



Senate

General Assembly

File No. 220

January Session, 2007

Substitute Senate Bill No. 601

Senate, April 2, 2007

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT MANDATING EMPLOYERS TO PROVIDE PAID SICK LEAVE TO EMPLOYEES.

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

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in this section
2 and sections 2 to 6, inclusive, of this act:

3 (1) "Employer" means any person, firm, business, educational
4 institution, nonprofit agency, corporation, limited liability company or
5 any other entity that employs fifteen or more persons, excluding the
6 state, any political subdivision of the state or any governmental
7 agency;

8 (2) "Family violence" has the same meaning as provided in section
9 46b-38a of the general statutes;

10 (3) "Retaliatory personnel action" means a termination, suspension,
11 constructive discharge, demotion, unfavorable reassignment, refusal to
12 promote, disciplinary action or any other adverse employment action

13 taken by an employer against an employee;

14 (4) "Sexual assault" means any act that constitutes a violation of
15 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72b or 53a-73a of the
16 general statutes; and

17 (5) "Stalking" means any act that constitutes a violation of section
18 53a-181c, 53a-181d or 53a-181e of the general statutes.

19 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) Each employer shall
20 provide paid sick leave annually to each of such employer's employees
21 in the state. Such paid sick leave shall accrue (1) from the
22 commencement of an employee's employment, (2) at a rate of one hour
23 of sick leave for each forty hours worked by an employee, and (3) in
24 one-hour increments.

25 (b) An employee shall be entitled to the use of accrued paid sick
26 leave beginning on the ninetieth day after the employee's first day of
27 employment, unless the employer agrees to an earlier date. Each
28 employee shall be entitled to carry-over accrued paid sick leave from
29 one year, whether calendar or fiscal, to succeeding years. Each
30 employee shall be entitled to use a minimum of fifty-two hours of
31 accrued paid sick leave per year.

32 (c) Any employer that offers employees paid leave, other than
33 vacation leave, that may be used for the same purposes and under the
34 same conditions as paid sick leave under this section and section 3 of
35 this act shall be deemed to be in compliance with this section.

36 (d) Nothing in this section shall be construed to prevent employers
37 from providing paid leave that is more generous than that required
38 under this section and section 3 of this act.

39 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) An employer shall permit
40 an employee to use paid sick leave:

41 (1) For (A) an employee's mental or physical illness, injury or health
42 condition, (B) the medical diagnosis, care or treatment of an

43 employee's mental or physical illness, injury or health condition, or (C)
44 preventive medical care for an employee; or

45 (2) Where an employee is a victim of family violence, sexual assault
46 or stalking, for medical care or psychological or other counseling for
47 physical or psychological injury or disability, to obtain services from a
48 victim services organization, to relocate due to such family violence,
49 sexual assault or stalking or to participate in any civil or criminal legal
50 proceedings related to or resulting from such family violence, sexual
51 assault or stalking.

52 (b) If an employee's need to use paid sick leave is foreseeable, an
53 employer may require advanced notice, not to exceed seven days prior
54 to the date such leave is to begin, of the intention to use such leave. If
55 the need for such leave is not foreseeable, an employer may require an
56 employee to give notice as soon as practicable. For leave of three or
57 more consecutive days, an employer may require reasonable
58 documentation that such leave is being taken for the purposes
59 permitted by subsection (a) of this section. If such leave is permitted
60 under subdivision (1) of said subsection (a), documentation signed by
61 a health care provider who is treating the employee indicating the
62 need for the number of days of such leave shall be considered
63 reasonable documentation. If such leave is permitted under
64 subdivision (2) of said subsection (a), a court record or documentation
65 signed by an employee or volunteer working for a victim services
66 organization, an attorney, police officer or other counselor involved
67 with the employee shall be considered reasonable documentation.

68 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) No employer shall take
69 retaliatory personnel action or discriminate against an employee
70 because the employee (1) requests or uses paid sick leave in
71 accordance with sections 2 and 3 of this act, or (2) files a complaint
72 with the Labor Commissioner alleging the employer's violation of
73 sections 2 to 6, inclusive, of this act.

74 (b) Any employer who violates the provisions of sections 2 to 6,
75 inclusive, of this act shall be liable to the Labor Department for a civil

76 penalty of six hundred dollars for each violation. The Labor
77 Commissioner may award the employee all appropriate relief
78 including rehiring or reinstatement to the employee's previous job,
79 payment of back wages and reestablishment of employee benefits to
80 which the employee otherwise would have been eligible if he had not
81 been subject to such retaliatory personnel action or discriminated
82 against. Any employee who prevails in such a complaint shall be
83 awarded reasonable attorney's fees and costs. Any party aggrieved by
84 the decision of the commissioner may appeal the decision to the
85 Superior Court in accordance with the provisions of chapter 54 of the
86 general statutes.

87 Sec. 5. (NEW) (*Effective October 1, 2007*) If an employer possesses
88 health information or information pertaining to family violence about
89 an employee, such information shall be confidential and shall not be
90 disclosed except to the affected employee or with the permission of the
91 affected employee.

92 Sec. 6. (NEW) (*Effective October 1, 2007*) Each employer subject to the
93 provisions of section 2 of this act shall provide notice to each employee
94 at the time of hiring that (1) the employee is entitled to sick leave, the
95 amount of sick leave provided and the terms under which sick leave
96 may be used, (2) retaliation by the employer against the employee for
97 requesting or using sick leave is prohibited, and (3) the employee has a
98 right to file a complaint with the Labor Commissioner for any violation
99 of sections 2 to 6, inclusive, of this act. Employers may comply with the
100 provisions of this section by displaying a poster in a conspicuous
101 place, accessible to employees, at the employers' place of business that
102 contains the information required in this subsection in both English
103 and Spanish. The Labor Commissioner may adopt regulations, in
104 accordance with chapter 54 of the general statutes, to establish
105 additional requirements concerning the means by which employers
106 shall provide such notice.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section

LAB *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Labor Dept.	GF - Cost	Potential \$156,000	Potential \$156,000
Labor Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	Potential \$93,860	Potential \$93,860

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill could result in a cost to the state of approximately \$250,000. The bill requires private-sector employers with 15 or more employees to provide their employees with paid sick leave. This applies to 14,000 employers and their approximately 1.1 million employees in Connecticut.

Employees may file a complaint with the Department of Labor if their employer violates any of the provisions of Sections 2 to 6 of the bill. This is expected to increase the number of complaints regarding wage and hour information and may require two additional wage investigators (annual salary of \$46,553 each) in the Wage and Workplace Standards Division. Fringe benefits for the new positions would total \$56,050.

Currently, the department reviews approximately 100 cases annually for probable cause hearings regarding the Family Medical Leave Act, resulting in approximately 20 hearings per year. The number of probable cause hearings is expected to increase with the passage of the bill and may require an additional staff attorney (annual salary of \$62,807 and fringe benefits totaling \$37,810).

The Labor Commissioner's decision to reward appropriate relief for a complaint may be appealed in Superior Court. Any administrative appeals under Section 4 of the bill could be accommodated by the Judicial Department and the Office of the Attorney General without requiring additional resources.

The bill could also result in a minimal revenue gain. Employers who violate Sections 2 to 6 of the bill will be liable to the Department of Labor for a civil penalty of \$600 for each violation.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the rate of complaints and violations.

OLR Bill Analysis**sSB 601*****AN ACT MANDATING EMPLOYERS TO PROVIDE PAID SICK LEAVE TO EMPLOYEES.*****SUMMARY:**

This bill requires private-sector employers with 15 or more employees to provide their employees with paid sick leave accruing at a rate of one hour for each 40 hours worked. Once they have been employed for 90 days, employees are eligible to use the time and are entitled to use at least 52 hours of accrued sick leave a year. The leave can be used for an employee's illness, treatment of an illness, diagnosis, and preventive medical care. It can also be used for reasons related to the employee being a victim of family violence, sexual assault, or stalking. Current law does not require employers to give sick leave, whether paid or unpaid.

The bill allows complaints to be filed with the labor commissioner. Employers found in violation of the bill's provisions are liable to the Labor Department for a civil penalty of \$600 for each violation. The labor commissioner may award appropriate relief including rehiring or payment of back wages. Parties may appeal the commissioner's decision in Superior Court.

The commissioner may develop related regulations.

EFFECTIVE DATE: October 1, 2007

PAID SICK LEAVE

This bill requires employers to provide their employees with paid sick leave accruing at a rate of one hour for each 40 hours worked. It defines employer as any person, firm, business, educational institution,

nonprofit agency, corporation, limited liability company, or any other entity that employs 15 or more workers. It excludes the state, any political subdivision of the state (municipalities), or any governmental agency from this definition.

Once they have been employed for 90 days, employees are entitled to use the time and can use at least 52 hours of accrued sick leave a year. Each employee is entitled to (1) carry-over accrued paid sick leave from one year, whether calendar or fiscal, to succeeding years, and (2) use a minimum of 52 hours of accrued paid sick leave a year.

Any employer that offers employees paid leave, other than vacation leave, that can be used for the same purposes and under the same conditions as sick leave under the bill is deemed to be in compliance with the bill. This appears to be an inconsistency as it does not require an employer to provide the same amount of leave as required by the bill in order to be deemed in compliance.

The bill specifies that it does not prevent employers from providing a more generous paid leave policy than is required under the bill.

PERMITTED USES

Under the bill, an employer must permit an employee to use paid sick leave for the following reasons related to mental or physical illness:

1. an employee's illness, injury, or health condition;
2. the medical diagnosis, care, or treatment of such a condition; or
3. preventive medical care for an employee.

An employer must also allow an employee to use paid sick time when the employee is the victim of family violence, sexual assault, or stalking:

1. for medical care or psychological or other counseling for physical or psychological injury or disability;

2. to obtain services from a victim services organization;
3. to relocate; or
4. to participate in any related civil or criminal legal proceedings.

The bill uses the existing statutory definitions for “family violence,” “sexual assault,” and “stalking.”

PERMITTED EMPLOYEE REQUIREMENTS

The bill permits employers to place certain requirements on employees seeking to use paid sick leave under various circumstances. If the need to use paid sick leave is foreseeable, an employer can require advance notice, not more than seven days before the date the leave is to begin, of the intention to take leave. If the leave is not foreseeable, an employer can require an employee to give notice as soon as feasible.

For leave of three or more consecutive days, an employer can require reasonable documentation that the leave is being taken for the purposes permitted by the bill. Table 1 shows how the bill defines reasonable documentation.

Table 1: Documentation Needed for Sick Leave

Type of leave	Documentation
Mental or physical illness, treatment of an illness or injury, mental or physical diagnosis, or preventive medical care	Documentation signed by the health care provider treating the employee and indicating the need for the number of days of such leave
Related to the employee being a victim of family violence, sexual assault, or stalking	A court record or documentation signed by an employee or volunteer working for a victim services organization, an

	attorney, police officer, or other counselor involved with the employee
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RETALIATION PROHIBITED

The bill bans any employer from taking retaliatory personnel action or discriminating against an employee because the employee (1) requests or uses paid sick leave as provided in the bill or (2) files a complaint with the labor commissioner alleging an employer's violation of the bill.

The bill defines retaliatory personnel action as a termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, disciplinary action, or any other adverse employment action taken by an employer against an employee.

PENALTIES

Employers found violating the bill's requirements or prohibitions are liable to the Labor Department for a civil penalty of \$600 for each violation. The labor commissioner may award appropriate relief including rehiring or reinstatement to the person's previous job, back wages and reestablishment of employee benefits for which the employee would otherwise have been eligible if not for the retaliatory action or discrimination. An employee who prevails in a complaint must be awarded reasonable attorney's fees and costs.

Aggrieved parties may appeal the commissioner's decision in Superior Court.

CONFIDENTIAL INFORMATION

If an employer possesses health information or information pertaining to family violence about an employee, the bill requires it to be kept confidential and not disclosed except to the affected employee or with the employee's permission.

EMPLOYEE NOTICE

Each employer subject to the bill’s provisions must provide notice to each employee at the time of hiring that:

1. the employee is entitled to sick leave, the amount of sick leave provided, and the terms under which sick leave may be used;
2. retaliation by the employer against the employee for requesting or using sick leave is prohibited; and
3. the employee has a right to file a complaint with the Labor Commissioner for any violation of the bill.

Employers may comply with this notification requirement by displaying a poster in a conspicuous place, accessible to employees, at the employers' place of business that contains the required information in both English and Spanish. The labor commissioner may adopt regulations to establish additional requirements about providing the notice.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 8 Nay 2 (03/15/2007)