



H.B. 5497

165 Capitol Avenue  
Hartford, CT 06106-1658**AN ACT CONCERNING THE RECOMMENDATIONS OF THE SPEAKER OF THE  
HOUSE OF REPRESENTATIVES' TASK FORCE ON DOMESTIC VIOLENCE****Written Testimony for the Judiciary Committee  
March 15, 2010**

The Department of Administrative Services ("DAS") fully supports expanding the protections afforded to victims of domestic violence. We understand that, in addition to the numerous other challenges these victims face, they sometimes face challenges in the workplace. As the agency that implements many of the leave of absence rules for state employees, however, DAS would like to point out some **practical concerns with the language of Section 14 of HB 5497.**

**HB 5497 Provides Unlimited Leave from Employment and No Eligibility Standards**

Section 14 of House Bill 5497 guarantees *unlimited leave* to victims of domestic violence and certain family members. As written, the bill does not provide any restrictions whatsoever on the amount of leave that an employee can request or on the frequency with which a person can take the leave.

Furthermore, the current language of HB 5497 *does not impose any eligibility requirements* on employees who may take the leave afforded under this bill. Therefore, an employee can be hired on day 1 and then take an unlimited amount of leave starting on day 2. This is a very broad provision. By way of comparison, other laws providing protected leave to employees provide a more balanced approach – taking into consideration both the employee's need for leave and employer's need to be able to effectively operate its business.

- The Federal Family Medical Leave Act ("FMLA") limits leaves to 12 weeks in a 12 month period. Additionally, the employee has to meet eligibility criteria to be afforded FMLA protections, namely the employee must have worked for the covered employer for at least 1 year prior to taking the leave, and must have worked at least 1250 hours in the year preceding the leave.
- The State Family & Medical Leave law affecting private sector employers limits leave to 16 weeks in a 24 month period. Additionally, this state law imposes eligibility requirements that are similar to those under the federal FMLA (except the employee need only show that s/he worked 1000 hours in the preceding year).
- The State Family & Medical Leave Law affecting state employees limits leave to 24 weeks in a 24 month period. To be eligible for rights under this law, employees must

be “permanent,” which generally means that the state employee has worked for at least 6 months and has passed his/her working test period.

The only restriction under HB 5497 on the amount of leave time that an employee can take is that the employee has to show that the leave is “reasonably necessary” to obtain medical care, counseling or victim services, to relocate, or to participate in a court proceeding relating to the family violence. However, the legislation does not provide guidance regarding who determines how much time an employee should be reasonably provided (where, for example, physicians provide guidance to make this determination under the FMLA laws, the pregnancy disability leave law, etc.).

### **The Advance Notice Requirements in the Bill are Not Practical**

HB 5497 *prohibits* employers from requiring more than 7 days of advance notice when an employee needs to take leave under the provisions of this bill, even when reason for leave is foreseeable. DAS respectfully submits that this provision is unmanageable. How can employers make any arrangements to cover the employee’s absence when the employer cannot get advance notice? Additionally, why should an employee and employer be prohibited outright from discussing plans regarding an employee’s foreseeable absence?

By way of comparison, under FMLA, employers can require at least 30 days advance notice for foreseeable leave.

### **HB 5497’s Application is Much Broader than Similar Statutes**

Because this bill applies to all employers with 1 or more employees, it will most likely be a burden to small employers. By comparison, employers are not required to provide employees with federal FMLA leave unless they have over 50 employees. Under the state’s private sector FMLA law (C.G.S. § 31-51qq), employers must have 75 employees before leave rights exist.

### **Additional Remarks for the Committee’s Consideration**

- As written, this leave would be in addition to any rights employee has under FMLA. Therefore, an employee could take 12 weeks of FMLA because of medical issues caused by being a victim of family violence, and then be entitled to an additional unlimited amount of leave under this bill.
- By defining “leave” to include “flex time” an employee may use this bill to require an employer to give him/her flex time even if the employer’s business is not set up to provide for flex time, flex time is not appropriate for employer’s business or is contrary to the needs of the business’s clients/customers.

Thank you for considering DAS’s views and comments with regard to this bill. If you have questions regarding this testimony, please contact DAS’s legislative liaison, Andrea Keilty (860-713-5267).