

**S6741** SAVINO No Same as

ON FILE: 03/06/14 Workers' Compensation Law

TITLE....Establishes family care leave benefits within the disability provisions of the workers' compensation law

03/05/14 REFERRED TO LABOR

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# STATE OF NEW YORK

6741

## IN SENATE

March 5, 2014

Introduced by Sens. SAVINO, KLEIN, VALESKY, CARLUCCI, AVELLA -- 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 establishing family care benefits

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

1 Section 1. Subdivision 9 of section 201 of the workers' compensation  
2 law is amended by adding a new paragraph C to read as follows:

3 C. "Disability" also includes family care.

4 § 2. Subdivision 14 of section 201 of the workers' compensation law,  
5 as added by chapter 600 of the laws of 1949 and as renumbered by chapter  
6 438 of the laws of 1964, is amended, and nine new subdivisions 15, 16,  
7 17, 18, 19, 20, 21, 22 and 23 are added to read as follows:

8 14. "A day of disability" means any day on which the employee was  
9 prevented from performing work because of disability, including any day  
10 which the employee uses for family care, and for which [~~he~~] the employee  
11 has not received his or her regular remuneration.

12 15. "Family care" means any leave taken by an employee from performing  
13 work:

14 A. to participate in providing care, including physical or psycholog-  
15 ical care, for a family member of the employee made necessary by a seri-  
16 ous health condition of the family member; or

17 B. to bond with the employee's child during the first twelve months  
18 after the child's birth, or the first twelve months after the placement  
19 of the child for adoption or foster care with the employee.

20 16. "Child" means a biological, adopted or foster child, a step-child,  
21 a legal ward or a child of a person who stands in parental relationship  
22 to the child who is:

23 A. less than eighteen years of age; or

24 B. eighteen years of age or older and incapable of self-care because  
25 of a mental or physical disability.

26 17. "Domestic partner" has the same meaning set forth in subdivision  
27 one of section four of this chapter.

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

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1 18. "Serious health condition" means an illness, injury, impairment,  
2 or physical or mental condition that:

3 A. requires inpatient care in a hospital, hospice or residential  
4 health care facility; or

5 B. requires continuing treatment by a health care provider.

6 19. "Parent" means a biological or adoptive parent or step-parent of  
7 an employee, or a person who stood in parental relationship to an  
8 employee when the employee was:

9 A. less than eighteen years of age; or

10 B. eighteen years of age or older and incapable of self-care because  
11 of a mental or physical disability.

12 20. "Family member" means a child, spouse, domestic partner, parent,  
13 grandchild, grandparent, or mother or father of a domestic partner.

14 21. "Persons who stand in parental relationship to a child" include  
15 those with day-to-day responsibilities to care for and provide financial  
16 support of a child, or, in the case of an employee, who had such respon-  
17 sibility for the employee when the employee was a child. A biological or  
18 legal relationship shall not be necessary.

19 22. "Grandchild" means the child of a child.

20 23. "Health care provider" means a health care practitioner who is  
21 licensed under the relevant federal or state laws to provide medical,  
22 emergency or health services, and is treating an employee or a family  
23 member for a serious health condition.

24 § 3. Section 202 of the workers' compensation law is amended by adding  
25 a new subdivision 1-a to read as follows:

26 1-a. Solely for the purposes of the provisions of this article relat-  
27 ing to the provision of benefits, rights and privileges relating to  
28 family care leave, "covered employer" shall include the state or any  
29 political or civil subdivision thereof, and employers with twenty-five  
30 or more employees.

31 § 4. The workers' compensation law is amended by adding two new  
32 sections 203-a and 203-b to read as follows:

33 § 203-a. Retaliatory action prohibited. 1. The provisions of section  
34 one hundred twenty of this chapter and section two hundred forty-one of  
35 this article shall be applicable to family care leave as if fully set  
36 forth in this section.

37 2. Nothing in this section shall be deemed to diminish the rights,  
38 privileges or remedies of any employee under any collective bargaining  
39 agreement or employment contract; except that the institution of an  
40 action in accordance with this section shall be deemed a waiver of the  
41 rights and remedies available under any other contract or collective  
42 bargaining agreement.

43 § 203-b. Family care leave. Any eligible employee of a covered employ-  
44 er who takes family care leave on or after January first, two thousand  
45 fifteen under this section shall be entitled, on return from such leave,  
46 to be restored by his or her employer to the position of employment held  
47 by the employee when the leave commenced, or to be restored to a compa-  
48 rable position with comparable employment benefits, pay and other terms  
49 and conditions of employment. The taking of leave for the purpose of  
50 family care shall not result in the loss of any employment benefit  
51 accrued prior to the date on which the leave commenced. Nothing in this  
52 section shall be construed to entitle any restored employee to the  
53 accrual of any seniority or employment benefits during any period of  
54 leave, or any right, benefit or position to which the employee would  
55 have been entitled had the employee not taken such leave. A violation of  
56 this section shall be a violation of section one hundred twenty of this

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1 chapter, and all remedies and penalties available under section one  
2 hundred twenty of this chapter shall be available for violations of this  
3 section as if fully set forth in this section.

4 § 5. Section 204 of the workers' compensation law is amended by adding  
5 a new subdivision 3 to read as follows:

6 3. The weekly benefit which an employee on family care leave is enti-  
7 ttled to receive for disability commencing on or after January first, two  
8 thousand fifteen, but before January first, two thousand sixteen, shall  
9 be fifty percent of the employee's average weekly wage, but in no case  
10 shall such benefit exceed thirty-five percent of the statewide average  
11 weekly wage as determined by the department pursuant to subdivision  
12 sixteen of section two of this chapter. The weekly benefit which the  
13 disabled employee is entitled to receive for disability commencing on or  
14 after January first, two thousand sixteen, but before January first, two  
15 thousand seventeen, shall be fifty percent of the employee's average  
16 weekly wage, but in no case shall such benefit exceed forty percent of  
17 the statewide average weekly wage as determined by the department pursu-  
18 ant to subdivision sixteen of section two of this chapter. The weekly  
19 benefit which the disabled employee is entitled to receive for disabili-  
20 ty commencing on or after January first, two thousand seventeen shall be  
21 fifty percent of the employee's average weekly wage, but in no case  
22 shall such benefit exceed fifty percent of the statewide average weekly  
23 wage as determined by the department pursuant to subdivision sixteen of  
24 section two of this chapter.

25 § 6. Subdivisions 1, 2, 3, 4, and 8 of section 205 of the workers'  
26 compensation law, subdivision 1 as amended by chapter 651 of the laws of  
27 1958, subdivision 2 as amended by chapter 270 of the laws of 1990 and  
28 subdivisions 3, 4 and 8 as added by chapter 600 of the laws of 1949 and  
29 as renumbered by chapter 352 of the laws of 1981, are amended and a new  
30 subdivision 9 is added to read as follows:

31 1. (a) For disability resulting from injury, sickness or pregnancy of  
32 an employee, for more than twenty-six weeks during a period of fifty-two  
33 consecutive calendar weeks or during any one period of disability, or

34 (b) for family care, for more than six weeks during a period of  
35 fifty-two consecutive calendar weeks or during any one period of family  
36 care;

37 2. for any period of disability resulting from the injury, sickness or  
38 pregnancy of an employee during which an employee is not under the care  
39 of a duly licensed physician or with respect to disability resulting  
40 from a condition of the foot which may lawfully be treated by a duly  
41 registered and licensed podiatrist of the state of New York or with  
42 respect to a disability resulting from a condition which may lawfully be  
43 treated by a duly registered and licensed chiropractor of the state of  
44 New York or with respect to a disability resulting from a condition  
45 which may lawfully be treated by a duly licensed dentist of the state of  
46 New York or with respect to a disability resulting from a condition  
47 which may lawfully be treated by a duly registered and licensed psychol-  
48 ogist of the state of New York or with respect to a disability resulting  
49 from a condition which may lawfully be treated by a duly certified nurse  
50 midwife, for any period of such disability during which an employee is  
51 neither under the care of a physician nor a podiatrist, nor a chiroprac-  
52 tor, nor a dentist, nor a psychologist, nor a certified nurse midwife;  
53 and for any period of disability during which an employee who adheres to  
54 the faith or teachings of any church or denomination and who in accord-  
55 ance with its creed, tenets or principles depends for healing upon pray-  
56 er through spiritual means alone in the practice of religion, is not

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1 under the care of a practitioner duly accredited by the church or denom-  
2 ination, and provided such employee shall submit to all physical exam-  
3 inations as required by this chapter[+];

4 3. for any disability resulting from injury or sickness of an employee  
5 occasioned by the wilful intention of the employee to bring about injury  
6 to or the sickness of himself or another, or resulting from any injury  
7 or sickness sustained in the perpetration by the employee of an illegal  
8 act;

9 4. for any day of disability during which the employee performed work  
10 for remuneration or profit, but not including any remuneration received  
11 for caring for a foster or adopted child or other individual residing in  
12 the employee's place of residence;

13 8. for any disability resulting from an injury, sickness or pregnancy  
14 of the employee commencing before the employee becomes eligible to bene-  
15 fits hereunder [~~or commencing prior to July first, nineteen hundred~~  
16 ~~fifty, but this shall not preclude benefits for recurrence after July~~  
17 ~~first, nineteen hundred fifty, of a disability commencing prior there-~~  
18 ~~to.]; or~~

19 9. for any day of absence from work required pursuant to any discipli-  
20 nary process, or, with regard to family care benefits, any day of  
21 absence from work resulting for injury, sickness or pregnancy of the  
22 employee, including any leave taken under section seventy-three or  
23 seventy-five of the civil service law.

24 § 7. The workers' compensation law is amended by adding a new section  
25 205-a to read as follows:

26 § 205-a. Relationship between disability benefits for family care and  
27 for the employee's own injury, sickness or pregnancy. The receipt of  
28 benefits for disability resulting from injury, sickness or pregnancy of  
29 the employee, shall not count toward any time limitation under subdivi-  
30 sion one of section two hundred five of this article on the receipt of  
31 benefits for family care, and the receipt of benefits for family care  
32 shall not count toward any time limitation under subdivision one of  
33 section two hundred five of this article on the receipt of benefits for  
34 disability resulting from injury, sickness or pregnancy to the employee,  
35 except that an employee may receive disability benefits on only one  
36 claim at any time.

37 § 8. Subdivision 3 of section 209 of the workers' compensation law, as  
38 amended by chapter 415 of the laws of 1983, is amended and a new subdi-  
39 vision 6 is added to read as follows:

40 3. The contribution of each such employee to the cost of disability  
41 benefits provided by this article shall be one-half of one per centum of  
42 the employee's wages paid to him on and after July first, nineteen  
43 hundred fifty, but not in excess of sixty cents per week for the cost of  
44 disability benefits for injury, sickness or pregnancy of the employee.

45 6. Effective during the two thousand fifteen calendar year family care  
46 benefits shall be provided at no cost to an eligible employee through  
47 the state general fund. This exact level of funding shall be provided by  
48 the state each calendar year for family care benefits. During every  
49 subsequent calendar year, the contribution of each such employee to the  
50 cost of family care benefits shall be set by regulation of the super-  
51 intendent of financial services. Employers shall not contribute toward  
52 the cost of family care benefits.

53 § 9. Section 211 of the workers' compensation law is amended by adding  
54 two new subdivisions 7 and 8 to read as follows:

55 7. Such family care benefits as are provided for in this article shall  
56 be in addition to, and shall not amend, repeal or replace, the terms of

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1 any agreement that is collectively negotiated between an employer and an  
2 employee organization, including agreement or interest arbitration  
3 awards made pursuant to article fourteen of the civil service law.

4 8. Nothing in this article shall require an employer to use the same  
5 carrier to provide benefits required by or permissible under this arti-  
6 cle for disability resulting from injury, sickness to or pregnancy of  
7 the employee as it uses to provide benefits required by or permissible  
8 under this article for family care. An employer may use a different  
9 means, among those set forth in subdivisions one through five of this  
10 section, to provide benefits required by this article for disability  
11 resulting from injury or sickness to or pregnancy of the employee, from  
12 the means used to provide benefits required by this article for family  
13 care.

14 § 10. The workers' compensation law is amended by adding a new section  
15 211-a to read as follows:

16 § 211-a. Public employees; employee option. 1. For purposes of this  
17 section:

18 (a) "Public employee" means any employee of the state, any political  
19 subdivision of the state, a public authority, or any other governmental  
20 agency or instrumentality.

21 (b) "Public employer" means the state, any political subdivision of  
22 the state, a public authority, or any other governmental agency or  
23 instrumentality thereof.

24 (c) "Employee organization" shall have the meaning set forth in  
25 section two hundred one of the civil service law.

26 2. Public employers shall provide benefits for family care to public  
27 employees where an employee organization that represents those public  
28 employees elects to have family care benefits provided in accordance  
29 with the procedures and terms set forth in subdivision three of this  
30 section.

31 3. An employee organization may elect to have family care benefits  
32 provided on behalf of the public employees it represents:

33 (a) at any time upon ninety days notice to any public employer which  
34 is not providing disability benefits for injury, sickness or pregnancy  
35 of a public employee under section two hundred twelve of this article,  
36 or which is self-insured for such benefits;

37 (b) for any public employer which is providing disability benefits for  
38 injury, sickness or pregnancy of a public employee under section two  
39 hundred twelve of this article, upon notice at least ninety days prior  
40 to the expiration of the public employer's insurance policy for such  
41 benefits, which election shall be effective only for the time period  
42 covered by any subsequent policy or renewal; or

43 (c) at any time as is mutually agreed upon between the employee organ-  
44 ization and any public employer. An employee organization that has  
45 elected to have the family care benefit provided may opt out of it with-  
46 in the time periods, and effective upon the same dates, set forth in  
47 this paragraph.

48 4. In the absence of any contrary statement in a collectively negoti-  
49 ated agreement under article fourteen of the civil service law, a public  
50 employer may require public employees who opt in under this section to  
51 contribute the family care cost as set forth in section two hundred nine  
52 of this article.

53 § 11. Subdivisions 1, 2, 3 and 4 of section 217 of the workers'  
54 compensation law, subdivision 1 as amended by chapter 167 of the laws of  
55 1999, subdivisions 2 and 3 as amended by chapter 270 of the laws of

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1 1990, and subdivision 4 as added by chapter 600 of the laws of 1949, are  
2 amended to read as follows:

3 1. (a) Written notice and proof of disability shall be furnished to  
4 the employer by or on behalf of the employee claiming benefits or, in  
5 the case of a claimant under section two hundred seven of this article,  
6 to the chair, within thirty days after commencement of the period of  
7 disability. Additional proof shall be furnished thereafter from time to  
8 time as the employer or carrier or chair may require but not more often  
9 than once each week. Such proof shall include:

10 (i) in the case of disability resulting from injury, sickness or preg-  
11 nancy of the employee, a statement of disability by the employee's  
12 attending [~~physician or attending podiatrist or attending chiropractor~~  
13 ~~or attending dentist or attending psychologist or attending certified~~  
14 ~~nurse midwife, or in the case of an employee who adheres to the faith or~~  
15 ~~teachings of any church or denomination, and who in accordance with its~~  
16 ~~creed, tenets or principles depends for healing upon prayer through~~  
17 ~~spiritual means alone in the practice of religion, by an accredited~~  
18 ~~practitioner, containing facts and opinions as to such disability in~~  
19 ~~compliance with regulations of the chair.] health care provider; and~~

20 (ii) in the case of family care for bonding with a new child, a birth  
21 certificate, certificate of adoption, or other competent evidence show-  
22 ing that the employee is the parent of a child within twelve months of  
23 that child's birth or placement for adoption or foster care with the  
24 employee.

25 (b) Failure to furnish notice or proof within the time and in the  
26 manner [~~above~~] provided in paragraph (a) of this subdivision shall not  
27 invalidate the claim but no benefits shall be required to be paid for  
28 any period more than two weeks prior to the date on which the required  
29 proof is furnished unless it shall be shown to the satisfaction of the  
30 chair not to have been reasonably possible to furnish such notice or  
31 proof and that such notice or proof was furnished as soon as possible;  
32 provided, however, that no benefits shall be paid unless the required  
33 proof of disability is furnished within twenty-six weeks after commence-  
34 ment of the period of disability. No limitation of time provided in  
35 this section shall run as against any person who is mentally incompe-  
36 tent, or physically incapable of providing such notice as a result of a  
37 serious medical condition, or a minor so long as such person has no  
38 guardian of the person and/or property.

39 2. An employee claiming benefits for the employee's injury, sickness  
40 or pregnancy shall, as requested by the employer or carrier, submit  
41 himself or herself at intervals, but not more than once a week, for  
42 examination by a [~~physician or podiatrist or chiropractor or dentist or~~  
43 ~~psychologist or certified nurse midwife~~] relevant health care provider  
44 designated by the employer or carrier. All such examinations shall be  
45 without cost to the employee and shall be held at a reasonable time and  
46 place.

47 3. The chair may direct the claimant who seeks disability benefits for  
48 his or her injury, sickness or pregnancy to submit to examination by a  
49 [~~physician or podiatrist or chiropractor or dentist or psychologist~~]  
50 relevant health care provider designated by him or her in any case in  
51 which the claim to disability benefits is contested and in claims aris-  
52 ing under section two hundred seven of this article, and in other cases  
53 as the chair or board may require.

54 4. Refusal of the claimant without good cause to submit to any such  
55 examination shall disqualify [~~him~~] the claimant from all benefits here-

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1 under for the period of such refusal, except as to benefits already  
2 paid.

3 § 12. Subdivision 2 of section 229 of the workers' compensation law,  
4 as added by chapter 271 of the laws of 1985, is amended to read as  
5 follows:

6 2. (a) Whenever an employee of a covered employer who is eligible for  
7 benefits under section two hundred four of this article shall be absent  
8 from work due to a disability as defined in subdivision nine of section  
9 two hundred one of this article for more than seven consecutive days,  
10 the employer shall provide the employee with a written statement of the  
11 employee's rights under this article in a form prescribed by [~~the chair-~~  
12 ~~man~~] chair. The statement shall be provided to the employee within five  
13 business days after the employee's seventh consecutive day of absence  
14 due to disability or within five business days after the employer knows  
15 or should know that the employee's absence is due to disability, which-  
16 ever is later.

17 (b) Each covered employer shall provide each employee with a typewrit-  
18 ten, printed or electronic notice in a form prescribed by the chair,  
19 stating that the employer has provided for the payment of disability  
20 benefits as required by this article within thirty days of the effective  
21 date of this paragraph. Each covered employer shall provide such notice  
22 to all new employees within thirty days of their first day of work.

23 § 13. Subdivision 2 of section 76 of the workers' compensation law, as  
24 added by chapter 600 of the laws of 1949, is amended to read as follows:

25 2. The purposes of the state insurance fund herein created are hereby  
26 enlarged to provide [~~for the~~] insurance [~~by the state insurance fund of~~]  
27 for the payment of the benefits required by section two hundred four of  
28 this chapter, including benefits for family care provided either in the  
29 same policy with or in a separate policy from benefits for disability  
30 resulting from injury or sickness to or pregnancy of an employee, and as  
31 provided pursuant to section two hundred eleven-a of this chapter. A  
32 separate fund is hereby created within the state insurance fund, which  
33 shall be known as the "disability benefits fund", and which shall  
34 consist of all premiums received and paid into said fund on account of  
35 such insurance, all securities acquired by and through the use of moneys  
36 belonging to said fund and of interest earned upon moneys belonging to  
37 said fund and deposited or invested as herein provided. Said disability  
38 benefits fund shall be applicable to the payment of benefits, expenses  
39 and assessments on account of insurance written pursuant to article nine  
40 of this chapter.

41 § 14. Paragraph 3 of subsection (a) of section 1113 of the insurance  
42 law is amended to read as follows:

43 (3) "Accident and health insurance," means (i) insurance against death  
44 or personal injury by accident or by any specified kind or kinds of  
45 accident and insurance against sickness, ailment or bodily injury,  
46 including insurance providing disability benefits pursuant to article  
47 nine of the workers' compensation law, including any insurance under  
48 such article for family care benefits, and/or disability benefits  
49 resulting from injury, sickness or pregnancy of an employee all, except  
50 as specified in item (ii) [~~hereof~~] of this paragraph; and (ii) non-can-  
51 cellable disability insurance, meaning insurance against disability  
52 resulting from sickness, ailment or bodily injury (but excluding insur-  
53 ance solely against accidental injury) under any contract which does not  
54 give the insurer the option to cancel or otherwise terminate the  
55 contract at or after one year from its effective date or renewal date.

56 § 15. This act shall take effect immediately.



**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S6741

**SPONSOR:** SAVINO

**TITLE OF BILL:** An act to amend the workers' compensation law and the insurance law, in relation to establishing family care benefits

**PURPOSE:**

This bill would provide for the payment of paid family leave benefits through the temporary disability benefit system to employees who take leave to care for a sick family member or bond with a newly born, adopted, or foster child.

**SUMMARY OF PROVISIONS:**

Section 1: Amends subdivision 9 of section 201 of the workers' compensation law by including family care within the definition of disability.

Section 2: Amends subdivision 14 of section 201 of the workers' compensation law to define family care as any leave taken to bond with a new child within the first 12 months of the child being born, or placed with a parent through adoption or foster care. It also includes any leave taken to provide care, be it physical or psychological, for a family member with a serious health condition.

Section 3: Amends section 202 of the workers' compensation law by adding a new subdivision 1-a to state that family care leave will be provided to public employees and private employees in business with 25 or more employees.

Section 4: Amends the workers' compensation law by adding two new section 203-a and 203-b. This states that any employee taking family care leave shall be restored to the same position, or a comparable position, upon their return from leave.

Section 5: Amends section 204 of the workers' compensation law to add a new subdivision 3 gradually increasing the capped amount of Temporary Disability Insurance (TDI) in three steps from its current level of \$170 per week. On January 1, 2015 the benefit will equal 1/2 of an employee's weekly wage, up to maximum of 35% of the Statewide Average Weekly Wage (AWW). This cap increases to 40% in 2016, and 50% in 2017 where it will remain.

Section 6: Amends subdivisions 1, 2, 3, 4, and 8 of section 205 of the workers' compensation law to limit the amount of family care leave an employee is entitled to take to six weeks within a continuous fifty-two week period. Exempts remuneration received for caring for a foster or adopted child.

Section 7: Amends the workers' compensation law to add a new section

205-a to state that time taken for leave resulting from an injury, sickness, or pregnancy shall not count against the six weeks of family care leave, and states that disability benefits can only be received one claim at a time.

Section 8: Amends section 209 of the workers' compensation law to state that family care benefits shall be provided at no cost to employees in 2015 by the State. In subsequent years, this level of funding will be continued along with an employee contribution that shall be set by the Superintendent of Financial Services. Employers will not contribute toward the cost of family care benefits.

Section 9: Amends section 211 of the workers' compensation law to state that nothing in this act shall amend, repeal, or replace any existing collective bargaining agreements negotiated between covered employers and employee organizations or agreements mandated by binding arbitration. Nothing in this act mandates that employers use the same carrier to pay for family care leave that they use to pay for existing disability benefits.

Section 10: Amends the workers' compensation law to add a new section 211-a to provide an employee option for public employees.

Section 11: Amends subdivisions 1, 2, 3, and 4 of section 217 of the workers' compensation law to state that employees must provide proof of the birth or placement of a child to receive family care benefits.

Section 12: Amends subdivision 2 of section 229 of the workers' compensation law to mandate that employers give notice to existing and new employees of this benefit.

Section 13: Amends subdivision 2 of section 76 of the workers' compensation law to enlarge the purposes of the state insurance fund to provide insurance for the payment of family care benefits either in the same policy with or in a separate policy from benefits for disability resulting from injury or sickness to or pregnancy of an employee.

Section 14: Amends paragraph 3 of subsection (a) of section 1113 of the insurance law to include family care leave to the definition of accident and health insurance.

Section 15: This act shall take effect immediately.

#### JUSTIFICATION:

In these challenging economic times it is becoming increasingly difficult to raise and care for a family. More so than ever, both parents must now deal with the responsibilities of a job on top of their family obligations. Welcoming a new child into one's family, or caring for an elderly family member are major events that demand a great amount of time and devotion. Despite this, it is impossible for many to take an absence from work to dedicate the necessary attention to provide their family with the proper care.

Although the Federal Family and Medical Leave Act guarantees 12 weeks of unpaid leave to many workers in order to bond with a new child, most people cannot afford to take an absence without Pay. New York State offers further assistance through its Temporary Disability Insurance (TDI) program. This places an obligation on most employers in the state

to provide disability benefits for illnesses or injuries occurring off the job leading one to be unable to perform their regular duties. Women can receive benefits for any disability related to a pregnancy. Unfortunately, this program is flawed because it excludes a host of parents and care for a seriously ill relative. Additionally, the maximum weekly benefit is a mere \$170.

Without a requirement, the decision to offer paid family leave falls to the employer. Unfortunately, only 12% of all workers receive family leave benefits in the United States according to the US Department of Labor. This is simply unacceptable.

When individuals cannot take time off they are often left exhausted, and the individuals requiring their assistance receive lesser care. For those taking unpaid leave, the financial consequences can be too much to bear. It is clear that paid family leave is a long unfulfilled need in New York State. Every New Yorker should have the ability to affordably raise and care for their family. That is why this legislation calls for the establishment of a paid family leave benefit in New York State.

This legislation would allow leave to bond with a new child during the twelve months following their birth, adoption or foster care placement; or to care for a family member who is suffering from a serious illness or disability. Workers would be able to claim a benefit equal to half their weekly wage up to a maximum benefit of 35% of the Statewide Average Weekly Wage in 2015. This capped amount would rise to 40% in 2016, and 50% in 2017 where it would remain. This benefit may be claimed for up to six weeks a year. This benefit will cover all parents, regardless of sex.

During the program's first year, benefits would be fully provided by New York State at no cost to the employee. After year one, the State will continue to subsidize the cost of a paid family leave benefits with minimal employee contributions.

**LEGISLATIVE HISTORY:**

New Bill.

**FISCAL IMPLICATIONS:**

To be determined.

**EFFECTIVE DATE:**

This act shall take effect immediately.

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