



House of Representatives

General Assembly

File No. 385

January Session, 2015

Substitute House Bill No. 6932

House of Representatives, April 1, 2015

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE.

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

1 Section 1. (NEW) (*Effective from passage*) As used in this section and
2 sections 2 to 13, inclusive, of this act:

3 (1) "Covered employee" means an employee who (A) has earned not
4 less than nine thousand three hundred dollars from one or more
5 employers over twelve consecutive months during the twenty-four
6 months prior to being enrolled in the Family and Medical Leave
7 Compensation Program pursuant to section 8 of this act, (B) meets the
8 administrative requirements outlined in section 2 of this act, and (C) is
9 enrolled in the Family and Medical Leave Compensation Program
10 pursuant to section 8 of this act;

11 (2) "Commissioner" means the Labor Commissioner;

12 (3) "Administrator" means the Labor Department;

13 (4) "Employ" means to allow or permit to work;

14 (5) "Employee" means any person engaged in service to an employer
15 in the business of the employer and shall include a self-employed
16 person or sole practitioner who elects coverage under section 8 of this
17 act;

18 (6) "Employer" means a person engaged in any activity, enterprise
19 or business who employs two or more employees, and includes any
20 person who acts, directly or indirectly, in the interest of an employer to
21 any of the employees of such employer and any successor in interest of
22 an employer, and shall include the state and any political subdivisions
23 thereof. The number of employees of an employer shall be determined
24 by the administrator on October first annually;

25 (7) "Family and medical leave compensation" or "compensation"
26 means the paid leave provided to covered employees from the Family
27 and Medical Leave Compensation Trust Fund;

28 (8) "Family and Medical Leave Compensation Trust Fund" or "trust"
29 means the trust fund established pursuant to section 3 of this act;

30 (9) "Family and Medical Leave Compensation Program" or
31 "program" means the program established pursuant to section 2 of this
32 act;

33 (10) "Family member" means a spouse, sibling, son or daughter,
34 grandparent, grandchild, parent or next of kin, when appropriate;

35 (11) "Grandparent" means a grandparent related to a person by (A)
36 blood, (B) marriage, or (C) adoption of a minor child by a child of the
37 grandparent;

38 (12) "Grandchild" means a grandchild related to a person by (A)
39 blood, (B) marriage, or (C) adoption by a child of the grandparent;

40 (13) "Next of kin" means "next of kin" as defined in subsection (i) of
41 section 31-511l of the general statutes, as amended by this act;

42 (14) "Parent" means a biological parent, foster parent, adoptive
43 parent, stepparent, parent-in-law or legal guardian of an individual or
44 an individual's spouse, or a person who stood in loco parentis to an
45 individual when the individual was a son or daughter;

46 (15) "Sibling" means a brother or sister related to a person by (A)
47 blood, (B) marriage, or (C) adoption by a parent of the person;

48 (16) "Son or daughter" means a biological, adopted or foster child,
49 stepchild, legal ward, or, in the alternative, a child of a person standing
50 in loco parentis; and

51 (17) "Spouse" means a person to whom one is legally married.

52 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a
53 Family and Medical Leave Compensation Program. The program shall
54 be administered by the administrator and shall offer up to twelve
55 workweeks of family and medical leave compensation to covered
56 employees during any twelve-month period as described in section 31-
57 51ll of the general statutes, as amended by this act. The administrator
58 shall begin collecting contributions to the Family and Medical Leave
59 Compensation Trust Fund, established pursuant to section 3 of this act,
60 on or before February 1, 2016, and shall offer compensation to covered
61 employees who file claims for such compensation not later than
62 February 1, 2017. For the purposes of this section and sections 3 to 13,
63 inclusive, of this act, the administrator shall have the power to (1)
64 determine whether an individual meets the requirements for
65 compensation under this section; (2) require a covered employee's
66 claim for compensation pursuant to this section be supported by
67 certification pursuant to section 31-51mm of the general statutes, as
68 amended by this act; (3) examine or cause to be produced or examined,
69 any books, records, documents, contracts or other papers relevant to
70 the eligibility of a covered employee; (4) summon and examine under
71 oath such witnesses as may provide information relevant to a covered
72 employee's claim for family and medical leave compensation; (5)
73 establish procedures and forms for the filing of claims for
74 compensation, including the certification required for establishing

75 eligibility for such compensation; and (6) ensure the confidentiality of
76 records and documents relating to medical certifications,
77 recertifications or medical histories of covered employees or covered
78 employees' family members pursuant to section 31-5100 of the general
79 statutes, as amended by this act.

80 (b) Each covered employee participating in the program shall
81 contribute a percentage of his or her weekly earnings to the Family and
82 Medical Leave Compensation Trust Fund, in a manner and form as
83 prescribed by the administrator pursuant to section 6 of this act. Such
84 contributions shall be utilized to provide compensation to covered
85 employees pursuant to subsections (c) to (e), inclusive, of this section.

86 (c) The level of weekly compensation offered to covered employees
87 shall be one hundred per cent of a covered employee's average weekly
88 earnings during the fifty-two calendar weeks immediately preceding
89 the date the leave commences after such earnings have been reduced
90 by any deduction for federal or state taxes, or both, and for the federal
91 Insurance Contributions Act, provided such compensation shall not
92 exceed one thousand dollars per week. If the Internal Revenue Service
93 determines that family and medical leave compensation is subject to
94 federal income tax and a covered employee elects to have federal
95 income tax deducted and withheld from his or her compensation, the
96 administrator shall deduct and withhold the amount specified in the
97 United States Internal Revenue Code in a manner consistent with the
98 state law.

99 (d) A covered employee shall receive compensation under this
100 section for leave taken for one or more of the reasons listed in
101 subparagraphs (A) to (E), inclusive, of subdivision (2) of subsection (a)
102 of section 31-5111 of the general statutes, as amended by this act, or the
103 reasons listed in subsection (i) of said section or section 31-5115 of the
104 general statutes, as amended by this act, provided: (1) Such covered
105 employee provides notice to the administrator, and such covered
106 employee's employer, if applicable, of the need for such compensation
107 in a form and a manner as prescribed by the administrator, and (2)

108 upon the request of the administrator, provides certification of such
109 covered employee's need for compensation in accordance with the
110 provisions of section 31-51mm of the general statutes, as amended by
111 this act, to the administrator and such employer, if applicable.

112 (e) A covered employee may receive compensation pursuant to
113 subsection (a) of this section for nonconsecutive hours of leave
114 provided such leave shall not amount to less than eight hours of leave
115 in any workweek. If family and medical leave benefits are taken for
116 eight hours or more, but for less than one full week, such hourly
117 compensation shall be determined on a pro rata basis at the discretion
118 of the administrator.

119 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a fund
120 to be known as the "Family and Medical Leave Compensation Trust
121 Fund" the purpose of which shall be to provide compensation to
122 covered employees who take leave from their employment pursuant to
123 sections 5-248a of the general statutes, as amended by this act, 31-51kk
124 to 31-51qq, inclusive, of the general statutes, as amended by this act,
125 and 31-51ss of the general statutes, as amended by this act. The Family
126 and Medical Leave Compensation Trust Fund shall be a nonlapsing
127 fund held by the State Treasurer separate and apart from all other
128 moneys, funds and accounts. Investment earnings credited to the trust
129 shall become part of the trust.

130 (b) The trust shall constitute an instrumentality of the state and shall
131 perform essential governmental functions, in accordance with the
132 provisions of this section. The trust shall receive and hold all payments
133 and deposits or contributions intended for the trust, as well as gifts,
134 bequests, endowments or federal, state or local grants and any other
135 funds from any public or private source and all earnings until
136 disbursed in accordance with the provisions of this section.

137 (c) The amounts on deposit in the trust shall not constitute property
138 of the state and the trust shall not be construed to be a department,
139 institution or agency of the state. Amounts on deposit in the trust shall
140 not be commingled with state funds and the state shall have no claim

141 to or against, or interest in, such funds. Any contract entered into by or
142 any obligation of the trust shall not constitute a debt or obligation of
143 the state and the state shall have no obligation to any designated
144 beneficiary or any other person on account of the trust and all amounts
145 obligated to be paid from the trust shall be limited to amounts
146 available for such obligation on deposit in the trust. The trust shall
147 continue in existence as long as it holds any deposits or has any
148 obligations and until its existence is terminated by law and upon
149 termination any unclaimed assets shall return to the state. Property of
150 the trust shall be governed by section 3-61a of the general statutes.

151 (d) The State Treasurer shall be responsible for the receipt and
152 investment of moneys held by the trust. The trust shall not receive
153 deposits in any form other than cash. No depositor or designated
154 beneficiary may direct the investment of any contributions or amounts
155 held in the trust other than the specific fund options provided for by
156 the trust.

157 (e) The assets of the trust shall be used for the purpose of
158 distributing family and medical leave compensation to covered
159 employees, educating and informing individuals about the program
160 and paying the operational, administrative and investment costs of the
161 trust, including those incurred pursuant to section 6 of this act.

162 Sec. 4. (NEW) (*Effective from passage*) The State Treasurer, on behalf
163 of the Family and Medical Leave Compensation Trust Fund and for
164 purposes of the trust, shall:

165 (1) Receive and invest moneys in the trust in any instruments,
166 obligations, securities or property in accordance with sections 3 and 5
167 of this act;

168 (2) Procure insurance as the State Treasurer deems necessary to
169 protect the trust's property, assets, activities or deposits or
170 contributions to the trust; and

171 (3) Apply for, accept and expend gifts, grants or donations from

172 public or private sources to carry out the objectives of the trust.

173 Sec. 5. (NEW) (*Effective from passage*) The State Treasurer shall invest
174 the amounts on deposit in the Family and Medical Leave
175 Compensation Trust Fund in a manner reasonable and appropriate to
176 achieve the objectives of the trust, exercising the discretion and care of
177 a prudent person in similar circumstances with similar objectives. The
178 State Treasurer shall give due consideration to rate of return, risk, term
179 or maturity, diversification of the total portfolio within the trust,
180 liquidity, the projected disbursements and expenditures and the
181 expected payments, deposits, contributions and gifts to be received.
182 The State Treasurer shall not require the trust to invest directly in
183 obligations of the state or any political subdivision of the state or in
184 any investment or other fund administered by the State Treasurer. The
185 assets of the trust shall be continuously invested and reinvested in a
186 manner consistent with the objectives of the trust until disbursed upon
187 order of the administrator or expended on expenses incurred by the
188 operations of the trust.

189 Sec. 6. (NEW) (*Effective from passage*) The administrator, in
190 consultation with the State Treasurer, shall establish the procedures
191 necessary to implement the Family and Medical Leave Compensation
192 Program. The administrator shall:

193 (1) Design, establish and operate the program to ensure
194 transparency in the management of the program and the Family and
195 Medical Leave Compensation Trust Fund through oversight and ethics
196 review of plan fiduciaries;

197 (2) Design and establish the process by which a covered employee
198 shall contribute a portion of his or her salary or wages to the trust. This
199 process shall include, but not be limited to, the creation of an
200 information packet including the necessary paperwork for a covered
201 employee to enroll in the program;

202 (3) Evaluate and establish the process by which employers may
203 credit the covered employee's contributions to the trust through

204 payroll deposit;

205 (4) Determine the amount of contributions necessary to ensure
206 solvency of the program;

207 (5) Ensure that contributions to the trust collected from covered
208 employees shall not be used for any purpose other than to provide
209 compensation to such covered employee or to satisfy any expenses,
210 including employee costs, incurred to implement, maintain, advertise
211 and administer the program;

212 (6) Establish and maintain a secure Internet web site that displays all
213 public notices issued by the administrator and such other information
214 as the administrator deems relevant and necessary for the education of
215 the public regarding the program; and

216 (7) Not later than January 1, 2016, submit a report, in accordance
217 with the provisions of section 11-4a of the general statutes, to the
218 General Assembly regarding any recommendations for legislative
219 action that may be necessary for the implementation of the program.

220 Sec. 7. (NEW) (*Effective from passage*) The administrator, in
221 consultation with the State Treasurer, shall conduct a public education
222 campaign to inform individuals and employers about the Family and
223 Medical Leave Compensation Program. Such campaign shall include,
224 but not be limited to, information about the requirements for receiving
225 family and medical leave compensation, how to apply for such
226 compensation and the circumstances for which such compensation
227 may be available. The administrator may use funds contributed to the
228 Family and Medical Leave Compensation Trust Fund established
229 pursuant to section 3 of this act for purposes of the public education
230 campaign. Information distributed or made available under the
231 campaign shall be available in English and Spanish and in any other
232 language as prescribed by the administrator.

233 Sec. 8. (NEW) (*Effective from passage*) (a) Each covered employee
234 shall be enrolled in the Family and Medical Leave Compensation

235 Program in a manner prescribed by the administrator.

236 (b) A covered employee shall be eligible to receive benefits under
237 the program twelve months after the administrator has begun
238 collecting contributions from such covered employee, or at such other
239 time as the administrator may prescribe by rule.

240 (c) A self-employed person or sole proprietor, upon application to
241 the administrator, in a form and manner as prescribed by the
242 administrator, may be enrolled in the program, provided the
243 administrator determines that such self-employed person or sole
244 proprietor meets the requirements of a covered employee pursuant to
245 section 1 of this act and such self-employed person or sole proprietor is
246 enrolled in the program for an initial period of not less than three
247 years. Such self-employed person or sole proprietor may reenroll in
248 the program for a subsequent period, or periods, of not less than one
249 year, provided (1) such self-employed person or sole proprietor
250 provides written notice of such reenrollment to the administrator, and
251 (2) such reenrollment begins immediately following a subsequent
252 period of participation in the program.

253 (d) A self-employed person or sole proprietor may withdraw from
254 the program upon submitting written notice to the administrator not
255 less than thirty days prior to the expiration of the initial enrollment
256 period, or at such other times as the administrator may prescribe by
257 rule.

258 (e) A covered employee, or self-employed person or sole proprietor
259 participating in the program, shall be eligible for benefits under the
260 program even if such covered employee is not currently employed.

261 Sec. 9. (NEW) (*Effective from passage*) Any covered employee, or self-
262 employed person or sole proprietor participating in the program,
263 aggrieved by a denial of compensation under the Family and Medical
264 Leave Compensation Program may file a complaint with the Labor
265 Commissioner. Upon receipt of any such complaint, the commissioner
266 may hold a hearing. After the hearing, the commissioner shall send

267 each party a written copy of the commissioner's decision. The
268 commissioner may award the covered employee, or self-employed
269 person or sole proprietor, all appropriate relief, including any
270 compensation or benefits to which the employee otherwise would
271 have been eligible if such denial had not occurred. Any party
272 aggrieved by the decision of the commissioner may appeal the
273 decision to the Superior Court in accordance with the provisions of
274 chapter 54 of the general statutes.

275 Sec. 10. (NEW) (*Effective from passage*) Each employer subject to the
276 provisions of sections 2 to 13, inclusive, of this act, and sections 5-248a
277 of the general statutes, as amended by this act, 31-51kk to 31-51qq,
278 inclusive, of the general statutes, as amended by this act, and 31-51ss of
279 the general statutes, as amended by this act, shall, at the time of hiring,
280 and annually thereafter, provide notice to each employee (1) of the
281 entitlement to family and medical leave under said sections, and the
282 terms under which such leave may be used, (2) that retaliation by the
283 employer against the employee for requesting, applying for or using
284 family and medical leave for which the employee is eligible is
285 prohibited, and (3) that the employee has a right to file a complaint
286 with the Labor Commissioner for any violation of sections 2 to 13,
287 inclusive, of this act and sections 5-248a of the general statutes, as
288 amended by this act, 31-51kk to 31-51qq, inclusive, of the general
289 statutes, as amended by this act, and 31-51ss of the general statutes, as
290 amended by this act. Employers shall comply with the provisions of
291 this section by displaying a poster in a conspicuous place, accessible to
292 employees, at the employer's place of business that contains the
293 information required by this section in both English and Spanish. The
294 Labor Commissioner may adopt regulations, in accordance with
295 chapter 54 of the general statutes, to establish additional requirements
296 concerning the means by which employers shall provide such notice.

297 Sec. 11. (NEW) (*Effective from passage*) (a) Any individual or covered
298 employee who wilfully makes a false statement or misrepresentation
299 regarding a material fact, or wilfully fails to report a material fact, to
300 obtain family and medical leave compensation shall be disqualified

301 from participation in the program for one year.

302 (b) If family and medical leave compensation is paid to an
303 individual or covered employee erroneously or as a result of wilful
304 misrepresentation by such individual or covered employee, or if a
305 claim for family and medical leave compensation is rejected after
306 compensation is paid, the administrator may seek repayment of
307 benefits from the individual or covered employee having received
308 such compensation. The Labor Commissioner may, in his or her
309 discretion, waive, in whole or in part, the amount of any such
310 payments where the recovery would be against equity and good
311 conscience.

312 Sec. 12. (NEW) (*Effective from passage*) (a) The provisions of sections 2
313 to 13, inclusive, of this act are severable and if any provision is
314 determined to contravene state or federal law, the remainder of
315 sections 2 to 13, inclusive, of this act shall remain in full force and
316 effect.

317 (b) Nothing in sections 2 to 13, inclusive, of this act shall be
318 construed to (1) prevent employers from providing any benefits that
319 are more expansive than those provided for under said sections, (2)
320 diminish any rights provided to any covered employee under the
321 terms of the covered employee's employment or a collective
322 bargaining agreement, or (3) preempt or override the terms of any
323 collective bargaining agreement effective prior to the effective date of
324 this section.

325 Sec. 13. (NEW) (*Effective from passage*) Not later than January 1, 2016,
326 and annually thereafter, the commissioner shall report, in accordance
327 with section 11-4a of the general statutes, to the joint standing
328 committees of the General Assembly having cognizance of matters
329 relating to appropriations and labor, on (1) the projected and actual
330 participation in the program, (2) premium rates and balances in the
331 trust, (3) the size of employers at which covered employees are
332 employed, (4) the reasons covered employees are receiving family and
333 medical leave compensation, (5) the success of the administrator's

334 outreach and education efforts, and (6) demographic information of
335 covered employees, including gender, age, town of residence and
336 income level.

337 Sec. 14. Section 5-248a of the general statutes is repealed and the
338 following is substituted in lieu thereof (*Effective October 1, 2015*):

339 (a) For purposes of this section, "child" means a biological, adopted
340 or foster child, stepchild, child of whom a person has legal
341 guardianship or custody, or, in the alternative, a child of a person
342 standing in loco parentis; [who is (1) under eighteen years of age, or
343 (2) eighteen years of age or older and incapable of self-care because of
344 a mental or physical disability] "sibling" means a brother or sister
345 related to a person by blood, marriage or adoption by a parent of the
346 person; "grandparent" means a grandparent related to a person by
347 blood, marriage or adoption of a minor child by a child of the
348 grandparent; "grandchild" means a grandchild related to a person by
349 blood, marriage or adoption by a child of the grandparent; and
350 "spouse" means a person to whom one is legally married. Each
351 permanent employee, as defined in section 5-196, shall be entitled to a
352 family leave of absence upon the birth or adoption of a child of such
353 employee, or upon the serious illness of a [child,] spouse, sibling, child,
354 grandparent, grandchild or parent of such employee; and a medical
355 leave of absence upon the serious illness of such employee or in order
356 for such employee to serve as an organ or bone marrow donor. The
357 total amount of time that an employee is entitled to for leaves of
358 absence pursuant to this section shall be [twenty-four] twelve weeks
359 within any [two-year] one-year period. Any such leave of absence
360 [shall be without pay] may be compensated under the Family and
361 Medical Leave Compensation Program established pursuant to section
362 2 of this act. Upon the expiration of any such leave of absence, the
363 employee shall be entitled (A) to return to the employee's original job
364 from which the leave of absence was provided or, if not available, to an
365 equivalent position with equivalent pay, except that in the case of a
366 medical leave, if the employee is medically unable to perform the
367 employee's original job upon the expiration of such leave, the

368 Department of Administrative Services shall endeavor to find other
369 suitable work for such employee in state service, and (B) to all
370 accumulated seniority, retirement, fringe benefit and other service
371 credits the employee had at the commencement of such leave. Such
372 service credits shall not accrue during the period of the leave of
373 absence.

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

378 (c) Any permanent employee who requests a medical leave of
379 absence due to the employee's serious illness or a family leave of
380 absence due to the serious illness of a [child,] spouse, sibling, child,
381 grandparent, grandchild or parent pursuant to subsection (a) of this
382 section or a military caregiver leave of absence pursuant to subsection
383 (g) of this section shall be required by the employee's appointing
384 authority, prior to the inception of such leave, to provide sufficient
385 written certification from the physician of such employee, [child,]
386 spouse, sibling, child, grandparent, grandchild, parent or next of kin of
387 the employee, as appropriate, of the nature of such illness and its
388 probable duration. For the purposes of this section, "serious illness"
389 means an illness, injury, impairment or physical or mental condition
390 that involves (1) inpatient care in a hospital, hospice or residential care
391 facility, or (2) continuing treatment or continuing supervision by a
392 health care provider.

393 (d) Any permanent employee who requests a medical leave of
394 absence in order to serve as an organ or bone marrow donor pursuant
395 to subsection (a) of this section shall be required by the employee's
396 appointing authority, prior to the inception of such leave, to provide
397 sufficient written certification from the physician of such employee of
398 the proposed organ or bone marrow donation and the probable
399 duration of the employee's recovery period from such donation.

400 (e) Any permanent employee who requests a family leave of

401 absence pursuant to subsection (a) of this section or a military
402 caregiver leave of absence pursuant to subsection (g) of this section
403 shall submit to the employee's appointing authority, prior to the
404 inception of such leave, a signed statement of the employee's intent to
405 return to the employee's position in state service upon the termination
406 of such leave.

407 (f) Notwithstanding the provisions of subsection (b) of section 38a-
408 554, the state shall pay for the continuation of health insurance benefits
409 for the employee during any leave of absence taken pursuant to this
410 section. In order to continue any other health insurance coverages
411 during such leave, the employee shall contribute that portion of the
412 premium the employee would have been required to contribute had
413 the employee remained an active employee during the leave period.

414 (g) Each permanent employee, as defined in section 5-196, who is
415 the spouse, sibling, son or daughter, child, grandparent, grandchild,
416 parent or next of kin of a current member of the armed forces, as
417 defined in section 27-103, who is undergoing medical treatment,
418 recuperation or therapy, is otherwise in outpatient status or is on the
419 temporary disability retired list for a serious injury or illness incurred
420 in the line of duty, shall be entitled to a one-time benefit of twenty-six
421 workweeks of leave, up to twenty-four workweeks of which may be
422 compensated under the Family and Medical Leave Compensation
423 Program established pursuant to section 2 of this act, within a single
424 two-year period for each armed forces member per serious injury or
425 illness incurred in the line of duty.

426 (h) For purposes of subsection (g) of this section, (1) "next of kin"
427 means the armed forces member's nearest blood relative, other than
428 the covered armed forces member's spouse, [parent] sibling, son or
429 daughter, grandparent, grandchild or parent, in the following order of
430 priority: Blood relatives who have been granted legal custody of the
431 armed forces member by court decree or statutory provisions,
432 [brothers and sisters, grandparents,] aunts and uncles, and first
433 cousins, unless the covered armed forces member has specifically

434 designated in writing another blood relative as his or her nearest blood
435 relative for purposes of military caregiver leave, in which case the
436 designated individual shall be deemed to be the covered armed forces
437 member's next of kin; and (2) "son or daughter" means a biological,
438 adopted, foster child, stepchild, legal ward or a child for whom the
439 eligible employee or armed forces member stood in loco parentis and
440 who is any age.

441 Sec. 15. Section 31-51kk of the general statutes is repealed and the
442 following is substituted in lieu thereof (*Effective October 1, 2015*):

443 As used in sections 31-51kk to 31-51qq, inclusive, as amended by
444 this act:

445 (1) "Eligible employee" means an employee who has [been
446 employed (A) for at least twelve months by the employer with respect
447 to whom leave is requested; and (B) for at least one thousand hours of
448 service with such employer] earned not less than nine thousand three
449 hundred dollars from one or more employers during the twelve-month
450 period preceding the first day of the leave;

451 (2) "Employ" includes to allow or permit to work;

452 (3) "Employee" means any person engaged in service to an employer
453 in the business of the employer;

454 (4) "Employer" means a person engaged in any activity, enterprise
455 or business who employs [seventy-five] two or more employees, and
456 includes any person who acts, directly or indirectly, in the interest of
457 an employer to any of the employees of such employer and any
458 successor in interest of an employer, [but shall not] and shall include
459 the state, a municipality, a local or regional board of education, or a
460 private or parochial elementary or secondary school. The number of
461 employees of an employer shall be determined on October first
462 annually;

463 (5) "Employment benefits" means all benefits provided or made
464 available to employees by an employer, including group life insurance,

465 health insurance, disability insurance, sick leave, annual leave,
466 educational benefits and pensions, regardless of whether such benefits
467 are provided by practice or written policy of an employer or through
468 an "employee benefit plan", as defined in Section 1002(3) of Title 29 of
469 the United States Code;

470 (6) "Grandchild" means a grandchild related to a person by (A)
471 blood, (B) marriage, or (C) adoption by a child of the grandparent;

472 (7) "Grandparent" means a grandparent related to a person by (A)
473 blood, (B) marriage, or (C) adoption of a minor child by a child of the
474 grandparent;

475 ~~[(6)]~~ (8) "Health care provider" means (A) a doctor of medicine or
476 osteopathy who is authorized to practice medicine or surgery by the
477 state in which the doctor practices; (B) a podiatrist, dentist,
478 psychologist, optometrist or chiropractor authorized to practice by the
479 state in which such person practices and performs within the scope of
480 the authorized practice; (C) an advanced practice registered nurse,
481 nurse practitioner, nurse midwife or clinical social worker authorized
482 to practice by the state in which such person practices and performs
483 within the scope of the authorized practice; (D) Christian Science
484 practitioners listed with the First Church of Christ, Scientist in Boston,
485 Massachusetts; (E) any health care provider from whom an employer
486 or a group health plan's benefits manager will accept certification of
487 the existence of a serious health condition to substantiate a claim for
488 benefits; (F) a health care provider as defined in subparagraphs (A) to
489 (E), inclusive, of this subdivision who practices in a country other than
490 the United States, who is licensed to practice in accordance with the
491 laws and regulations of that country; or (G) such other health care
492 provider as the Labor Commissioner determines, performing within
493 the scope of the authorized practice. The commissioner may utilize any
494 determinations made pursuant to chapter 568;

495 ~~[(7)]~~ (9) "Parent" means a biological parent, foster parent, adoptive
496 parent, stepparent, parent-in-law or legal guardian of an eligible
497 employee or an eligible employee's spouse, or an individual who stood

498 in loco parentis to an employee when the employee was a son or
499 daughter;

500 [(8)] (10) "Person" means one or more individuals, partnerships,
501 associations, corporations, business trusts, legal representatives or
502 organized groups of persons;

503 [(9)] (11) "Reduced leave schedule" means a leave schedule that
504 reduces the usual number of hours per workweek, or hours per
505 workday, of an employee;

506 [(10)] (12) "Serious health condition" means an illness, injury,
507 impairment, or physical or mental condition that involves (A) inpatient
508 care in a hospital, hospice, nursing home or residential medical care
509 facility; or (B) continuing treatment, including outpatient treatment, by
510 a health care provider;

511 (13) "Sibling" means a brother or sister related to a person by (A)
512 blood, (B) marriage, or (C) adoption by a parent of the person;

513 [(11)] (14) "Son or daughter" means a biological, adopted or foster
514 child, stepchild, legal ward, or, in the alternative, a child of a person
515 standing in loco parentis; [who is (A) under eighteen years of age; or
516 (B) eighteen years of age or older and incapable of self-care because of
517 a mental or physical disability;] and

518 [(12)] (15) "Spouse" means a [husband or wife, as the case may be]
519 person to whom one is legally married.

520 Sec. 16. Section 31-51ll of the general statutes is repealed and the
521 following is substituted in lieu thereof (*Effective October 1, 2015*):

522 (a) (1) Subject to section 31-51mm, as amended by this act, an
523 eligible employee shall be entitled to a total of [sixteen] twelve
524 workweeks of leave which may be compensated under the Family and
525 Medical Leave Compensation Program established pursuant to section
526 2 of this act, during any [twenty-four-month] twelve-month period. [,
527 such twenty-four-month] Such twelve-month period [to be] shall be

528 determined utilizing any one of the following methods: (A)
529 [Consecutive calendar years] Calendar year; (B) any fixed [twenty-
530 four-month] twelve-month period, such as [two consecutive fiscal
531 years] a fiscal year or a [twenty-four-month] twelve-month period
532 measured forward from an employee's first date of employment; (C) a
533 [twenty-four-month] twelve-month period measured forward from an
534 employee's first day of leave taken under sections 31-51kk to 31-51qq,
535 inclusive, as amended by this act; or (D) a rolling [twenty-four-month]
536 twelve-month period measured backward from an employee's first
537 day of leave taken under sections 31-51kk to 31-51qq, inclusive, as
538 amended by this act.

539 (2) Leave under this subsection may be taken for one or more of the
540 following reasons:

541 (A) Upon the birth of a son or daughter of the employee;

542 (B) Upon the placement of a son or daughter with the employee for
543 adoption or foster care;

544 (C) In order to care for the spouse, [or a son,] sibling, son or
545 daughter, grandparent, grandchild or parent of the employee, if such
546 spouse, [son,] sibling, son or daughter, grandparent, grandchild or
547 parent has a serious health condition;

548 (D) Because of a serious health condition of the employee; or

549 (E) In order to serve as an organ or bone marrow donor.

550 (b) Entitlement to leave under subparagraph (A) or (B) of
551 subdivision (2) of subsection (a) of this section may accrue prior to the
552 birth or placement of a son or daughter when such leave is required
553 because of such impending birth or placement.

554 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of
555 subsection (a) of this section for the birth or placement of a son or
556 daughter may not be taken by an employee intermittently or on a
557 reduced leave schedule unless the employee and the employer agree

558 otherwise. Subject to subdivision (2) of this subsection concerning an
559 alternative position, subdivision (2) of subsection (f) of this section
560 concerning the duties of the employee and subdivision (5) of
561 subsection (b) of section 31-51mm, as amended by this act, concerning
562 sufficient certification, leave under subparagraph (C) or (D) of
563 subdivision (2) of subsection (a) or under subsection (i) of this section
564 for a serious health condition may be taken intermittently or on a
565 reduced leave schedule when medically necessary. The taking of leave
566 intermittently or on a reduced leave schedule pursuant to this
567 subsection shall not result in a reduction of the total amount of leave to
568 which the employee is entitled under subsection (a) of this section
569 beyond the amount of leave actually taken.

570 (2) If an employee requests intermittent leave or leave on a reduced
571 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of
572 subsection (a) or under subsection (i) of this section that is foreseeable
573 based on planned medical treatment, the employer may require the
574 employee to transfer temporarily to an available alternative position
575 offered by the employer for which the employee is qualified and that
576 (A) has equivalent pay and benefits, and (B) better accommodates
577 recurring periods of leave than the regular employment position of the
578 employee, provided the exercise of this authority shall not conflict
579 with any provision of a collective bargaining agreement between such
580 employer and a labor organization which is the collective bargaining
581 representative of the unit of which the employee is a part.

582 (d) Except as provided in subsection (e) of this section, leave
583 granted under subsection (a) of this section may consist of unpaid
584 leave.

585 (e) (1) If an employer provides paid leave for fewer than [sixteen]
586 twelve workweeks, the additional weeks of leave necessary to attain
587 the [sixteen] twelve workweeks of leave required under sections 5-
588 248a, as amended by this act, and 31-51kk to 31-51qq, inclusive, as
589 amended by this act, may be provided without compensation, or may
590 be through the Family and Medical Leave Compensation Program

591 established pursuant to section 2 of this act.

592 (2) (A) An eligible employee may elect [, or an employer may
593 require the employee,] to substitute any of the accrued paid vacation
594 leave, personal leave or family leave of the employee for leave
595 provided under subparagraph (A), (B) or (C) of subdivision (2) of
596 subsection (a) of this section for any part of the [sixteen-week] twelve-
597 week period of such leave under said subsection or under subsection
598 (i) of this section for any part of the twenty-six-week period of such
599 leave.

600 (B) An eligible employee may elect [, or an employer may require
601 the employee,] to substitute any of the accrued paid vacation leave,
602 personal leave, or medical or sick leave of the employee for leave
603 provided under subparagraph (C), (D) or (E) of subdivision (2) of
604 subsection (a) of this section for any part of the [sixteen-week] twelve-
605 week period of such leave under said subsection or under subsection
606 (i) of this section for any part of the twenty-six-week period of leave,
607 except that nothing in section 5-248a, as amended by this act, or
608 sections 31-51kk to 31-51qq, inclusive, as amended by this act, shall
609 require an employer to provide paid sick leave or paid medical leave
610 in any situation in which such employer would not normally provide
611 any such paid leave.

612 (f) (1) In any case in which the necessity for leave under
613 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this
614 section is foreseeable based on an expected birth or placement of a son
615 or daughter, the employee shall provide the employer with not less
616 than thirty days' notice, before the date of the leave is to begin, of the
617 employee's intention to take leave under said subparagraph (A) or (B),
618 except that if the date of the birth or placement of a son or daughter
619 requires leave to begin in less than thirty days, the employee shall
620 provide such notice as is practicable.

621 (2) In any case in which the necessity for leave under subparagraph
622 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection
623 (i) of this section is foreseeable based on planned medical treatment,

624 the employee (A) shall make a reasonable effort to schedule the
625 treatment so as not to disrupt unduly the operations of the employer,
626 subject to the approval of the health care provider of the employee or
627 the health care provider of the spouse, sibling, son [,] or daughter,
628 [spouse] grandparent, grandchild or parent of the employee, as
629 appropriate; and (B) shall provide the employer with not less than
630 thirty days' notice, before the date the leave is to begin, of the
631 employee's intention to take leave under said subparagraph (C), (D) or
632 (E) or said subsection (i), except that if the date of the treatment
633 requires leave to begin in less than thirty days, the employee shall
634 provide such notice as is practicable.

635 (g) In any case in which [a husband and wife] two spouses entitled
636 to leave under subsection (a) of this section are employed by the same
637 employer, the aggregate number of workweeks of leave to which both
638 may be entitled may be limited to [sixteen] twelve workweeks, which
639 may be compensated under the Family and Medical Leave
640 Compensation Program established pursuant to section 2 of this act,
641 during any [twenty-four-month] twelve-month period, if such leave is
642 taken: (1) Under subparagraph (A) or (B) of subdivision (2) of
643 subsection (a) of this section; or (2) to care for a sick sibling, son or
644 daughter, grandparent, grandchild, or parent under subparagraph (C)
645 of said subdivision. In any case in which [a husband and wife] two
646 spouses entitled to leave under subsection (i) of this section are
647 employed by the same employer, the aggregate number of workweeks
648 of leave to which both may be entitled may be limited to twenty-six
649 workweeks, twelve weeks of which may be compensated under the
650 Family and Medical Leave Compensation Program established
651 pursuant to section 2 of this act, during any twelve-month period.

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

656 (i) Subject to section 31-51mm, as amended by this act, an eligible

657 employee who is the spouse, sibling, son or daughter, grandparent,
658 grandchild, parent or next of kin of a current member of the armed
659 forces, as defined in section 27-103, who is undergoing medical
660 treatment, recuperation or therapy, is otherwise in outpatient status or
661 is on the temporary disability retired list for a serious injury or illness
662 incurred in the line of duty shall be entitled to a one-time benefit of
663 twenty-six workweeks of leave, twelve weeks of which may be
664 compensated under the Family and Medical Leave Compensation
665 Program established pursuant to section 2 of this act, during any
666 twelve-month period for each armed forces member per serious injury
667 or illness incurred in the line of duty. Such twelve-month period shall
668 commence on an employee's first day of leave taken to care for a
669 covered armed forces member and end on the date twelve months
670 after such first day of leave. For the purposes of this subsection, (1)
671 "next of kin" means the armed forces member's nearest blood relative,
672 other than the covered armed forces member's spouse, [parent] sibling,
673 son or daughter, grandparent, grandchild or parent, in the following
674 order of priority: Blood relatives who have been granted legal custody
675 of the armed forces member by court decree or statutory provisions,
676 [brothers and sisters, grandparents,] aunts and uncles, and first
677 cousins, unless the covered armed forces member has specifically
678 designated in writing another blood relative as his or her nearest blood
679 relative for purposes of military caregiver leave, in which case the
680 designated individual shall be deemed to be the covered armed forces
681 member's next of kin; and (2) "son or daughter" means a biological,
682 adopted or foster child, stepchild, legal ward or child for whom the
683 eligible employee or armed forces member stood in loco parentis and
684 who is any age.

685 (j) Leave taken pursuant to sections 31-51kk to 31-51qq, inclusive, as
686 amended by this act, shall not run concurrently with the provisions of
687 section 31-313.

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

691 Sec. 17. Section 31-51mm of the general statutes is repealed and the
692 following is substituted in lieu thereof (*Effective October 1, 2015*):

693 (a) An employer may require that request for leave based on a
694 serious health condition in subparagraph (C) or (D) of subdivision (2)
695 of subsection (a) of section 31-51ll, as amended by this act, or leave
696 based on subsection (i) of section 31-51ll, as amended by this act, be
697 supported by a certification issued by the health care provider of the
698 eligible employee or of the spouse, sibling, son [,] or daughter,
699 [spouse] grandparent, grandchild, parent or next of kin of the
700 employee, as appropriate. The employee shall provide, in a timely
701 manner, a copy of such certification to the employer.

702 (b) Certification provided under subsection (a) of this section shall
703 be sufficient if it states:

704 (1) The date on which the serious health condition commenced;

705 (2) The probable duration of the condition;

706 (3) The appropriate medical facts within the knowledge of the
707 health care provider regarding the condition;

708 (4) (A) For purposes of leave under subparagraph (C) of subdivision
709 (2) of subsection (a) of section 31-51ll, as amended by this act, a
710 statement that the eligible employee is needed to care for the spouse,
711 sibling, son [,] or daughter, [spouse] grandparent, grandchild or parent
712 and an estimate of the amount of time that such employee needs to
713 care for the spouse, sibling, son [,] or daughter, [spouse] grandparent,
714 grandchild or parent; and (B) for purposes of leave under
715 subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll,
716 as amended by this act, a statement that the employee is unable to
717 perform the functions of the position of the employee;

718 (5) In the case of certification for intermittent leave or leave on a
719 reduced leave schedule for planned medical treatment, the dates on
720 which such treatment is expected to be given and the duration of such
721 treatment;

722 (6) In the case of certification for intermittent leave or leave on a
723 reduced leave schedule under subparagraph (D) of subdivision (2) of
724 subsection (a) of section 31-51ll, as amended by this act, a statement of
725 the medical necessity of the intermittent leave or leave on a reduced
726 leave schedule, and the expected duration of the intermittent leave or
727 reduced leave schedule;

728 (7) In the case of certification for intermittent leave or leave on a
729 reduced leave schedule under subparagraph (C) of subdivision (2) of
730 subsection (a) of section 31-51ll, as amended by this act, a statement
731 that the employee's intermittent leave or leave on a reduced leave
732 schedule is necessary for the care of the spouse, sibling, son [] or
733 daughter, grandparent, grandchild or parent [or spouse] who has a
734 serious health condition, or will assist in their recovery, and the
735 expected duration and schedule of the intermittent leave or reduced
736 leave schedule; and

737 (8) In the case of certification for intermittent leave or leave on a
738 reduced leave schedule under subsection (i) of section 31-51ll, as
739 amended by this act, a statement that the employee's intermittent leave
740 or leave on a reduced leave schedule is necessary for the care of the
741 spouse, sibling, son or daughter, grandparent, grandchild, parent or
742 next of kin who is a current member of the armed forces, as defined in
743 section 27-103, who is undergoing medical treatment, recuperation or
744 therapy, is otherwise in outpatient status or is on the temporary
745 disability retired list, for a serious injury or illness incurred in the line
746 of duty, and the expected duration and schedule of the intermittent
747 leave or reduced leave schedule. For the purposes of this subsection,
748 "son or daughter" and "next of kin" have the same meanings as
749 provided in subsection (i) of section 31-51ll, as amended by this act.

750 (c) (1) In any case in which the employer has reason to doubt the
751 validity of the certification provided under subsection (a) of this
752 section for leave under subparagraph (C) or (D) of subdivision (2) of
753 subsection (a) or under subsection (i) of section 31-51ll, as amended by
754 this act, the employer may require, at the expense of the employer, that

755 the eligible employee obtain the opinion of a second health care
756 provider designated or approved by the employer concerning any
757 information certified under subsection (b) of this section for such leave.

758 (2) A health care provider designated or approved under
759 subdivision (1) of this subsection shall not be employed on a regular
760 basis by the employer.

761 (d) (1) In any case in which the second opinion described in
762 subsection (c) of this section differs from the opinion in the original
763 certification provided under subsection (a) of this section, the
764 employer may require, at the expense of the employer, that the
765 employee obtain the opinion of a third health care provider designated
766 or approved jointly by the employer and the employee concerning the
767 information certified under subsection (b) of this section.

768 (2) The opinion of the third health care provider concerning the
769 information certified under subsection (b) of this section shall be
770 considered to be final and shall be binding on the employer and the
771 employee.

772 (e) The employer may require that the eligible employee obtain
773 subsequent recertifications on a reasonable basis, provided the
774 standards for determining what constitutes a reasonable basis for
775 recertification may be governed by a collective bargaining agreement
776 between such employer and a labor organization which is the
777 collective bargaining representative of the unit of which the worker is
778 a part if such a collective bargaining agreement is in effect. Unless
779 otherwise required by the employee's health care provider, the
780 employer may not require recertification more than once during a
781 thirty-day period and, in any case, may not unreasonably require
782 recertification. The employer shall pay for any recertification that is not
783 covered by the employee's health insurance.

784 Sec. 18. Section 31-5100 of the general statutes is repealed and the
785 following is substituted in lieu thereof (*Effective October 1, 2015*):

786 Records and documents relating to medical certifications,
787 recertifications or medical histories of employees or employees' family
788 members, created for purposes of sections 2 to 13, inclusive, of this act,
789 and sections 5-248a, as amended by this act, and 31-51kk to 31-51qq,
790 inclusive, as amended by this act, shall be maintained as medical
791 records pursuant to chapter 563a, except that: (1) Supervisors and
792 managers may be informed regarding necessary restrictions on the
793 work or duties of an employee and necessary accommodations; (2) first
794 aid and safety personnel may be informed, when appropriate, if the
795 employee's physical or medical condition might require emergency
796 treatment; and (3) government officials investigating compliance with
797 sections 2 to 13, inclusive, of this act, and sections 5-248a, as amended
798 by this act, and 31-51kk to 31-51qq, inclusive, as amended by this act,
799 or other pertinent law shall be provided relevant information upon
800 request.

801 Sec. 19. Section 31-51pp of the general statutes is repealed and the
802 following is substituted in lieu thereof (*Effective October 1, 2015*):

803 (a) (1) It shall be a violation of sections 2 to 13, inclusive, of this act
804 and sections 5-248a, as amended by this act, and 31-51kk to 31-51qq,
805 inclusive, as amended by this act, for any employer to interfere with,
806 restrain or deny the exercise of, or the attempt to exercise, any right
807 provided under said sections.

808 (2) It shall be a violation of sections 5-248a, as amended by this act,
809 and 31-51kk to 31-51qq, inclusive, as amended by this act, for any
810 employer to discharge or cause to be discharged, or in any other
811 manner discriminate, against any individual for opposing any practice
812 made unlawful by said sections or because such employee has
813 exercised the rights afforded to such employee under said sections.

814 (b) It shall be a violation of sections 5-248a, as amended by this act,
815 and 31-51kk to 31-51qq, inclusive, as amended by this act, for any
816 person to discharge or cause to be discharged, or in any other manner
817 discriminate, against any individual because such individual:

818 (1) Has filed any charge, or has instituted or caused to be instituted
819 any proceeding, under or related to sections 5-248a, as amended by
820 this act, and 31-51kk to 31-51qq, inclusive, as amended by this act;

821 (2) Has given, or is about to give, any information in connection
822 with any inquiry or proceeding relating to any right provided under
823 said sections; or

824 (3) Has testified, or is about to testify, in any inquiry or proceeding
825 relating to any right provided under said sections.

826 (c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive,
827 as amended by this act, for any employer to deny an employee the
828 right to use up to two weeks of accumulated sick leave, be it paid or
829 unpaid, or to discharge, threaten to discharge, demote, suspend or in
830 any manner discriminate against an employee for using, or attempting
831 to exercise the right to use, up to two weeks of accumulated sick leave,
832 be it paid or unpaid, to attend to a serious health condition of a spouse,
833 sibling, son or daughter, [spouse] grandparent, grandchild or parent of
834 the employee, or for the birth or adoption of a son or daughter of the
835 employee. For purposes of this subsection, "sick leave" means an
836 absence from work for which compensation is provided through (A)
837 an employer's bona fide written policy providing compensation for
838 loss of wages occasioned by illness, or (B) the Family and Medical
839 Leave Compensation Program established pursuant to section 2 of this
840 act, but does not include absences from work for which compensation
841 is provided through an employer's plan, including, but not limited to,
842 a short or long-term disability plan, whether or not such plan is self-
843 insured.

844 (2) Any employee aggrieved by a violation of this subsection may
845 file a complaint with the Labor Commissioner alleging violation of the
846 provisions of this subsection. Upon receipt of any such complaint, the
847 commissioner shall hold a hearing. After the hearing, the
848 commissioner shall send each party a written copy of the
849 commissioner's decision. The commissioner may award the employee
850 all appropriate relief, including rehiring or reinstatement to the

851 employee's previous job, payment of back wages and reestablishment
852 of employee benefits to which the employee otherwise would have
853 been eligible if a violation of this subsection had not occurred. Any
854 party aggrieved by the decision of the commissioner may appeal the
855 decision to the Superior Court in accordance with the provisions of
856 chapter 54.

857 (3) The rights and remedies specified in this subsection are
858 cumulative and nonexclusive and are in addition to any other rights or
859 remedies afforded by contract or under other provisions of law.

860 Sec. 20. Section 31-51qq of the general statutes is repealed and the
861 following is substituted in lieu thereof (*Effective October 1, 2015*):

862 On or before January 1, [1997] 2017, the Labor Commissioner shall
863 adopt regulations, in accordance with the provisions of chapter 54, to
864 establish procedures and guidelines necessary to implement the
865 provisions of sections 2 to 13, inclusive, of this act, and sections 5-248a,
866 as amended by this act, and 31-51kk to 31-51qq, inclusive, as amended
867 by this act, including, but not limited to, procedures for hearings and
868 redress, including restoration and restitution, for an employee who
869 believes that there is a violation by the employer of such employee of
870 any provision of said sections. [In adopting such regulations, the
871 commissioner shall make reasonable efforts to ensure compatibility of
872 state regulatory provisions with similar provisions of the federal
873 Family and Medical Leave Act of 1993 and the regulations
874 promulgated pursuant to said act.]

875 Sec. 21. Section 31-51ss of the general statutes is repealed and the
876 following is substituted in lieu thereof (*Effective October 1, 2015*):

877 (a) For the purposes of this section:

878 (1) "Employer" means a person engaged in business who has [three]
879 two or more employees, including the state and any political
880 subdivision of the state;

881 (2) "Employee" means any person engaged in service to an employer

882 in the business of the employer;

883 (3) "Family violence" means family violence, as defined in section
884 46b-38a; and

885 (4) "Leave" includes paid or unpaid leave which may include, but is
886 not limited to, compensatory time, vacation time, personal days off,
887 leave under the Family and Medical Leave Compensation Program
888 established pursuant to section 2 of this act or other time off.

889 (b) If an employee is a victim of family violence, an employer shall
890 permit the employee to take paid or unpaid leave during any calendar
891 year in which such leave is reasonably necessary (1) to seek medical
892 care or psychological or other counseling for physical or psychological
893 injury or disability for the victim, (2) to obtain services from a victim
894 services organization on behalf of the victim, (3) to relocate due to such
895 family violence, or (4) to participate in any civil or criminal proceeding
896 related to or resulting from such family violence. An employer may
897 limit unpaid leave under this section to twelve days during any
898 calendar year. Leave under this section shall not affect any other leave
899 provided under state or federal law.

900 (c) If an employee's need to use leave under this section is
901 foreseeable, an employer may require advance notice, not to exceed
902 seven days prior to the date such leave is to begin, of the intention to
903 use such leave. If an employee's need for such leave is not foreseeable,
904 an employer may require an employee to give notice of such intention
905 as soon as practicable.

906 (d) Upon an employer's request, an employee who takes leave
907 pursuant to this section shall provide the employer a signed written
908 statement certifying that the leave is for a purpose authorized under
909 this section. The employer may also, but need not, request that the
910 employee provide a police or court record related to the family
911 violence or a signed written statement that the employee is a victim of
912 family violence, provided such statement is from an employee or agent
913 of a victim services organization, an attorney, an employee of the

914 Judicial Branch's Office of Victim Services or the Office of the Victim
915 Advocate, or a licensed medical professional or other licensed
916 professional from whom the employee has sought assistance with
917 respect to the family violence.

918 (e) Nothing in this section shall be construed to (1) prevent
919 employers from providing more leave than is required under this
920 section, (2) diminish any rights provided to any employee under the
921 terms of the employee's employment or a collective bargaining
922 agreement, or (3) preempt or override the terms of any collective
923 bargaining agreement effective prior to October 1, 2010.

924 (f) Nothing in this section shall be construed to require an employer
925 to provide paid leave under this section if (1) the employee is not
926 entitled to paid leave pursuant to the terms and conditions of the
927 employee's employment or under the Family and Medical Leave
928 Compensation Program established pursuant to section 2 of this act, or
929 (2) such paid leave exceeds the maximum amount of leave due the
930 employee during any calendar year, provided the employee shall be
931 entitled to unpaid leave under this section if paid leave is exhausted or
932 not provided.

933 (g) Any written statement or police or court record provided to an
934 employer pursuant to subsection (d) of this section shall be maintained
935 as confidential by the employer and shall not be further disclosed by
936 the employer except as required by federal or state law or as necessary
937 to protect the employee's safety in the workplace, provided the
938 employee is given notice prior to the disclosure.

939 (h) If an employer discharges, penalizes or threatens or otherwise
940 coerces an employee in violation of this section, the employee, not later
941 than one hundred eighty days from the occurrence of such action, may
942 bring a civil action for damages and for an order requiring the
943 employee's reinstatement or otherwise rescinding such action. If the
944 employee prevails, the employee shall be allowed a reasonable
945 attorney's fee to be fixed by the court.

946 Sec. 22. Section 3-13c of the general statutes is repealed and the
947 following is substituted in lieu thereof (*Effective from passage*):

948 Trust funds as used in sections 3-13 to 3-13e, inclusive, and 3-31b
949 shall be construed to include Connecticut Municipal Employees'
950 Retirement Fund A, Connecticut Municipal Employees' Retirement
951 Fund B, Soldiers, Sailors and Marines Fund, Family and Medical Leave
952 Compensation Trust Fund, State's Attorneys' Retirement Fund,
953 Teachers' Annuity Fund, Teachers' Pension Fund, Teachers'
954 Survivorship and Dependency Fund, School Fund, State Employees
955 Retirement Fund, the Hospital Insurance Fund, Policemen and
956 Firemen Survivor's Benefit Fund and all other trust funds
957 administered, held or invested by the State Treasurer.

958 Sec. 23. Section 31-51rr of the general statutes is repealed. (*Effective*
959 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>October 1, 2015</i>	5-248a
Sec. 15	<i>October 1, 2015</i>	31-51kk
Sec. 16	<i>October 1, 2015</i>	31-51ll
Sec. 17	<i>October 1, 2015</i>	31-51mm
Sec. 18	<i>October 1, 2015</i>	31-51oo
Sec. 19	<i>October 1, 2015</i>	31-51pp

Sec. 20	<i>October 1, 2015</i>	31-51qq
Sec. 21	<i>October 1, 2015</i>	31-51ss
Sec. 22	<i>from passage</i>	3-13c
Sec. 23	<i>from passage</i>	Repealer section

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Labor Dept.	GF - Cost	4.8 million	13.4 million
State Comptroller - Fringe Benefits ¹	GF - Cost	1.4 million	3.9 million
Treasurer	Connecticut Retirement Plans and Trust Funds - Cost	75,000	None
Treasurer	Connecticut Retirement Plans and Trust Funds - Cost	See Below	See Below
Various State Agencies	All Funds - Cost	See Below	See Below

Note: All Funds=All Funds; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	Potential Cost	See Below	See Below

Explanation

The bill expands the state's current Family Medical Leave Act (FMLA) law as it applies to the private sector, state and municipalities, and establishes a Family and Medical Leave Compensation (FMLC) program. This results in a significant annual state cost beginning in FY 16, as well as a potential cost to various municipalities beginning in FY 16. These impacts are explained in detail below.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.65% of payroll in FY 16 and FY 17.

Expanded FMLA State Employee Impact

The bill's expanded eligibility for leave is expected to result in an increase in the number of state employees out on leave. Currently, it is estimated that between 3% and 6.1% of executive branch employees are on family or medical leave at any given time. The state averages about 1,000 new applications for leave monthly.²

This bill would result in costs to certain state agencies with large numbers of employees such as the Department of Corrections (DOC), Department of Emergency Services and Public Protection (DESPP), Department of Children and Families (DCF), Department of Mental Health and Addiction Services (DMHAS) and the Department of Developmental Services (DDS). These agencies would incur overtime costs to cover shifts for those employees taking leave under the bill's provisions. For example, if one correction officer uses 10 accrued sick days, DOC may incur overtime costs as high as \$2,925 to cover the 10 day period.³ For the majority of agencies, the workload of employees on leave will be absorbed among co-workers and would not have a fiscal impact on the state.

The bill prevents an employer, including the state, from requiring employees to use their accrued paid vacation, personal, family or sick leave during the time they are out on FMLA. It is unclear if an employee can simultaneously receive paid sick time from their employer and FMLC benefits while they are on FMLA leave. Any of the above potential costs associated with increased leave are not expected to be realized until at least FY 17, as employees become eligible for the new FMLA benefits.

The bill is also unclear as to whether certain state employees would be entitled to regular wages while out on leave. To the extent that the state would be required to pay for regular wages while employees are on leave, there would be a significant cost to various state agencies

² According to a 2014 Department of Administrative Services study.

³ On average, the cost to DOC for a correction officer to work one overtime hour is \$39.

beginning in FY 16.

Expanded FMLA Municipal Impact

The bill expands private sector FMLA provisions to municipalities, and also expands the number of people eligible to take FMLA. Municipalities currently must comply with federal FMLA requirements. However, there is a potential cost to the extent that the bill requires municipalities to provide benefits beyond what is required under federal FMLA.

For example, a municipality would incur increased costs if an employee (who is ineligible for FMLA under current law) goes on FMLA leave and has his shift covered by an employee with a higher salary or by an employee working an overtime shift.

The bill also: 1) makes school paraprofessionals who have worked less than 1,250 hours ineligible for FMLA; and, 2) prohibits employees from taking FMLA for bone marrow or organ donation. To the extent that this reduces the number of municipal employees taking leave, there is a savings that partially offsets the cost in the bill.

Expanded FMLA Administrative Costs

The bill expands the FMLA law by reducing, from 75 to two, the minimum number of employees that makes an employer subject to FMLA. The bill also extends allowable leave under FMLA to caring for grandparents, grandchildren, and siblings, in addition to relatives covered under current law. This results in a cost to Department of Labor (DOL) of \$311,963 in FY 16 and \$415,950 annually thereafter associated with one Principal Attorney (\$100,000 for salary and \$38,650 for fringe costs), two Staff Attorneys (\$75,000 for salary and \$28,988 for fringe costs), and one Administrative Assistant (\$50,000 for salary and \$19,325 for fringe costs).

This estimate is based on the current costs for handling all FMLA inquiries and investigating complaints of alleged violation. There are currently 3,127 employers with 1,054,635 employees covered by

existing FMLA law; it is projected that the bill would expand coverage to approximately 98,000 employers with approximately 1,666,400 employees.

FMLC Program

The bill establishes the FMLC program to provide wage replacement benefits to covered employees taking leave under certain circumstances. This results in estimated administrative costs to DOL of \$5.9 million in FY 16 and \$16.9 million in FY 17, including fringe benefits.

The bill specifies the costs of administering the FMLC program are to be covered by the FMLC Trust Fund, which receives revenue from employee contributions as determined by the Labor Commissioner. However, no contributions to the FMLC Trust Fund are anticipated to be collected before February 2016. Consequently, it is assumed the General Fund will cover the costs of the program until such time that FMLC Trust Fund revenues are sufficient.

The FY 16 start-up costs include approximately \$3.4 million in salaries, \$1.3 million for fringe costs, \$1.1 million for information technology, equipment, and postage, and a one-time cost of up to \$25,000 for actuarial or consultant services associated with determining projected revenues and expenditures from the FMLC Trust Fund. These costs are annualized to approximately \$16.9 million beginning in FY 17.

Additionally, establishing the Family and Medical Leave Compensation (FMLC) Trust Fund will result in a one-time estimated cost to the Connecticut Retirement Plans and Trust Funds (CRPTF) of \$75,000 in FY 16. The estimate is comprised of: (1) \$50,000 for legal fees and (2) \$25,000 for Consulting/Portfolio structure, including asset allocation.

There would also be an annual cost for investment management fees and the cost of administrative services provided by the Office of

the State Treasurer (OST). This cost is calculated as a proportional share of the annual expenses incurred in the operation and maintenance of CRPTF. It varies between funds based on the way each fund's assets are allocated. As an example, the Other Post Employment Benefit (OPEB) Trust Fund, which had an asset value of approximately \$100 million in FY 14, paid approximately \$660,000 for annual expenses. The cost to the FMLC Trust Fund would depend on: (a) the asset value of the fund and (b) the way those assets were allocated in the CRPTF.

Administrative cost estimates are based on the administrative costs of the New Jersey Family Leave Insurance and Temporary Disability Insurance programs. The New Jersey programs cover an average 29,283 claims annually; the FMLC program is projected to cover approximately 53,500 claims annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation

*Sources: Core-CT Financial Accounting System
Department of Administrative Services
New Jersey Department of Labor
Report of the Connecticut Family Medical Leave Insurance Task Force*

OLR Bill Analysis**sHB 6932*****AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE.*****SUMMARY:**

This bill creates the Family and Medical Leave Compensation (FMLC) program to provide wage replacement benefits to covered employees taking leave under the state's private-sector Family and Medical Leave Act (FMLA), the family violence leave law, or the state employee family medical leave law, as amended by the bill. It provides a covered employee with up to 12 weeks of weekly FMLC benefits in an amount that is the lesser of (1) the employee's average weekly net earnings over the previous 52 weeks or (2) \$1,000. The program is funded by employee contributions.

Under the bill, "covered employees" are those who (1) work for an employer that has at least two employees, as determined by the labor commissioner every October 1; (2) are enrolled in the FMLC program; (3) earned at least \$9,300 from one or more employers over 12 consecutive months during the 24 months prior to enrolling; and (4) meet certain administrative requirements. Covered employees also include sole practitioners and self-employed people who meet these requirements and opt to join the FMLC program under certain conditions.

The bill requires the labor commissioner to administer the FMLC program and, among other things, determine the amount that covered employees must contribute to the program to ensure its solvency. She must begin collecting contributions from covered employees by February 1, 2016 and paying FMLC benefits by February 1, 2017. A covered employee can collect FMLC benefits 12 months after he or she starts making contributions to the program. The bill establishes the

FMLC Trust Fund to hold employee contributions and pay for FMLC benefits and administrative costs.

The bill is unclear about whether employee enrollment in the FMLC program is mandatory or at an employee's discretion. It requires covered employees to enroll in a manner the labor commissioner prescribes, but, by definition, only employees who are already enrolled in the program are considered covered employees.

The bill also changes various provisions of the private-sector FMLA, family violence leave law, and state employee family medical leave law, which generally require certain employers to provide unpaid leave to employees for various reasons related their or their family members' health. Table 1 shows the bill's changes to a covered employer's size and the length of paid versus unpaid leave available under these three laws.

Table 1. Covered Employer's Size and Allowed Leave under Current Law and the Bill

Law	Covered Employer's Size under Current Law	Covered Employer's Size Under the Bill	Unpaid Leave Under Current Law	Paid Leave Under the Bill
Private Sector FMLA	At least 75 employees	At least two employees	16 weeks over a 24-month period	12 weeks over a 12-month period
Family Violence Leave	At least three employees	At least two employees	12 days per calendar year	12 weeks over a 12-month period (but employers must only provide 12 days of leave per year)
State Employee Family Medical Leave Law	N/A	N/A	Up to 24 weeks in a two-year period	Up to 12 weeks in one-year period

Among other things, the bill also:

1. extends the private-sector FMLA's requirements to include the state, municipalities, and other employers that are currently excluded;
2. makes employees eligible for private-sector FMLA leave if they earned at least \$9,300 with any employers over the 12 months preceding their leave (current law requires employees to have been employed by their employer for at least 12 months and 1,000 work-hours);
3. eliminates an employer's ability to require an employee taking private-sector FMLA leave to use his or her employer-provided paid sick time or other employer-provided paid leave;
4. expands the family members for whom an employee can take private-sector FMLA leave to include the employee's siblings, grandparents, and grandchildren (including each of those related by marriage); and
5. requires employers with at least two employees to allow their employees to use up to two weeks of any employer-provided paid sick leave for the serious health condition of the employee's sibling, grandparent, and grandchild (including each of those related by marriage).

Lastly, the bill makes numerous minor and conforming changes.

EFFECTIVE DATE: Provisions that create the FMLC program and repeal a law that provides leave to certain municipal employees are effective upon passage. Provisions affecting the terms of the various family medical leave laws are effective October 1, 2015.

FAMILY AND MEDICAL LEAVE COMPENSATION PROGRAM

§§ 2, 6, 8, & 20 – The FMLC Program

Administration. The bill establishes the FMLC program and requires the labor commissioner to administer it. It authorizes the commissioner to:

1. determine whether a person is eligible for FMLC;
2. require a covered employee to provide certification from a health care provider to support the employee's FMLC claim;
3. request and examine any books, records, documents, contracts, or other papers relevant to a covered employee's eligibility;
4. summon and examine under oath any witnesses that can provide information relevant to a covered employee's FMLC claim;
5. establish procedures and forms for filing FMLC claims; and
6. ensure the confidentiality of records and documents related to medical certification, recertifications, or medical histories of covered employees and their family members, as required under the state's private-sector FMLA.

The bill also requires the commissioner, in consultation with the state treasurer, to:

1. design, establish, and operate the program to ensure transparency in program management and the FMLC Trust Fund through oversight and ethics reviews of plan fiduciaries;
2. establish and maintain a secure Internet website that displays public notices from the commissioner and other information she deems relevant and necessary to educate the public about the FMLC program; and
3. submit a report to the General Assembly by January 1, 2016 with any recommendations for legislative action needed to implement the program.

The bill requires the commissioner, by January 1, 2017, to adopt regulations to establish the procedures and guidelines needed to implement the FMLC program and the bill's related changes to the private-sector FMLA and state employee family medical leave law.

The regulations must at least include procedures for hearings and redress, including restoration and restitution, for an employee who believes an employer has violated any of the bill's or these laws' provisions. Unlike the current regulations for private-sector FMLA and state employee family medical leave, the commissioner does not have to make reasonable efforts to ensure the regulations are compatible with the federal FMLA and its regulations.

Employee Contributions. The bill requires (1) the labor commissioner to begin collecting contributions to the FMLC Trust Fund by February 1, 2016 and (2) each covered employee to contribute a percentage of his or her weekly earnings to it in a manner the commissioner prescribes. The commissioner must determine the amount of contributions necessary to ensure the program's solvency. The bill also requires the commissioner to:

1. design and establish the process by which covered employees must contribute a portion of their salaries to the trust fund, including creating an information packet with the necessary paperwork for enrolling;
2. evaluate and establish a process that allows employers to credit their employee's contributions to the trust through payroll deposit; and
3. ensure that contributions are only used to provide FMLC benefits and pay for the program's expenses, including employee costs and the costs of implementing, maintaining advertising , and administering the program.

A covered employee can receive FMLC benefits 12 months after the labor commissioner starts collecting the employee's contributions, or at another time prescribed by the commissioner.

FMLC Benefits. The bill requires the labor commissioner, by February 1, 2017, to begin paying FMLC benefits to covered employees who file claims. The program must provide up to 12 weeks of FMLC

benefits to covered employees during a 12-month period, which can be determined as a:

1. calendar year;
2. fixed 12-month period (e.g., a fiscal year or 12-month period measured from an employee's first day of employment);
3. 12-month period measured forward from an employee's first day of leave; or
4. rolling 12-month period measured backward from an employee's first day of leave.

Under the bill, a covered employee's weekly benefit is 100% of his or her weekly earnings, after state and federal tax deductions, averaged over the 52 calendar weeks immediately before the employee starts the leave. But, the benefit cannot be more than \$1,000 per week. If the Internal Revenue Service determines that FMLC benefits are subject to federal income taxes and the employee chooses to have the taxes withheld from the benefits, the labor commissioner must deduct and withhold the amount required by the U.S. Internal Revenue Code in a manner consistent with state law.

The bill allows an employee to receive benefits for nonconsecutive hours of leave, but limits the benefits to an 8-hour minimum in any workweek.

Benefit Uses. The bill allows a covered employee to receive FMLC benefits for leave taken for any of the reasons allowed under the state's private-sector FMLA or family violence leave law, as amended by the bill. (The reasons state employees can take leave under the state employee family medical leave law are the same as under the private-sector FMLA). These allow leave:

1. upon the birth of the employee's son or daughter;
2. upon the placement of a son or daughter with the employee for

- adoption or foster care;
3. for a spouse's, sibling's, son's, daughter's, grandparent's, grandchild's, or parent's serious health condition;
 4. for the employee's own serious health condition;
 5. to serve as an organ or bone marrow donor;
 6. for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty; and
 7. for family violence victims to (a) seek medical care or psychological counseling, (b) obtain service from a victim services organization, (c) relocate due to family violence, or (d) participate in any civil or criminal proceeding related to, or resulting from, the family violence.

To qualify for benefits under the bill, the employee must notify the labor commissioner and his or her employer, if applicable, of the need for FMLC benefits. The commissioner must determine the notice's form and manner. If the commissioner requests it, the employer must also provide a health care provider's certification as required under the private-sector FMLA law.

The bill specifies that a covered employee is eligible for benefits even if he or she is unemployed. However, other provisions in the bill appear to limit the benefits to instances when a covered employee is taking leave from employment (see COMMENT).

§§ 3-5, 22 – The FMLC Trust Fund

The FMLC Trust Fund. The bill establishes the FMLC Trust Fund to provide FMLC benefits to covered employees taking leave under the state employee family medical leave law, the private-sector FMLA, or the family violence leave law, as amended by the bill. The trust's assets must be used for (1) FMLC benefits; (2) educating and informing people about the program; and (3) paying the trust's operational,

administrative, and investment costs. It must be a non-lapsing fund held by the state treasurer separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the fund must become part of it.

The bill makes the trust an instrumentality of the state and requires it to perform essential governmental functions under the bill. It must receive and hold all payments and deposits or contributions intended for it, plus any gifts, bequests, and endowments; federal, state, or local grants; any other funds from a public or private source; and all earnings until disbursed under the bill's provisions.

Under the bill, the amounts deposited in the trust are not state property, and the trust must not be construed as a state department, institution, or agency. Amounts in the trust cannot be comingled with state funds, and the state must not have any claim to or against, or interest in, the funds. If the fund is terminated by law, however, any unclaimed funds become assets of the state.

Any contract or obligation made by the trust is not a state debt or obligation, and the state does not have any obligation to a designated beneficiary or any other person because of the trust. All debts owed by the trust are limited to the amounts available to pay the debt deposited in the trust. The trust must exist (1) as long as it holds any deposits or has any obligations and (2) until it is terminated by law.

The law for determining when property held by a fiduciary is presumed abandoned applies to the trust's property. Thus, property in the trust is presumed abandoned unless, within seven years after it became payable or distributable, the owner has (1) increased or decreased the principal, (2) accepted payment of principal or income, (3) corresponded in writing with the fiduciary concerning the property, or (4) otherwise indicated an interest through a memorandum on file with the fiduciary.

State Treasurer's Duties. The bill makes the state treasurer responsible for receiving and investing moneys held by the trust. The

trust can only receive cash deposits, and no depositor or designated beneficiary can direct the investments of any contributions or amounts in the trust other than the specific fund options provided by the trust.

The bill requires the treasurer, on behalf of the FMLC Trust Fund and for its purposes, to:

1. receive and invest the trust's funds in any instruments, obligations, securities, or property required under the bill;
2. procure insurance, if she deems it necessary, to protect the trust's property, assets, activities, deposits, or contributions; and
3. apply for, accept, and expend gifts, grants, or donations from public or private sources to carry out the trust's objectives.

The bill requires the treasurer to invest the trust's fund in a manner reasonable and appropriate to the trust's objectives, using the discretion and care of a reasonable person in similar circumstances with similar objectives. The treasurer must give due consideration to (1) rate of return; (2) risk; (3) term or maturity; (4) diversification of the trust's total portfolio; (5) liquidity; (6) projected disbursements and expenditures; and (7) expected payments, deposits, contributions, and gifts to be received.

The bill prohibits the treasurer from requiring the trust to invest directly in any obligations of the state or its political subdivisions, or in any other treasurer-administered investment or fund. The trust's assets must be continuously invested and reinvested in a manner consistent with the trust's objectives until they are disbursed under the labor commissioner's order or spent on the trust's operating expenses.

The bill places the treasurer's trust investments under the same oversight and requirements established in the statutes for treasurer-administered funds, including the Teachers' Pension Fund, the State Employee Retirement Fund, and the Connecticut Municipal Employees' Retirement Fund.

§ 7 – FMLC Public Education Campaign

The bill requires the labor commissioner, in consultation with the state treasurer, to conduct a public education campaign to inform people and employers about the FMLC program. The campaign must at least include (1) information about the requirements for receiving benefits under the program and (2) how to apply for benefits and the circumstances under which benefits may be available. The bill allows the commissioner to use funds contributed to the FMLC Trust Fund for the public education campaign. Information distributed or available under the campaign must be in English, Spanish, and any other language the commissioner prescribes.

§ 8 – Participation by Sole Proprietors and the Self-Employed

The bill allows someone who is self-employed or a sole proprietor to participate in the FMLC program and includes them in its definition of “covered employees.” Such a person must apply to the labor commissioner for enrollment in the program, in a form and manner she prescribes. The person can be enrolled if he or she meets the same requirements as other covered employees and initially enrolls in the program for at least three years. The person can re-enroll in the program for periods of at least one-year if he or she provides written notice to the labor commissioner and the re-enrollment begins immediately after a subsequent period of participation in the program (presumably, this means that a sole proprietor would have to re-enroll for at least three years if he or she had any breaks in enrollment).

Under the bill, a sole proprietor or self-employed person can withdraw from the program by submitting a written notice to the labor commissioner at least 30 days before his or her initial enrollment period expires, or at other times the commissioner may prescribe by rule.

§§ 9 & 11 – Complaints and Enforcement

The bill allows an FMLC participant aggrieved by the labor commissioner’s denial of benefits to file a complaint with the labor commissioner. The commissioner can hold a hearing after receiving

the complaint and must subsequently send each party a written copy of her decision. The commissioner can award the participant all appropriate relief, including any compensation or benefits to which the participant would have otherwise been eligible. Any party aggrieved by the commissioner's decision can appeal to the Superior Court under the Uniform Administrative Procedure Act. (The bill is unclear on whether a complainant has any further recourse if the commissioner chooses not to hold a hearing and thus is not required to issue a decision that can be appealed.)

Under the bill, any person or covered employee who willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to obtain FMLC benefits is disqualified from participating in the program for one year. The labor commissioner can also seek repayment of any benefits paid (1) erroneously, (2) due to willful misrepresentation, or (3) before a FMLC claim was rejected. The bill gives the commissioner discretion to waive any repayments, in whole or in part, when they would be against equity and good conscience.

§ 10 – Employer Notice Requirement

The bill requires all employers with at least two employees to notify their employees at the time of hiring and every year after:

1. of their entitlement to family and medical leave under the state employee family medical leave law, the private-sector FMLA, and the family violence leave law, as amended by the bill, and the terms under which the leave can be used;
2. that employer retaliation against an employee for requesting, applying for, or using family medical leave for which an employee is eligible is prohibited; and
3. that the employee can file a complaint with the labor commissioner for any violation of the bill's FMLC provisions, the state employee family medical leave law, the private-sector FMLA, or the family violence leave law, as amended by the bill.

Employers can meet this requirement by displaying a poster with the above information in a conspicuous place in their place of business that is accessible to employees. The poster must be in English and Spanish.

(The bill requires employers to meet this notice requirement once it is enacted; however, the bill's changes to the various current medical leave laws are not effective until October 1, 2015.)

§ 12 – Severability and Exceptions

The bill specifies that its FMLC provisions are severable, and if any are found to contravene state or federal law, the remainder must remain in full force and effect. It also specifies that nothing in the FMLC provisions (1) prevents employers from providing more expansive benefits, (2) diminishes any rights provided under a collective bargaining agreement, or (3) preempts or overrides the terms of any collective bargaining agreement in effect before the bill is enacted.

§ 13 – Report Requirement

Beginning by January 1, 2016, the bill requires the commissioner to submit an annual report to the Labor and Appropriations committees on (1) the projected and actual participation in the program; (2) premium rates and balances in the trust (it is unclear what "premium rates" are under the bill); (3) the size of covered employees' employers; (4) the reasons why covered employees are receiving FMLC benefits; (5) the success of the commissioner's outreach and education efforts; and (6) demographic information on covered employees, including their gender, age, town of residence, and income level.

CHANGES TO CURRENT UNPAID LEAVE LAWS

§ 14 – State Employee Family Medical Leave

Current law allows state employees to take up to 24 weeks of unpaid leave over a two-year period. The bill instead allows for 12 weeks of leave over a one-year period, which can be compensated through the bill's FMLC program. Thus, it reduces the amount of

leave that could potentially be taken in one year, because under current law an employee could choose to take all 24 weeks of leave in the first year of a two-year window. It also expands the family members for whom a state employee can take leave to include the employee's adult children, siblings, grandparents, and grandchildren. All of these family members include those related by adoption. Siblings, grandparents, and grandchildren also include those related by marriage. (Current law and the bill do not allow an employee to take leave for the employee's son in-law or daughter in-law).

State Employee Military Caregiver Leave. The law allows state employees to take a one-time benefit of up to 26 weeks of unpaid leave for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty. The bill allows employees to receive up to 24 work-weeks of FMLC benefits out of those 26 weeks. It also expands the family members for which the employee can take the leave to include the employee's (1) siblings and grandparents (regardless of their status as next of kin); (2) grandchildren related by blood, adoption, or marriage; and (3) siblings and grandparents related by marriage.

§§ 15-19 – Private Sector FMLA

Covered Employers. Current law requires private-sector employers with at least 75 employees to provide eligible employees with up to 16 weeks of unpaid family medical leave during a 24-month period. The bill reduces this employee threshold from 75 to two and includes the state, municipalities, boards of education, and private or parochial elementary or secondary schools (all of whom are currently excluded from the law). It requires them to provide up to 12 weeks of family medical leave during a 12-month period, which can be compensated through the bill's FMLC program, and subjects them to the private-sector FMLA's other provisions, as amended by the bill.

Employee Eligibility. Under current law, private sector employees are eligible for leave once they work for their employer for at least 12 months and 1,000 work-hours. The bill instead makes such an

employee eligible if he or she earned at least \$9,300 from one or more employers over the 12 months before starting their leave. It is unclear how this eligibility requirement would apply to state employees who are only required to be permanent state employees under the state employee family medical leave law (see COMMENT).

The bill also expands the family members for whom an employee can take leave to include the employee's adult children, siblings, grandparents, and grandchildren. All of these family members include those related by adoption. Siblings, grandparents, and grandchildren also include those related by marriage. (Current law and the bill do not allow an employee to take leave for the employee's son in-law or daughter in-law.) The current private-sector FMLA law, unchanged by the bill, allows an eligible private-sector employee to take leave for a parent in-law. However, it is unclear if a state employee could take leave for a parent in-law under the bill, as it is not allowed under the state employees family medical leave law (see COMMENT).

Private-Sector Employee Military Caregiver Leave. The law allows employees covered by the private-sector FMLA to take a one-time benefit of up to 26 weeks of unpaid leave for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty. The bill allows these employees to receive up to 12 work-weeks of FMLC benefits while out on this leave. It is unclear how many weeks of FMLC benefits a state employee could receive for military caregiver leave under the bill, as it provides for up to 24 weeks under the state employee family medical leave law and up to 12 weeks under the private-sector FMLA (see COMMENT).

It also expands the family members for which the employee can take the leave to include the employee's (1) siblings and grandparents (regardless of their status as next of kin); (2) grandchildren related by blood, adoption, or marriage; and (3) siblings and grandparents related by marriage.

Employer-provided Paid Leave. Current law lets an employer

require employees to use their accrued employer-provided paid vacation, personal, family, medical, or sick leave during the time they are out on FMLA leave. Employers can no longer require this under the bill. By law, and unchanged by the bill, employees can opt to use their employer-provided paid leave while they are out on FMLA leave.

As under current law, an employee's use of employer-provided paid leave counts toward his or her FMLA leave; however, the bill allows employees to receive FMLC benefits to make up the difference between their available employer-provided paid leave and the 12 weeks of leave allowed under the bill. (It is unclear if an employee can simultaneously receive paid sick time from his or her employer and FMLC benefits while on FMLA leave.)

Current law requires employers to allow their employees to use up to two weeks of their employer-provided paid sick leave for a spouse's or child's serious health condition or the birth or adoption of a child. The bill expands this requirement to include serious health conditions of siblings, grandparents, and grandchildren (all including in-laws).

§ 21 – Family Violence Leave

Current law requires employers with at least three employees to allow employees who are family violence victims to take paid or unpaid leave to (a) seek medical care or psychological counseling, (b) obtain service from a victim services organization, (c) relocate due to family violence, or (d) participate in any civil or criminal proceeding related to, or resulting from, the family violence. The bill lowers the employer's employee threshold from three to two employees and allows the leave to include benefits paid under the FMLC program.

The law, unchanged by the bill, allows employers to limit family unpaid leave to 12 days per calendar year. It also specifies that family violence leave does not count against any other leave provided under state or federal law. It appears that this will allow family violence victims to take family violence leave in addition to the 12 weeks of leave allowed under the bill, although any FMLC benefits an employee

receives while on family violence leave will be subject to the bill's 12 benefit-week limit.

MUNICIPAL EMPLOYEE FAMILY MEDICAL LEAVE

Under current law, municipal employees are generally only eligible for family medical leave under the federal FMLA. The federal law provides 12 weeks of unpaid leave over a 12-month period to employees who worked for their employer for at least 12 months and 1,250 work-hours over the 12 months immediately preceding their leave. Starting October 1, 2015, the bill brings these employees under the state's private-sector FMLA, as amended by the bill. Thus, to be eligible for leave, they will only have to have earned \$9,300 from any employer over the 12 months preceding their leave.

Current state law also allows certain municipal employees to take family medical leave under circumstances that are not allowed under federal law. Under these exceptions:

1. municipal employees who meet federal eligibility requirements can take leave to be an organ or bone marrow donor (as is allowed under state law) and
2. school paraprofessionals who work for their employer for at least 12 months and 950 work-hours are allowed the same leave as provided under the federal FMLA (which requires at least 1,250 work-hours).

The bill eliminates these two exceptions upon its enactment. Between the bill's enactment and October 1, 2015, when the bill extends the state's private-sector FMLA to these employees, (1) municipal employees will not be able to take leave to be an organ or bone marrow donor and (2) school paraprofessionals will have to have worked 1,250 hours for their employer, instead of 950, to qualify for leave.

COMMENT

Conflicting Provisions

FMLC Benefits for the Unemployed. The bill requires a covered employee to be eligible for FMLC benefits even if he or she is unemployed (§ 8). However, it is unclear if an unemployed person could receive benefits because the bill also specifies that FMLC benefits are provided “for leave taken” (presumably from employment) and that FMLC Trust Fund’s purpose is to provide benefits for covered employees “who take leave from their employment” (§§ 2 and 3). Presumably, an unemployed person would not be considered to be taking leave from employment. In addition, it is unclear how the amount of leave time would be determined or verified for a covered employee who is not taking leave from employment.

State Employee Eligibility. It is unclear what eligibility requirements would apply to state employees under the bill. The bill covers state employees under the state employee family medical leave law and the private-sector FMLA. This creates two parallel laws covering the same group of employees. The state employees’ law requires an employee to be a permanent employee, as defined in statute. However, the private-sector FMLA only requires an employee to have earned at least \$9,300 over the 12 months preceding his or her leave.

State Employee Parents In-Law. It is unclear whether state employees under the bill would be able to take leave for a parent in-law’s serious illness. The current private-sector FMLA law, unchanged by the bill, allows an eligible private-sector employee to take leave for a parent in-law. The bill extends this law to cover state employees. Under the bill, however, state employees are also covered by the state employee family medical leave law, which does not allow leave for a parent in-law.

State Employee Military Caregiver Leave FMLC Benefits. It is unclear how many weeks of FMLC benefits a state employee could receive for military caregiver leave under the bill, as it provides for up to (1) 24 weeks under the state employee family medical leave law and (2) 12 weeks under the private-sector FMLA.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 3 (03/12/2015)