



General Assembly

January Session, 2003

Raised Bill No. 6448

LCO No. 3184

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE FOR ORGAN DONATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-248a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Each permanent employee, as defined in subdivision (21) of
4 section 5-196, shall be entitled to the following: (1) A maximum of
5 twenty-four weeks of family leave of absence within any two-year
6 period upon the birth or adoption of a child of such employee, or upon
7 the serious illness of a child, spouse or parent of such employee; and
8 (2) a maximum of twenty-four weeks of medical leave of absence
9 within any two-year period upon the serious illness of such employee
10 or in order for such employee to serve as an organ or bone marrow
11 donor. Any such leave of absence shall be without pay. Upon the
12 expiration of any such leave of absence, the employee shall be entitled
13 (A) to return to the employee's original job from which the leave of
14 absence was provided or, if not available, to an equivalent position
15 with equivalent pay, except that in the case of a medical leave, if the
16 employee is medically unable to perform the employee's original job

17 upon the expiration of such leave, the Personnel Division of the
18 Department of Administrative Services shall endeavor to find other
19 suitable work for such employee in state service, and (B) to all
20 accumulated seniority, retirement, fringe benefit and other service
21 credits the employee had at the commencement of such leave. Such
22 service credits shall not accrue during the period of the leave of
23 absence.

24 (b) The leave of absence benefits granted by this section shall be in
25 addition to any other paid leave benefits and benefits provided under
26 subdivision (7) of subsection (a) of section 46a-60 which are otherwise
27 available to the employee.

28 (c) Any permanent employee who requests a medical leave of
29 absence due to the employee's serious illness or a family leave of
30 absence due to the serious illness of a child, spouse or parent pursuant
31 to subsection (a) of this section shall be required by the employee's
32 appointing authority, prior to the inception of such leave, to provide
33 sufficient written certification from the physician of such employee,
34 child, spouse or parent of the nature of such illness and its probable
35 duration. For the purposes of this section, "serious illness" means an
36 illness, injury, impairment or physical or mental condition that
37 involves (1) inpatient care in a hospital, hospice or residential care
38 facility, or (2) continuing treatment or continuing supervision by a
39 health care provider.

40 (d) Any permanent employee who requests a medical leave of
41 absence in order to serve as an organ or bone marrow donor pursuant
42 to subsection (a) of this section shall be required by the employee's
43 appointing authority, prior to the inception of such leave, to provide
44 sufficient written certification from the physician of such employee of
45 the proposed organ or bone marrow donation and the probable
46 duration of the employee's recovery period from such donation.

47 ~~[(d)]~~ (e) Any permanent employee who requests a family leave of
48 absence pursuant to subsection (a) of this section shall submit to the

49 employee's appointing authority, prior to the inception of such leave, a
50 signed statement of the employee's intent to return to the employee's
51 position in state service upon the termination of such leave.

52 [(e)] (f) Notwithstanding the provisions of subsection (b) of section
53 38a-554, the state shall pay for the continuation of health insurance
54 benefits for the employee during any leave of absence taken pursuant
55 to this section. In order to continue any other health insurance
56 coverages during such leave, the employee shall contribute that
57 portion of the premium the employee would have been required to
58 contribute had the employee remained an active employee during the
59 leave period.

60 Sec. 2. Section 31-51ll of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective October 1, 2003*):

62 (a) Subject to section 31-51mm, an eligible employee shall be entitled
63 to a total of sixteen workweeks of leave during any twenty-four-month
64 period, such twenty-four-month period to begin with the first day of
65 leave taken, for one or more of the following:

66 (1) Upon the birth of a son or daughter of the employee;

67 (2) Upon the placement of a son or daughter with the employee for
68 adoption or foster care;

69 (3) In order to care for the spouse, or a son, daughter or parent of
70 the employee, if such spouse, son, daughter or parent has a serious
71 health condition; [or]

72 (4) Because of a serious health condition of the employee; or

73 (5) In order to serve as an organ or bone marrow donor.

74 (b) Entitlement to leave under subdivision (1) or (2) of subsection (a)
75 of this section may accrue prior to the birth or placement of a son or
76 daughter when such leave is required because of such impending birth

77 or placement.

78 (c) (1) Leave under subdivision (1) or (2) of subsection (a) of this
79 section for the birth or placement of a son or daughter may not be
80 taken by an employee intermittently or on a reduced leave schedule
81 unless the employee and the employer agree otherwise. Subject to
82 subdivision (2) of this subsection concerning an alternative position,
83 subdivision (2) of subsection (f) of this section concerning the duties of
84 the employee and subdivision (5) of subsection (b) of section 31-51mm
85 concerning sufficient certification, leave under subdivision (3) or (4) of
86 subsection (a) of this section for a serious health condition may be
87 taken intermittently or on a reduced leave schedule when medically
88 necessary. The taking of leave intermittently or on a reduced leave
89 schedule pursuant to this subsection shall not result in a reduction of
90 the total amount of leave to which the employee is entitled under
91 subsection (a) of this section beyond the amount of leave actually
92 taken.

93 (2) If an employee requests intermittent leave or leave on a reduced
94 leave schedule under subdivision (3), [or] (4) or (5) of subsection (a) of
95 this section that is foreseeable based on planned medical treatment, the
96 employer may require the employee to transfer temporarily to an
97 available alternative position offered by the employer for which the
98 employee is qualified and that (A) has equivalent pay and benefits,
99 and (B) better accommodates recurring periods of leave than the
100 regular employment position of the employee, provided the exercise of
101 this authority shall not conflict with any provision of a collective
102 bargaining agreement between such employer and a labor
103 organization which is the collective bargaining representative of the
104 unit of which the employee is a part.

105 (d) Except as provided in subsection (e) of this section, leave
106 granted under subsection (a) of this section may consist of unpaid
107 leave.

108 (e) (1) If an employer provides paid leave for fewer than sixteen

109 workweeks, the additional weeks of leave necessary to attain the
110 sixteen workweeks of leave required under sections 5-248a, as
111 amended by this act, and 31-51kk to 31-51qq, inclusive, may be
112 provided without compensation.

113 (2) (A) An eligible employee may elect, or an employer may require
114 the employee, to substitute any of the accrued paid vacation leave,
115 personal leave or family leave of the employee for leave provided
116 under subdivision (1), (2) or (3) of subsection (a) of this section for any
117 part of this sixteen-week period of such leave under said subsection.

118 (B) An eligible employee may elect, or an employer may require the
119 employee, to substitute any of the accrued paid vacation leave,
120 personal leave, or medical or sick leave of the employee for leave
121 provided under subdivision (3), [or] (4) or (5) of subsection (a) of this
122 section for any part of the sixteen-week period of such leave under
123 said subsection, except that nothing in section 5-248a, as amended by
124 this act, or 31-51kk to 31-51qq, inclusive, shall require an employer to
125 provide paid sick leave or paid medical leave in any situation in which
126 such employer would not normally provide any such paid leave.

127 (f) (1) In any case in which the necessity for leave under subdivision
128 (1) or (2) of subsection (a) of this section is foreseeable based on an
129 expected birth or placement of a son or daughter, the employee shall
130 provide the employer with not less than thirty days' notice, before the
131 date of the leave is to begin, of the employee's intention to take leave
132 under said subdivision (1) or (2), except that if the date of the birth or
133 placement of a son or daughter requires leave to begin in less than
134 thirty days, the employee shall provide such notice as is practicable.

135 (2) In any case in which the necessity for leave under subdivision
136 (3), [or] (4) or (5) of subsection (a) of this section is foreseeable based on
137 planned medical treatment, the employee (A) shall make a reasonable
138 effort to schedule the treatment so as not to disrupt unduly the
139 operations of the employer, subject to the approval of the health care
140 provider of the employee or the health care provider of the son,

141 daughter, spouse or parent of the employee, as appropriate; and (B)
142 shall provide the employer with not less than thirty days' notice,
143 before the date the leave is to begin, of the employee's intention to take
144 leave under said subdivision (3), [or] (4) or (5), except that if the date of
145 the treatment requires leave to begin in less than thirty days, the
146 employee shall provide such notice as is practicable.

147 (g) In any case in which a husband and wife entitled to leave under
148 subsection (a) of this section are employed by the same employer, the
149 aggregate number of workweeks of leave to which both may be
150 entitled may be limited to sixteen workweeks during any twenty-four-
151 month period, if such leave is taken: (1) Under subdivision (1) or (2) of
152 subsection (a) of this section; or (2) to care for a sick parent under
153 subdivision (3) of said subsection.

154 (h) Unpaid leave taken pursuant to sections 5-248a, as amended by
155 this act, and 31-51kk to 31-51qq, inclusive, shall not be construed to
156 affect an employee's qualification for exemption under chapter 558.

157 (i) Notwithstanding the provisions of sections 5-248a, as amended
158 by this act, and 31-51kk to 31-51qq, inclusive, all further rights granted
159 by federal law shall remain in effect.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>

Statement of Purpose:

To expand the state family and medical leave provisions to authorize leave for medical procedures and recovery relative to organ and bone marrow donation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]