

# PROGRAM BILL # 10

Legislative Bill Drafting Commission  
12052-01-0

S. -----  
Senate  
-----

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

## \*LABO\*

(Relates to the provision of certain  
employee benefits when such employee  
is subject to a mandatory or precau-  
tionary order of quarantine or  
isolation)

Employee benefits quarantine

## AN ACT

providing requirements for sick  
leave and the provision of certain  
employee benefits when such employee  
is subject to a mandatory or precau-  
tionary order of quarantine or  
isolation due to COVID-19

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

## IN SENATE

### Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

s15 Addabbo	s02 Flanagan	s09 Kaminsky	s25 Montgomery	s23 Savino
s52 Akshar	s55 Funke	s07 Kaplan	s20 Myrie	s32 Sepulveda
s46 Amedore	s59 Gallivan	s26 Kavanagh	s58 O'Mara	s41 Serino
s36 Bailey	s05 Gaughran	s63 Kennedy	s62 Ortt	s29 Serrano
s30 Benjamin	s12 Gianaris	s28 Krueger	s21 Parker	s51 Seward
s34 Biaggi	s22 Gounardes	s24 Lanza	s19 Persaud	s39 Skoufis
s57 Borrello	s47 Griffo	s01 LaValle	s13 Ramos	s16 Stavisky
s04 Boyle	s40 Harckham	s45 Little	s61 Ranzenhofner	s35 Stewart- Cousins
s44 Breslin	s54 Helming	s11 Liu	s48 Ritchie	s49 Tedisco
s08 Brooks	s27 Hoylman	s03 Martinez	s33 Rivera	s06 Thomas
s38 Carlucci	s31 Jackson	s53 May	s56 Robach	s50
s14 Comrie	s60 Jacobs	s37 Mayer	s18 Salazar	
s17 Felder	s43 Jordan	s42 Metzger	s10 Sanders	

## IN ASSEMBLY

### Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

a049 Abbate	a053 Davila	a128 Hunter	a037 Nolan	a099 Schmitt
a092 Abinanti	a072 De La Rosa	a029 Hyndman	a144 Norris	a076 Seawright
a084 Arroyo	a034 DenDekker	a104 Jacobson	a069 O'Donnell	a052 Simon
a107 Ashby	a003 DeStefano	a097 Jaffee	a051 Ortiz	a036 Simotas
a035 Aubry	a070 Dickens	a011 Jean-Pierre	a091 Otis	a005 Smith
a120 Barclay	a054 Dilan	a135 Johns	a132 Palmesano	a118 Smullen
a030 Barnwell	a081 Dinowitz	a115 Jones	a002 Palumbo	a022 Solages
a106 Barrett	a147 DiPietro	a077 Joyner	a088 Paulin	a114 Stec
a060 Barron	a016 D'Urso	a040 Kim	a141 Peoples-	a110 Steck
a082 Benedetto	a048 Eichenstein	a131 Kolb	Stokes	a010 Stern
a042 Bichotte	a004 Englebright	a105 Lalor	a058 Perry	a127 Stirpe
a079 Blake	a074 Epstein	a013 Lavine	a023 Pheffer	a102 Tague
a117 Blankenbush	a109 Fahy	a134 Lawrence	Amato	a071 Taylor
a098 Brabenec	a061 Fall	a050 Lentol	a086 Pichardo	a001 Thiele
a026 Braunstein	a080 Fernandez	a125 Lifton	a089 Pretlow	a033 Vanel
a138 Bronson	a126 Finch	a009 LiPetri	a073 Quart	a116 Walczyk
a093 Buchwald	a008 Fitzpatrick	a123 Lupardo	a019 Ra	a055 Walker
a142 Burke	a124 Friend	a129 Magnarelli	a006 Ramos	a143 Wallace
a119 Buttenschon	a046 Frontus	a064 Malliotakis	a062 Reilly	a112 Walsh
a094 Byrne	a095 Galef	a130 Manktelow	a087 Reyes	a041 Weinstein
a133 Byrnes	a137 Gantt	a108 McDonald	a043 Richardson	a024 Weprin
a103 Cahill	a007 Garbarino	a014 McDonough	a078 Rivera	a059 Williams
a044 Carroll	a148 Giglio	a146 McMahon	a068 Rodriguez	a113 Woerner
a047 Colton	a066 Glick	a017 Mikulin	a027 Rosenthal, D.	a056 Wright
a032 Cook	a150 Goodell	a101 Miller, B.	a067 Rosenthal, L.	a096 Zebrowski
a085 Crespo	a075 Gottfried	a038 Miller, M. G.	a025 Rozic	a012
a122 Crouch	a021 Griffin	a020 Miller, M. L.	a149 Ryan	a031
a039 Cruz	a100 Gunther	a015 Montesano	a121 Salka	a136
a063 Cusick	a139 Hawley	a145 Morinello	a111 Santabarbara	
a045 Cymbrowitz	a083 Heastie	a057 Mosley	a090 Sayegh	
a018 Darling	a028 Hevesi	a065 Niu	a140 Schimmlinger	

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and: in Assembly 2 copies of memorandum in support, in  
Senate 4 copies of memorandum in support (single house); or 4 signed copies  
of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. 1.(a) For employers with ten or fewer employees as of Janu-  
2 ary 1, 2020, each employee who is subject to a mandatory or precau-  
3 ary order of quarantine or isolation issued by the state of New York,  
4 the department of health, local board of health, or any governmental  
5 entity duly authorized to issue such order due to COVID-19, shall be  
6 provided with unpaid sick leave until the termination of any mandatory  
7 or precautionary order of quarantine or isolation due to COVID-19 and  
8 any other benefit as provided by any other provision of law. During the  
9 period of mandatory or precautionary quarantine or isolation, an employ-  
10 ee shall be eligible for paid family leave benefits and benefits due  
11 pursuant to disability pursuant to this act. An employer with ten or  
12 fewer employees as of January 1, 2020, and that has a net income of  
13 greater than one million dollars in the previous tax year, shall provide  
14 each employee who is subject to a precautionary or mandatory order of  
15 quarantine or isolation issued by the state of New York, the department  
16 of health, local board of health, or any governmental entity duly  
17 authorized to issue such order due to COVID-19, at least five days of  
18 paid sick leave and unpaid leave until the termination of any mandatory  
19 or precautionary order of quarantine or isolation. After such five days  
20 of paid sick leave, an employee shall be eligible for paid family leave  
21 benefits and benefits due pursuant to disability pursuant to this act.

22 (b) For employers with between eleven and ninety-nine employees as of  
23 January 1, 2020, each employee who is subject to a mandatory or precau-  
24 tionary order of quarantine or isolation issued by the state of New  
25 York, the department of health, local board of health, or any govern-  
26 mental entity duly authorized to issue such order due to COVID-19, shall  
27 be provided with at least five days of paid sick leave and unpaid leave  
28 until the termination of any mandatory or precautionary order of quaran-

1 tine or isolation. After such five days of paid sick leave, an employee  
2 shall be eligible for paid family leave benefits and benefits due pursu-  
3 ant to disability pursuant to this act.

4 (c) For employers with one hundred or more employees as of January 1,  
5 2020, each employee who is subject to a mandatory or precautionary order  
6 of quarantine or isolation issued by the state of New York, the depart-  
7 ment of health, local board of health, or any governmental entity duly  
8 authorized to issue such order due to COVID-19, shall be provided with  
9 at least fourteen days of paid sick leave during any mandatory or  
10 precautionary order of quarantine or isolation.

11 (d) For public employers, each officer or employee who is subject to a  
12 mandatory or precautionary order of quarantine or isolation issued by  
13 the state of New York, the department of health, local board of health,  
14 or any governmental entity duly authorized to issue such order due to  
15 COVID-19 shall be provided with at least fourteen days of paid sick  
16 leave during any mandatory or precautionary order of quarantine or  
17 isolation. Each officer or employee shall be compensated at his or her  
18 regular rate of pay for those regular work hours during which the offi-  
19 cer or employee is absent from work due to a mandatory or precautionary  
20 order of quarantine or isolation due to COVID-19. For purposes of this  
21 act, "public employer" shall mean the following: (i) the state; (ii)  
22 a county, city, town or village; (iii) a school district, board of  
23 cooperative educational services, vocational education and extension  
24 board or a school district as enumerated in section 1 of chapter 566  
25 of the laws of 1967, as amended; (iv) any governmental entity operating  
26 a college or university; (v) a public improvement or special district  
27 including police or fire districts; (vi) a public authority, commis-  
28 sion or public benefit corporation; or (vii) any other public corpo-

1 ration, agency, instrumentality or unit of government which exercises  
2 governmental power under the laws of this state.

3 (e) Such leave shall be provided without loss of an officer or employ-  
4 ee's accrued sick leave.

5 2. For purposes of this act, "mandatory or precautionary order of  
6 quarantine or isolation" shall mean a mandatory or precautionary order  
7 of quarantine or isolation issued by the state of New York, the depart-  
8 ment of health, local board of health, or any government entity duly  
9 authorized to issue such order due to COVID-19.

10 3. Upon return to work following leave taken pursuant to this act, an  
11 employee shall be restored by his or her employer to the position of  
12 employment held by the employee prior to any leave taken pursuant to  
13 this act with the same pay and other terms and conditions of employment.  
14 No employer or his or her agent, or the officer or agent of any corpo-  
15 ration, partnership, or limited liability company, or any other person,  
16 shall discharge, threaten, penalize, or in any other manner discriminate  
17 or retaliate against any employee because such employee has taken leave  
18 pursuant to this act.

19 4. An employee shall not receive paid sick leave benefits or any other  
20 paid benefits provided by any provisions of this section if the employee  
21 is subject to a mandatory or precautionary order of quarantine because  
22 the employee has returned to the United States after traveling to a  
23 country for which the Centers for Disease Control and Prevention has a  
24 level two or three travel health notice and the travel to that country  
25 was not taken as part of the employee's employment or at the direction  
26 of the employee's employer, and if the employee was provided notice of  
27 the travel health notice and the limitations of this subdivision prior  
28 to such travel. Such employee shall be eligible to use accrued leave

1 provided by the employer, or to the extent that such employee does not  
2 have accrued leave or sufficient accrued leave, unpaid sick leave shall  
3 be provided for the duration of the mandatory or precautionary quaran-  
4 tine or isolation.

5 5. The commissioner of labor shall have authority to adopt regu-  
6 lations, including emergency regulations, and issue guidance to effectu-  
7 ate any of the provisions of this act. Employers shall comply with regu-  
8 lations promulgated by the commissioner of labor for this purpose which  
9 may include, but is not limited to, standards for the use, payment, and  
10 employee eligibility of sick leave pursuant to this act.

11 6. Notwithstanding any other provision of law, and for purposes of  
12 this act only, for purposes of article 9 of the workers' compensation  
13 law, "disability" shall mean: any inability of an employee to perform  
14 the regular duties of his or her employment or the duties of any other  
15 employment which his or her employer may offer him or her as a result of  
16 a mandatory or precautionary order of quarantine or isolation issued by  
17 the state, the department of health, a local board of health, or any  
18 government entity duly authorized to issue such order due to COVID-19  
19 and when the employee has exhausted all paid sick leave provided by the  
20 employee's employer under this act.

21 7. Notwithstanding subdivision 1 of section 204 of the workers'  
22 compensation law, disability benefits payable pursuant to this act shall  
23 be payable on the first day of disability.

24 8. Notwithstanding any other provision of law, and for purposes of  
25 this act only, for purposes of article 9 of the workers' compensation  
26 law, "family leave" shall mean: (a) any leave taken by an employee from  
27 work when an employee is subject to a mandatory or precautionary order  
28 of quarantine or isolation issued by the state, the department of

1 health, a local board of health, or any government entity duly author-  
2 ized to issue such order due to COVID-19; or (b) to provide care for a  
3 minor dependent child of the employee who is subject to a mandatory or  
4 precautionary order of quarantine or isolation issued by the state, the  
5 department of health, a local board of health, or any government entity  
6 duly authorized to issue such order due to COVID-19.

7 9. Notwithstanding any other provision of law, and for purposes of  
8 this act only, for purposes of article 9 of the workers' compensation  
9 law, disability and family leave benefits pursuant to this act may be  
10 payable concurrently to an eligible employee upon the first full day of  
11 an unpaid period of mandatory or precautionary order of quarantine or  
12 isolation issued by the state of New York, the department of health, a  
13 local board of health, or any government entity duly authorized to issue  
14 such order due to COVID-19, provided however, an employee may not  
15 collect any benefits that would exceed \$840.70 in paid family leave and  
16 \$2,043.92 in benefits due pursuant to disability per week.

17 10. Notwithstanding any other provision of law, and for purposes of  
18 this act only, for purposes of article 9 of the workers' compensation  
19 law, the maximum weekly benefit which the employee is entitled to  
20 receive for benefits due pursuant to disability pursuant to subdivision  
21 six of this section only shall be the difference between the maximum  
22 weekly family leave benefit and such employee's total average weekly  
23 wage from each covered employer up to a maximum benefit due pursuant to  
24 disability of \$2,043.92 per week.

25 11. Notwithstanding subdivision 7 of section 590, and subdivision 2 of  
26 section 607, of the labor law, a claim for benefits under article 18 of  
27 the labor law due to closure of an employer otherwise subject to this  
28 section for a reason related to COVID-19 or due to a mandatory order of

1 a government entity duly authorized to issue such order to close such  
2 employer otherwise subject to this section, shall not be subject to a  
3 waiting period for a claim for benefits pursuant to such title.

4 12. A mandatory or precautionary order of quarantine or isolation  
5 issued by the state, the department of health, a local board of health,  
6 or any government entity duly authorized to issue such order due to  
7 COVID-19 shall be sufficient proof of disability or proof of need for  
8 family leave taken pursuant to this act.

9 13. The provisions of this act shall not apply in cases where an  
10 employee is deemed asymptomatic or has not yet been diagnosed with any  
11 medical condition and is physically able to work while under a mandatory  
12 or precautionary order of quarantine or isolation, whether through  
13 remote access or other similar means.

14 14. Nothing in this section shall be deemed to impede, infringe,  
15 diminish or impair the rights of a public employee or employer under any  
16 law, rule, regulation or collectively negotiated agreement, or the  
17 rights and benefits which accrue to employees through collective  
18 bargaining agreements, or otherwise diminish the integrity of the exist-  
19 ing collective bargaining relationship, or to prohibit any personnel  
20 action which otherwise would have been taken regardless of any request  
21 to use, or utilization of, any leave provided by this act.

22 15. Notwithstanding any inconsistent provision of law, on or before  
23 June 1, 2020, the superintendent of financial services by regulation, in  
24 consultation with the director of the state insurance fund and the chair  
25 of the workers' compensation board of the state, shall promulgate regu-  
26 lations necessary for the implementation of a risk adjustment pool to be  
27 administered directly by the superintendent of financial services, in  
28 consultation with the director of the state insurance fund and the chair

1 of the workers' compensation board of the state. "Risk adjustment pool"  
2 as used in this subdivision shall mean the process used to stabilize  
3 member claims pursuant to this act in order to protect insurers from  
4 disproportionate adverse risks. Disproportionate losses of any members  
5 of the risk adjustment pool in excess of threshold limits established by  
6 the superintendent of financial services of the state may be supported,  
7 if required by the superintendent, by other members of such pool includ-  
8 ing the state insurance fund in a proportion to be determined by the  
9 superintendent. Any such support provided by members of the pool shall  
10 be fully repaid, including reasonable interest, through a mechanism and  
11 period of time to be determined by the superintendent of financial  
12 services.

13 16. (a) The superintendent of financial services, in consultation  
14 with the director of the state insurance fund and the chair of the work-  
15 ers' compensation board shall issue two reports assessing the risk  
16 adjustment pool required by this act.

17 (b) On or before January 1, 2022, an initial report shall be provided  
18 to the speaker of the assembly, the chair of the assembly ways and means  
19 committee and the chair of the assembly labor committee, the temporary  
20 president of the senate, the chair of the senate finance committee and  
21 the chair of the senate labor committee. Such report shall include:  
22 the total number of claims filed pursuant to this section for (i) family  
23 leave benefits, and (ii) benefits due to disability, as a result of a  
24 mandatory or precautionary order of quarantine or isolation due to  
25 COVID-19; the aggregate amount of paid family leave claims and disabili-  
26 ty claims; the total amount of the claims paid for out of the risk  
27 adjustment pool; the threshold limits established by the department of



1 financial services; and any other information the superintendent of  
2 financial services deems necessary to provide to the legislature.

3 (c) On or before January 1, 2025, a final report shall be provided to  
4 the speaker of the assembly, the chair of the assembly ways and means  
5 committee and the chair of the assembly labor committee, the temporary  
6 president of the senate, the chair of the senate finance committee and  
7 the chair of the senate labor committee. Such report shall include the  
8 balance of the risk adjustment pool, if any, the total amount collected  
9 through the repayment mechanism established by the department of finan-  
10 cial services including interest; and any other information the super-  
11 intendent of financial services deems necessary to provide to the legis-  
12 lature. If there exists a balance in the risk adjustment pool, the  
13 final report shall provide a timeline by which repayment will be  
14 completed.

15 17. If at any point while this section shall be in effect the federal  
16 government by law or regulation provides sick leave and/or employee  
17 benefits for employees related to COVID-19, then the provisions of this  
18 section, including, but not limited to, paid sick leave, paid family  
19 leave, and benefits due to disability, shall not be available to any  
20 employee otherwise subject to the provisions of this section; provided,  
21 however, that if the provisions of this section would have provided sick  
22 leave and/or employee benefits in excess of the benefits provided by the  
23 federal government by law or regulation, then such employee shall be  
24 able to claim such additional sick leave and/or employee benefits pursu-  
25 ant to the provisions of this section in an amount that shall be the  
26 difference between the benefits available under this section and the  
27 benefits available to such employee, if any, as provided by such federal  
28 law or regulation.

1 § 2. This act shall take effect immediately.