

**Connecticut Employer Lawyers Association
Connecticut Advocates for Employee Rights**

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Good morning Senator Gomes, Senator Osten, and Sentaor Hwang, Representatives Tercyak, Esposito, and Rutigliano and members of the committee.

My name is Deborah McKenna. I am an attorney at The Hayber Law Firm in New Haven, CT and I practice in the area of plaintiff's side employment law. I am testifying today on behalf of the Connecticut Employment Lawyer's Association (known as CELA) in support of **Raised Bill No. 221 "An Act Concerning Paid Family and Medical Leave."**

CELA is a voluntary membership organization whose members are attorneys from throughout Connecticut who devote at least 51% or more of their employment related practice to representing employees. As such, CELA attorneys represent individual employees in all types of employment related matters including, but not limited to, discrimination, wrongful termination, and claims involving state and federal FMLA and related leave of absence issues as well as whistleblower claims.

CELA is a part of the Campaign for Paid Family Leave however, I am here testifying on behalf of CELA. CELA supports *Raised Bill 221* for the following reasons. In our day to day practice, CELA's members represent countless employees who would benefit greatly from the ability to take a paid family or medical leave. As you are aware, there is no law currently in place that requires an employer to provide a paid leave for employees who give birth to a child

or are required to take medical leave, either for themselves or to care for a family member. The Connecticut Fair Employment Practices Act mandates that an employer provide an employee with a reasonable leave of absence for a disability related to her pregnancy. See, C.G.S. Sec. 46a-60(a)(7). However, there is no requirement that this reasonable leave of absence be paid. Typically, a doctor will release a woman to return to work in a six to eight-week time period following childbirth. That means that a woman is often out of work without pay for that entire time period. While both the state and federal Family and Medical Leave Acts provide a minimum of 12 weeks of job protected leave for certain eligible employees, neither law requires that any of this leave be paid. See, C.G.S. Sec. 31-51kk-C.G.S. Sec. 31-51qq; 29 U.S.C. 2601 *et seq.* In most cases, unpaid leave is the rule not the exception.

Unfortunately, more often than not, we as plaintiff side employment attorneys, hear from our clients that, even though they may qualify for leave, they simply cannot afford to take unpaid time away from work. Moreover, while many larger employers may offer some types of benefits that provide limited compensation when an employee is disabled from working – such as short term disability, such “perks” are becoming increasingly rare – leaving employees, particularly those employees at the lower end of the wage scale – with fewer options for any sort of paid leave. As a result, employees may choose to forgo medical care that they may need or cut short time any family leave time that they may be entitled to.

This is not an uncommon situation – either in regards to my clients or among the clients that our members’ represent. Employees have reported delaying needed medical treatment due to a lack of medical leave or returned to work sooner than medically advised. For example, I represented a client who was due to have a baby. Because she worked for a small employer and did not have paid maternity leave, she returned to work two weeks after her baby’s birth – and

against her doctor's wishes. She simply could not afford to provide for her new family and remain out of work and unpaid for any longer.

As noted by the fact sheets offered by the Connecticut Campaign for Paid Family Leave, by not providing employees with time off to care for themselves, their children or their loved ones, it makes it more difficult for that employee to be a productive worker. The fact that an employee does not have access to paid leave and therefore does not choose to take unpaid leave, if eligible, does not mean that the employee's job is not affected by whatever medical crisis may be happening to the employee or their family. Indeed, an employee with an untreated medical condition or is dealing with a family medical situation, is likely to have his or her performance at work affected, which in turn is likely to lead to disciplinary action or even termination. Had the employee been able to take care of his or her medical issue, with a paid medical leave, the employment outcome for that employee could certainly be very different.

In addition, if passed *Raised Bill 221* would expand the protections of the Connecticut FMLA to employers with two or more employees. This is a significant change from the present law, which only covers employers with 75 or more employees in the state of Connecticut. As presently interpreted, even a large corporation, if that corporation only has a small presence here in Connecticut, is not required to provide job protected leave if they have less than 75 employees in the state of Connecticut. Given that threshold, many of the clients that CELA attorneys work with are not even eligible to take unpaid job-protected leave.

And, while small employers may permit employees to take time off for family and medical issues, those employers are not obligated to return the employee to work in all circumstances. For example, the Connecticut Fair Employment Practices Act does provide certain job protections for a woman returning to work following a pregnancy leave, but those

protections only apply to woman who have given birth. C.G.S. Sec. 46a-60(a)(7). The Paid Sick Leave bill provides certain job protections for employees who use paid sick leave, the maximum paid leave time under C.G.S. Sec. 31-57r is 40 hours in a calendar year but the coverage is limited to the employee, his or her child and spouse. Indeed, there is no similar obligation on an employer who permits an employee to take a leave in order to provide care for a family member, such as a parent or who works for an employer with less than 50 employees and needs to take a leave that is longer than their sick time. These changes would expand job protection for all of these situations.

Creating this fund and expanding the protections of the Connecticut FMLA will benefit employees as well as employers. Therefore, CELA supports the passage of *Raised Bill 221* and urges the Labor and Public Employees Committee to support this bill.