every public officer, employee of this state, employee of any county,  
32 employee of any community college, employee of any public authority,  
33 employee of any public benefit corporation, employee of any board of  
34 cooperative educational services (BOCES), employee of any vocational  
35 education and extension board, or a school district enumerated in  
36 section one of chapter five hundred sixty-six of the laws of nineteen  
37 hundred sixty-seven, employee of any municipality, employee of any  
38 school district or any employee of a participating employer in the New  
39 York state and local employees' retirement system or any employee of a  
40 participating employer in the New York state teachers' retirement system  
41 shall be entitled to have a paid leave of absence from his or her duties  
42 or service as such public officer, employee of this state, employee of  
43 any county, employee of any community college, employee of any public  
44 authority, employee of any public benefit corporation, employee of any  
45 board of cooperative educational services (BOCES), employee of any voca-  
46 tional education and extension board, or a school district enumerated in  
47 section one of chapter five hundred sixty-six of the laws of nineteen  
48 hundred sixty-seven, employee of any municipality, employee of any  
49 school district, or any employee of a participating employer in the New  
50 York state and local employees' retirement system or any employee of a  
51 participating employer in the New York state teachers' retirement system  
52 for a sufficient period of time, not to exceed twelve weeks upon the  
53 birth of such employee's child, an adoptive parent, following the  
54 commencement of the parent-child relationship, shall be entitled to the  
55 same leave and upon the same terms.

1 b. In addition to the leave of absence granted in paragraph a of this  
2 subdivision, every public officer, employee of this state, employee of  
3 any county, employee of any community college, employee of any public  
4 authority, employee of any public benefit corporation, employee of any  
5 board of cooperative educational services (BOCES), employee of any voca-  
6 tional education and extension board, or a school district enumerated in  
7 section one of chapter five hundred sixty-six of the laws of nineteen  
8 hundred sixty-seven, employee of any municipality, employee of any  
9 school district or any employee of a participating employer in the New  
10 York state and local employees' retirement system or any employee of a  
11 participating employer in the New York state teachers' retirement system  
12 shall be entitled to have a period of unpaid leave of absence from his  
13 or her duties or service as such public officer, employee of this state,  
14 employee of any county, employee of any community college, employee of  
15 any public authority, employee of any public benefit corporation,  
16 employee of any board of cooperative educational services (BOCES),  
17 employee of any vocational education and extension board, or a school  
18 district enumerated in section one of chapter five hundred sixty-six of  
19 the laws of nineteen hundred sixty-seven, employee of any municipality,  
20 employee of any school district, or any employee of a participating  
21 employer in the New York state and local employees' retirement system or  
22 any employee of a participating employer in the New York state teachers'  
23 retirement system for a sufficient period of time, not to exceed an  
24 additional twelve weeks upon the birth of such employee's child, an  
25 adoptive parent, following the commencement of the parent-child  
26 relationship, shall be entitled to the same leave and upon the same  
27 terms.

28 2. The entire period of the leave of absence granted pursuant to this  
29 section shall be excused leave and shall not be charged against any  
30 other leave such public officer, employee of this state, employee of any  
31 county, employee of any community college, employee of any public  
32 authority, employee of any public benefit corporation, employee of any  
33 board of cooperative educational services (BOCES), employee of any voca-  
34 tional education and extension board, or a school district enumerated in  
35 section one of chapter five hundred sixty-six of the laws of nineteen  
36 hundred sixty-seven, employee of any municipality, employee of any  
37 school district or any employee of a participating employer in the New  
38 York state and local employees' retirement system or any employee of a  
39 participating employer in the New York state teachers' retirement system  
40 is otherwise entitled to.

41 3. For the purposes of this section, the term "commencement of the  
42 parent-child relationship" shall mean:

43 a. When the adoption occurs under sponsorship of an authorized agency,  
44 as defined in subdivision ten of section three hundred seventy-one of  
45 the social services law, the date the child is placed by the authorized  
46 agency in the home of the adoptive parents pursuant to section three  
47 hundred eighty-four of the social services law.

48 b. When the adoption occurs without the sponsorship of an authorized  
49 agency, the date a petition for the adoption of a child residing with  
50 the adoptive parents is filed in a court.

51 § 4. Subsection (a) of section 3221 of the insurance law is amended  
52 by adding a new paragraph 17 to read as follows:

53 (17) That a group or blanket policy issued pursuant to this article  
54 shall contain a provision to the effect that any member of the group who  
55 takes a leave of absence as provided for in paragraph (b) of subdivision  
56 two of section two hundred two-n of the labor law or paragraph b of

1 subdivision one of section one hundred fifty-nine-d of the civil service  
2 law may continue to maintain such policy upon the payment of appropriate  
3 premiums until such member resumes employment with his or her employer.

4 § 5. Section 4305 of the insurance law is amended by adding a new  
5 subsection (i) to read as follows:

6 (i) A group contract issued pursuant to this section shall contain a  
7 provision to the effect that in case of any member of the group who  
8 takes a leave of absence as provided for in paragraph (b) of subdivision  
9 two of section two hundred two-n of the labor law or paragraph b of  
10 subdivision one of section one hundred fifty-nine-d of the civil service  
11 law, shall be entitled to maintain, without evidence of insurability,  
12 upon application therefor and payment of the first premium made to the  
13 corporation within an appropriate time after taking such leave of  
14 absence, a continuation of such contract, covering such member and his  
15 or her eligible dependents who were covered by the group contract until  
16 such member resumes employment with his or her employer.

17 § 6. This act shall take effect on the one hundred twentieth day  
18 after it shall have become a law. Effective immediately, the addition,  
19 amendment and/or repeal of any rule or regulation necessary for the  
20 implementation of this act on its effective date is authorized to be  
21 made on or before such date.