



General Assembly

Substitute Bill No. 221

February Session, 2016

* SB00221LAB__031416__ *

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 individual who (A) (i) has earned
4 not less than two thousand three hundred twenty-five dollars, or such
5 minimum earning threshold as is prescribed by the Labor
6 Commissioner pursuant to subsection (f) of section 2 of this act, from
7 one or more employers during the employee's highest earning quarter
8 within the five most recently completed calendar quarters, and (ii) is
9 employed by an employer or not currently employed, or (B) is a self-
10 employed person or sole proprietor who is enrolled in the Family and
11 Medical Leave Compensation Program pursuant to section 8 of this
12 act;

13 (2) "Administrator" means the Labor Department;

14 (3) "Employ" means to allow or permit to work;

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

19 (5) "Employer" means a person engaged in any activity, enterprise
20 or business who employs two or more employees, and includes any
21 person who acts, directly or indirectly, in the interest of an employer to
22 any of the employees of such employer and any successor in interest of
23 an employer, and shall include the state, a municipality, a local or
24 regional board of education, or a private or parochial elementary or
25 secondary school. The number of employees of an employer shall be
26 determined by the administrator on October first annually;

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

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

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

35 (9) "Person" means one or more individuals, partnerships,
36 associations, corporations, limited liability companies, business trusts,
37 legal representatives or any organized group of persons.

38 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a
39 Family and Medical Leave Compensation Program. The program shall
40 be administered by the administrator and shall offer up to twelve
41 workweeks of family and medical leave compensation to covered
42 employees during any twelve-month period as described in section 31-
43 511l of the general statutes, as amended by this act. The administrator
44 shall begin collecting contributions to the Family and Medical Leave
45 Compensation Trust Fund, established pursuant to section 3 of this act,
46 on or before March 1, 2017, and shall begin to provide compensation to
47 covered employees on and after March 1, 2018. For the purposes of this
48 section and sections 3 to 13, inclusive, of this act, the administrator
49 shall have the power to (1) determine whether an individual meets the

50 requirements for compensation under this section; (2) require a
51 covered employee's claim for compensation pursuant to this section be
52 supported by certification pursuant to section 31-51mm of the general
53 statutes, as amended by this act; (3) examine or cause to be produced
54 or examined, any books, records, documents, contracts or other papers
55 relevant to the eligibility of a covered employee; (4) summon and
56 examine under oath such witnesses as may provide information
57 relevant to a covered employee's claim for family and medical leave
58 compensation; (5) establish procedures and forms for the filing of
59 claims for compensation, including the certification required for
60 establishing eligibility for such compensation; and (6) ensure the
61 confidentiality of records and documents relating to medical
62 certifications, recertifications or medical histories of covered
63 employees or covered employees' family members pursuant to section
64 31-51oo of the general statutes, as amended by this act.

65 (b) Each employee shall contribute a percentage of his or her weekly
66 earnings to the Family and Medical Leave Compensation Trust Fund,
67 in a manner and form as prescribed by the administrator pursuant to
68 section 6 of this act. Such contributions shall be utilized to provide
69 compensation to covered employees pursuant to subsections (c) to (e),
70 inclusive, of this section.

71 (c) (1) The level of weekly compensation offered to covered
72 employees shall be one hundred per cent of a covered employee's
73 average weekly earnings during the covered employee's highest
74 earning quarter within the five most recently completed calendar
75 quarters preceding the date the leave commences after such earnings
76 have been reduced by any deduction for federal or state taxes, or both,
77 and for the federal Insurance Contributions Act, provided such
78 compensation shall not exceed one thousand dollars per week or such
79 maximum compensation threshold as is prescribed by the Labor
80 Commissioner pursuant to subdivision (2) of this subsection. If the
81 Internal Revenue Service determines that family and medical leave
82 compensation is subject to federal income tax and a covered employee

83 elects to have federal income tax deducted and withheld from his or
84 her compensation, the administrator shall deduct and withhold the
85 amount specified in the United States Internal Revenue Code in a
86 manner consistent with the state law.

87 (2) Effective July 1, 2018, and not later than each July fifteenth
88 thereafter, the Labor Commissioner shall announce an adjustment to
89 the maximum compensation threshold established pursuant to
90 subdivision (1) of this subsection that shall be equal to the percentage
91 increase between the last complete calendar year and the previous
92 calendar year in the consumer price index for urban wage earners and
93 clerical workers in the northeast urban area of New York-Northern
94 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,
95 as calculated by the United States Department of Labor's Bureau of
96 Labor Statistics, with the amount of the maximum compensation
97 threshold increase rounded to the nearest five cents. The maximum
98 compensation threshold plus the adjustment announced by the Labor
99 Commissioner on July fifteenth shall become the new maximum
100 compensation threshold and shall be effective on the January first
101 immediately following.

102 (d) A covered employee shall receive compensation under this
103 section for leave taken for one or more of the reasons listed in
104 subparagraphs (A) to (E), inclusive, of subdivision (2) of subsection (a)
105 of section 31-51ll of the general statutes, as amended by this act, or the
106 reasons listed in subsection (i) of said section or section 31-51ss of the
107 general statutes, as amended by this act, provided such covered
108 employee (1) provides notice to the administrator, and such covered
109 employee's employer, if applicable, of the need for such compensation
110 in a form and a manner as prescribed by the administrator, and (2)
111 upon the request of the administrator, provides certification of such
112 covered employee's need for compensation in accordance with the
113 provisions of section 31-51mm of the general statutes, as amended by
114 this act, to the administrator and such employer, if applicable.

115 (e) A covered employee may receive compensation under this

116 section for nonconsecutive hours of leave provided such leave shall
117 not amount to less than eight hours of leave in any workweek. If
118 family and medical leave benefits are taken for eight hours or more,
119 but for less than one full week, such hourly compensation shall be
120 determined on a pro rata basis at the discretion of the administrator.

121 (f) Effective July 1, 2018, and not later than each July fifteenth
122 thereafter, the Labor Commissioner shall announce an adjustment to
123 the minimum earning threshold required for an individual to receive
124 compensation under this section that shall be equal to the percentage
125 increase between the last complete calendar year and the previous
126 calendar year in the consumer price index for urban wage earners and
127 clerical workers in the northeast urban area of New York-Northern
128 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,
129 as calculated by the United States Department of Labor's Bureau of
130 Labor Statistics, with the amount of the minimum earning threshold
131 increase rounded to the nearest five cents. The minimum earning
132 threshold plus the adjustment announced by the Labor Commissioner
133 on July fifteenth shall become the new minimum earning threshold
134 and shall be effective on the January first immediately following.

135 (g) A covered employee may receive compensation under this
136 section concurrently with any employer-provided employment
137 benefits, provided the total compensation of such covered employee
138 during such period of leave shall not exceed such covered employee's
139 regular rate of compensation.

140 (h) No covered employee shall receive compensation under this
141 section concurrently with the provisions of chapter 567 or 568 of the
142 general statutes or any other state or federal program that provides
143 wage replacement.

144 (i) Any moneys expended from the General Fund for the purpose of
145 (1) administering the Family and Medical Leave Compensation
146 Program, or (2) providing compensation to covered employees shall be
147 reimbursed to the General Fund by the administrator not later than

148 June 30, 2018.

149 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a fund
150 to be known as the "Family and Medical Leave Compensation Trust
151 Fund" the purpose of which shall be to provide compensation to
152 covered employees who take leave pursuant to sections 31-51kk to 31-
153 51qq, inclusive, of the general statutes, as amended by this act, and 31-
154 51ss of the general statutes, as amended by this act. The Family and
155 Medical Leave Compensation Trust Fund shall be a nonlapsing fund
156 held by the State Treasurer separate and apart from all other moneys,
157 funds and accounts. Investment earnings credited to the trust shall
158 become part of the trust.

159 (b) The trust shall constitute an instrumentality of the state and shall
160 perform essential governmental functions, in accordance with the
161 provisions of this section. The trust shall receive and hold all payments
162 and deposits or contributions intended for the trust, as well as gifts,
163 bequests, endowments or federal, state or local grants and any other
164 funds from any public or private source and all earnings until
165 disbursed in accordance with the provisions of this section.

166 (c) The amounts on deposit in the trust shall not constitute property
167 of the state and the trust shall not be construed to be a department,
168 institution or agency of the state. Amounts on deposit in the trust shall
169 not be commingled with state funds and the state shall have no claim
170 to or against, or interest in, such funds. Any contract entered into by or
171 any obligation of the trust shall not constitute a debt or obligation of
172 the state and the state shall have no obligation to any designated
173 beneficiary or any other person on account of the trust and all amounts
174 obligated to be paid from the trust shall be limited to amounts
175 available for such obligation on deposit in the trust. The trust shall
176 continue in existence as long as it holds any deposits or has any
177 obligations and until its existence is terminated by law and upon
178 termination any unclaimed assets shall return to the state. Property of
179 the trust shall be governed by section 3-61a of the general statutes.

180 (d) The State Treasurer shall be responsible for the receipt and
181 investment of moneys held by the trust. The trust shall not receive
182 deposits in any form other than cash. No depositor or designated
183 beneficiary may direct the investment of any contributions or amounts
184 held in the trust other than the specific fund options provided for by
185 the trust.

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

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

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

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

200 (3) Apply for, accept and expend gifts, grants or donations from
201 public or private sources to carry out the objectives of the trust.

202 Sec. 5. (NEW) (*Effective from passage*) The State Treasurer shall invest
203 the amounts on deposit in the Family and Medical Leave
204 Compensation Trust Fund in a manner reasonable and appropriate to
205 achieve the objectives of the trust, exercising the discretion and care of
206 a prudent person in similar circumstances with similar objectives. The
207 State Treasurer shall give due consideration to rate of return, risk, term
208 or maturity, diversification of the total portfolio within the trust,
209 liquidity, the projected disbursements and expenditures and the
210 expected payments, deposits, contributions and gifts to be received.

211 The State Treasurer shall not require the trust to invest directly in
212 obligations of the state or any political subdivision of the state or in
213 any investment or other fund administered by the State Treasurer. The
214 assets of the trust shall be continuously invested and reinvested in a
215 manner consistent with the objectives of the trust until disbursed upon
216 order of the administrator or expended on expenses incurred by the
217 operations of the trust.

218 Sec. 6. (NEW) (*Effective from passage*) The administrator, in
219 consultation with the State Treasurer and the Department of Revenue
220 Services, shall establish the procedures necessary to implement the
221 Family and Medical Leave Compensation Program. The administrator
222 shall:

223 (1) Design, establish and operate the program to ensure
224 transparency in the management of the program and the Family and
225 Medical Leave Compensation Trust Fund through oversight and ethics
226 review of plan fiduciaries;

227 (2) Design and establish the process by which employees shall
228 contribute a portion of their salary or wages to the trust. This process
229 shall include, but not be limited to, the creation of an information
230 packet including the necessary paperwork for an employee to
231 participate in the program pursuant to section 8 of this act;

232 (3) Evaluate and establish the process by which employers may
233 credit employee contributions to the trust through payroll deposit;

234 (4) Determine the amount of employee contributions necessary to
235 ensure solvency of the program, provided that total contributions shall
236 not be less than four million dollars per month;

237 (5) Ensure that contributions to the trust collected from employees
238 shall not be used for any purpose other than to provide compensation
239 to covered employees or to satisfy any expenses, including employee
240 costs, incurred to implement, maintain, advertise and administer the
241 program;

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

246 (7) Not later than January 1, 2017, submit a report, in accordance
247 with the provisions of section 11-4a of the general statutes, to the
248 General Assembly regarding any recommendations for legislative
249 action that may be necessary for the implementation of the program.

250 Sec. 7. (NEW) (*Effective from passage*) The administrator, in
251 consultation with the State Treasurer, shall conduct a public education
252 campaign to inform individuals and employers about the Family and
253 Medical Leave Compensation Program. Such campaign shall include,
254 but not be limited to, information about the requirements for receiving
255 family and medical leave compensation, how to apply for such
256 compensation and the circumstances for which such compensation
257 may be available. The administrator may use funds contributed to the
258 Family and Medical Leave Compensation Trust Fund for purposes of
259 the public education campaign. Information distributed or made
260 available under the campaign shall be available in English and Spanish
261 and in any other language as prescribed by the administrator.

262 Sec. 8. (NEW) (*Effective from passage*) (a) A self-employed person or
263 sole proprietor, upon application to the administrator, in a form and
264 manner as prescribed by the administrator, may enroll in the Family
265 and Medical Leave Compensation Program, provided such self-
266 employed person or sole proprietor is enrolled in the program for an
267 initial period of not less than three years. Such self-employed person or
268 sole proprietor may reenroll in the program for a subsequent period,
269 or periods, of not less than one year, provided (1) such self-employed
270 person or sole proprietor provides written notice of such reenrollment
271 to the administrator, and (2) such reenrollment begins immediately
272 following a period of participation in the program.

273 (b) A self-employed person or sole proprietor may withdraw from

274 the program upon submitting written notice to the administrator not
275 less than thirty days prior to the expiration of the initial enrollment
276 period, or at such other times as the administrator may prescribe by
277 rule.

278 Sec. 9. (NEW) (*Effective from passage*) Any covered employee, or self-
279 employed person or sole proprietor participating in the program,
280 aggrieved by a denial of compensation under the Family and Medical
281 Leave Compensation Program may file a complaint with the Labor
282 Commissioner. Upon receipt of any such complaint, the commissioner
283 shall hold a hearing. After the hearing, the commissioner shall send
284 each party a written copy of the commissioner's decision. The
285 commissioner may award the covered employee, or self-employed
286 person or sole proprietor, all appropriate relief, including any
287 compensation or benefits to which the employee otherwise would
288 have been eligible if such denial had not occurred. Any party
289 aggrieved by the decision of the commissioner may appeal the
290 decision to the Superior Court in accordance with the provisions of
291 chapter 54 of the general statutes.

292 Sec. 10. (NEW) (*Effective January 1, 2018*) Each employer shall, at the
293 time of hiring, and annually thereafter, provide notice to each of the
294 employer's employees (1) of the entitlement to family and medical
295 leave under sections 31-51kk to 31-51qq, inclusive, of the general
296 statutes, as amended by this act, and 31-51ss of the general statutes, as
297 amended by this act, and the terms under which such leave may be
298 used, (2) that retaliation by the employer against the employee for
299 requesting, applying for or using family and medical leave for which
300 the employee is eligible is prohibited, and (3) that the employee has a
301 right to file a complaint with the Labor Commissioner for any violation
302 of said sections. Employers shall comply with the provisions of this
303 section by displaying a poster in a conspicuous place, accessible to
304 employees, at the employer's place of business that contains the
305 information required by this section in both English and Spanish. The
306 Labor Commissioner may adopt regulations, in accordance with

307 chapter 54 of the general statutes, to establish additional requirements
308 concerning the means by which employers shall provide such notice.

309 Sec. 11. (NEW) (*Effective from passage*) (a) Any individual or covered
310 employee participating in the program who wilfully makes a false
311 statement or misrepresentation regarding a material fact, or wilfully
312 fails to report a material fact, to obtain family and medical leave
313 compensation shall be disqualified from receiving any compensation
314 under the program for one year.

315 (b) If family and medical leave compensation is paid to an
316 individual or covered employee erroneously or as a result of wilful
317 misrepresentation by such individual or covered employee, or if a
318 claim for family and medical leave compensation is rejected after
319 compensation is paid, the administrator may seek repayment of
320 benefits from the individual or covered employee having received
321 such compensation. The Labor Commissioner may, in his or her
322 discretion, waive, in whole or in part, the amount of any such
323 payments where the recovery would be against equity and good
324 conscience.

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

330 (b) Nothing in sections 31-51kk to 31-51qq, inclusive, of the general
331 statutes, as amended by this act, and 31-51ss of the general statutes, as
332 amended by this act, or sections 2 to 13, inclusive, of this act, shall be
333 construed to (1) prevent employers from providing any benefits that
334 are more expansive than those provided for under said sections, (2)
335 diminish any rights provided to any covered employee under the
336 terms of the covered employee's employment or a collective
337 bargaining agreement, or (3) preempt or override the terms of any
338 collective bargaining agreement effective prior to the effective date of

339 this section.

340 Sec. 13. (NEW) (*Effective from passage*) Not later than January 1, 2019,
341 and annually thereafter, the Labor Commissioner shall report, in
342 accordance with section 11-4a of the general statutes, to the joint
343 standing committees of the General Assembly having cognizance of
344 matters relating to appropriations and the budgets of state agencies
345 and labor, on (1) the projected and actual participation in the program,
346 (2) the balance of the trust, (3) the size of employers at which covered
347 employees are employed, (4) the reasons covered employees are
348 receiving family and medical leave compensation, (5) the success of the
349 administrator's outreach and education efforts, and (6) demographic
350 information of covered employees, including gender, age, town of
351 residence and income level.

352 Sec. 14. Section 31-51kk of the general statutes is repealed and the
353 following is substituted in lieu thereof (*Effective January 1, 2018*):

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

356 (1) "Eligible employee" means an [employee] individual who [has
357 been employed (A) for at least twelve months by the employer with
358 respect to whom leave is requested; and (B) for at least one thousand
359 hours of service with such employer during the twelve-month period
360 preceding the first day of the leave;] (A) has earned not less than two
361 thousand three hundred twenty-five dollars, or such minimum
362 earning threshold established by the Labor Commissioner pursuant to
363 subsection (f) of section 2 of this act, from one or more employers
364 during the employee's highest earning quarter within the five most
365 recently completed calendar quarters, and (B) is employed by an
366 employer or not currently employed;

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

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

370 (4) "Employer" means a person engaged in any activity, enterprise
371 or business who employs [seventy-five] two or more employees, and
372 includes any person who acts, directly or indirectly, in the interest of
373 an employer to any of the employees of such employer and any
374 successor in interest of an employer, [but shall not] and shall include
375 the state, a municipality, a local or regional board of education, or a
376 private or parochial elementary or secondary school. The number of
377 employees of an employer shall be determined on October first
378 annually;

379 (5) "Employment benefits" means all benefits provided or made
380 available to employees by an employer, including group life insurance,
381 health insurance, disability insurance, sick leave, annual leave,
382 educational benefits and pensions, regardless of whether such benefits
383 are provided by practice or written policy of an employer or through
384 an "employee benefit plan", as defined in Section 1002(3) of Title 29 of
385 the United States Code;

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

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

391 [(6)] (8) "Health care provider" means (A) a doctor of medicine or
392 osteopathy who is authorized to practice medicine or surgery by the
393 state in which the doctor practices; (B) a podiatrist, dentist,
394 psychologist, optometrist or chiropractor authorized to practice by the
395 state in which such person practices and performs within the scope of
396 the authorized practice; (C) an advanced practice registered nurse,
397 nurse practitioner, nurse midwife or clinical social worker authorized
398 to practice by the state in which such person practices and performs
399 within the scope of the authorized practice; (D) Christian Science
400 practitioners listed with the First Church of Christ, Scientist in Boston,
401 Massachusetts; (E) any health care provider from whom an employer

402 or a group health plan's benefits manager will accept certification of
403 the existence of a serious health condition to substantiate a claim for
404 benefits; (F) a health care provider as defined in subparagraphs (A) to
405 (E), inclusive, of this subdivision who practices in a country other than
406 the United States, who is licensed to practice in accordance with the
407 laws and regulations of that country; or (G) such other health care
408 provider as the Labor Commissioner determines, performing within
409 the scope of the authorized practice. The commissioner may utilize any
410 determinations made pursuant to chapter 568;

411 [(7)] (9) "Parent" means a biological parent, foster parent, adoptive
412 parent, stepparent, parent-in-law or legal guardian of an eligible
413 employee or an eligible employee's spouse, or an individual [who
414 stood] standing in loco parentis to an eligible employee; [when the
415 employee was a son or daughter;]

416 [(8)] (10) "Person" means one or more individuals, partnerships,
417 associations, corporations, business trusts, legal representatives or
418 organized groups of persons;

419 [(9)] (11) "Reduced leave schedule" means a leave schedule that
420 reduces the usual number of hours per workweek, or hours per
421 workday, of an employee;

422 [(10)] (12) "Serious health condition" means an illness, injury,
423 impairment, or physical or mental condition that involves (A) inpatient
424 care in a hospital, hospice, nursing home or residential medical care
425 facility; or (B) continuing treatment, including outpatient treatment, by
426 a health care provider;

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

429 [(11)] (14) "Son or daughter" means a biological, adopted or foster
430 child, stepchild, legal ward, or, in the alternative, a child of a person
431 standing in loco parentis; [who is (A) under eighteen years of age; or
432 (B) eighteen years of age or older and incapable of self-care because of

433 a mental or physical disability;] and

434 [(12)] (15) "Spouse" means a [husband or wife, as the case may be]
435 person to whom one is legally married.

436 Sec. 15. Section 31-51ll of the general statutes is repealed and the
437 following is substituted in lieu thereof (*Effective January 1, 2018*):

438 (a) (1) Subject to section 31-51mm, as amended by this act, an
439 eligible employee shall be entitled to a total of [sixteen] twelve
440 workweeks of leave, which may be compensated under the Family and
441 Medical Leave Compensation Program established pursuant to section
442 2 of this act, during any [twenty-four-month] twelve-month period. [,
443 such twenty-four-month] Such twelve-month period [to be] shall be
444 determined utilizing any one of the following methods: (A)
445 [Consecutive calendar years] Calendar year; (B) any fixed [twenty-
446 four-month] twelve-month period, such as [two consecutive fiscal
447 years] a fiscal year or a [twenty-four-month] twelve-month period
448 measured forward from an employee's first date of employment; (C) a
449 [twenty-four-month] twelve-month period measured forward from an
450 employee's first day of leave taken under sections 31-51kk to 31-51qq,
451 inclusive, as amended by this act; or (D) a rolling [twenty-four-month]
452 twelve-month period measured backward from an employee's first
453 day of leave taken under sections 31-51kk to 31-51qq, inclusive, as
454 amended by this act.

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

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

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

460 (C) In order to care for the spouse, [or a son,] sibling, son or
461 daughter, grandparent, grandchild or parent of the employee, if such
462 spouse, [son,] sibling, son or daughter, grandparent, grandchild or

463 parent has a serious health condition;

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

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

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

470 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of
471 subsection (a) of this section for the birth or placement of a son or
472 daughter may not be taken by an employee intermittently or on a
473 reduced leave schedule unless the employee and the employer agree
474 otherwise. Subject to subdivision (2) of this subsection concerning an
475 alternative position, subdivision (2) of subsection (f) of this section
476 concerning the duties of the employee and subdivision (5) of
477 subsection (b) of section 31-51mm, as amended by this act, concerning
478 sufficient certification, leave under subparagraph (C) or (D) of
479 subdivision (2) of subsection (a) or under subsection (i) of this section
480 for a serious health condition may be taken intermittently or on a
481 reduced leave schedule when medically necessary. The taking of leave
482 intermittently or on a reduced leave schedule pursuant to this
483 subsection shall not result in a reduction of the total amount of leave to
484 which the employee is entitled under subsection (a) of this section
485 beyond the amount of leave actually taken.

486 (2) If an employee requests intermittent leave or leave on a reduced
487 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of
488 subsection (a) or under subsection (i) of this section that is foreseeable
489 based on planned medical treatment, the employer may require the
490 employee to transfer temporarily to an available alternative position
491 offered by the employer for which the employee is qualified and that
492 (A) has equivalent pay and benefits, and (B) better accommodates
493 recurring periods of leave than the regular employment position of the

494 employee, provided the exercise of this authority shall not conflict
495 with any provision of a collective bargaining agreement between such
496 employer and a labor organization which is the collective bargaining
497 representative of the unit of which the employee is a part.

498 (d) Except as provided in subsection (e) of this section, leave
499 granted under subsection (a) of this section may consist of unpaid
500 leave.

501 (e) (1) If an employer provides paid leave for fewer than [sixteen]
502 twelve workweeks, the additional weeks of leave necessary to attain
503 the [sixteen] twelve workweeks of leave required under sections [5-
504 248a and] 31-51kk to 31-51qq, inclusive, as amended by this act, may
505 be provided without compensation or with compensation through the
506 Family and Medical Leave Compensation Program established
507 pursuant to section 2 of this act.

508 (2) (A) An eligible employee may elect [, or an employer may
509 require the employee,] to substitute any of the accrued paid vacation
510 leave, personal leave or family leave of the employee for leave
511 provided under subparagraph (A), (B) or (C) of subdivision (2) of
512 subsection (a) of this section for any part of the [sixteen-week] twelve-
513 week period of such leave under said subsection or under subsection
514 (i) of this section for any part of the twenty-six-week period of such
515 leave.

516 (B) An eligible employee may elect [, or an employer may require
517 the employee,] to substitute any of the accrued paid vacation leave,
518 personal leave, or medical or sick leave of the employee for leave
519 provided under subparagraph (C), (D) or (E) of subdivision (2) of
520 subsection (a) of this section for any part of the [sixteen-week] twelve-
521 week period of such leave under said subsection or under subsection
522 (i) of this section for any part of the twenty-six-week period of leave,
523 except that nothing in [section 5-248a or] sections 31-51kk to 31-51qq,
524 inclusive, as amended by this act, shall require an employer to provide
525 paid sick leave or paid medical leave in any situation in which such

526 employer would not normally provide any such paid leave.

527 (f) (1) In any case in which the necessity for leave under
528 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this
529 section is foreseeable based on an expected birth or placement of a son
530 or daughter, the employee shall provide the employer with not less
531 than thirty days' notice, before the date of the leave is to begin, of the
532 employee's intention to take leave under said subparagraph (A) or (B),
533 except that if the date of the birth or placement of a son or daughter
534 requires leave to begin in less than thirty days, the employee shall
535 provide such notice as is practicable.

536 (2) In any case in which the necessity for leave under subparagraph
537 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection
538 (i) of this section is foreseeable based on planned medical treatment,
539 the employee (A) shall make a reasonable effort to schedule the
540 treatment so as not to disrupt unduly the operations of the employer,
541 subject to the approval of the health care provider of the employee or
542 the health care provider of the spouse, sibling, son [,] or daughter,
543 [spouse] grandparent, grandchild or parent of the employee, as
544 appropriate; and (B) shall provide the employer with not less than
545 thirty days' notice, before the date the leave is to begin, of the
546 employee's intention to take leave under said subparagraph (C), (D) or
547 (E) or said subsection (i), except that if the date of the treatment
548 requires leave to begin in less than thirty days, the employee shall
549 provide such notice as is practicable.

550 (g) In any case in which [a husband and wife] two spouses entitled
551 to leave under subsection (a) of this section are employed by the same
552 employer, the aggregate number of workweeks of leave to which both
553 may be entitled may be limited to [sixteen] twelve workweeks, which
554 may be compensated under the Family and Medical Leave
555 Compensation Program established pursuant to section 2 of this act,
556 during any [twenty-four-month] twelve-month period, if such leave is
557 taken: (1) Under subparagraph (A) or (B) of subdivision (2) of
558 subsection (a) of this section; or (2) to care for a sick sibling, son or

559 daughter, grandparent, grandchild, or parent under subparagraph (C)
560 of said subdivision. In any case in which [a husband and wife] two
561 spouses entitled to leave under subsection (i) of this section are
562 employed by the same employer, the aggregate number of workweeks
563 of leave to which both may be entitled may be limited to twenty-six
564 workweeks, twelve weeks of which may be compensated under the
565 Family and Medical Leave Compensation Program established
566 pursuant to section 2 of this act, during any twelve-month period.

567 (h) Unpaid leave taken pursuant to sections [5-248a and] 31-51kk to
568 31-51qq, inclusive, as amended by this act, shall not be construed to
569 affect an employee's qualification for exemption under chapter 558.

570 (i) Subject to section 31-51mm, as amended by this act, an eligible
571 employee who is the spouse, sibling, son or daughter, grandparent,
572 grandchild, parent or next of kin of a current member of the armed
573 forces, as defined in section 27-103, who is undergoing medical
574 treatment, recuperation or therapy, is otherwise in outpatient status or
575 is on the temporary disability retired list for a serious injury or illness
576 incurred in the line of duty shall be entitled to a one-time benefit of
577 twenty-six workweeks of leave, up to twelve workweeks of which may
578 be compensated under the Family and Medical Leave Compensation
579 Program established pursuant to section 2 of this act, during any
580 twelve-month period for each armed forces member per serious injury
581 or illness incurred in the line of duty. Such twelve-month period shall
582 commence on an employee's first day of leave taken to care for a
583 covered armed forces member and end on the date twelve months
584 after such first day of leave. For the purposes of this subsection, (1)
585 "next of kin" means the armed forces member's nearest blood relative,
586 other than the covered armed forces member's spouse, [parent] sibling,
587 son or daughter, grandparent, grandchild or parent, in the following
588 order of priority: Blood relatives who have been granted legal custody
589 of the armed forces member by court decree or statutory provisions,
590 [brothers and sisters, grandparents,] aunts and uncles, and first
591 cousins, unless the covered armed forces member has specifically

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

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

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

605 Sec. 16. Section 31-51mm of the general statutes is repealed and the
606 following is substituted in lieu thereof (*Effective January 1, 2018*):

607 (a) An employer may require that request for leave based on a
608 serious health condition in subparagraph (C) or (D) of subdivision (2)
609 of subsection (a) of section 31-51ll, as amended by this act, or leave
610 based on subsection (i) of section 31-51ll, as amended by this act, be
611 supported by a certification issued by the health care provider of the
612 eligible employee or of the spouse, sibling, son [,] or daughter,
613 [spouse] grandparent, grandchild, parent or next of kin of the
614 employee, as appropriate. The employee shall provide, in a timely
615 manner, a copy of such certification to the employer.

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

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

619 (2) The probable duration of the condition;

620 (3) The appropriate medical facts within the knowledge of the

621 health care provider regarding the condition;

622 (4) (A) For purposes of leave under subparagraph (C) of subdivision
623 (2) of subsection (a) of section 31-51ll, as amended by this act, a
624 statement that the eligible employee is needed to care for the spouse,
625 sibling, son [,] or daughter, [spouse] grandparent, grandchild or parent
626 and an estimate of the amount of time that such employee needs to
627 care for the spouse, sibling, son [,] or daughter, [spouse] grandparent,
628 grandchild or parent; and (B) for purposes of leave under
629 subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll,
630 as amended by this act, a statement that the employee is unable to
631 perform the functions of the position of the employee;

632 (5) In the case of certification for intermittent leave or leave on a
633 reduced leave schedule for planned medical treatment, the dates on
634 which such treatment is expected to be given and the duration of such
635 treatment;

636 (6) In the case of certification for intermittent leave or leave on a
637 reduced leave schedule under subparagraph (D) of subdivision (2) of
638 subsection (a) of section 31-51ll, as amended by this act, a statement of
639 the medical necessity of the intermittent leave or leave on a reduced
640 leave schedule, and the expected duration of the intermittent leave or
641 reduced leave schedule;

642 (7) In the case of certification for intermittent leave or leave on a
643 reduced leave schedule under subparagraph (C) of subdivision (2) of
644 subsection (a) of section 31-51ll, as amended by this act, a statement
645 that the employee's intermittent leave or leave on a reduced leave
646 schedule is necessary for the care of the spouse, sibling, son [,] or
647 daughter, grandparent, grandchild or parent [or spouse] who has a
648 serious health condition, or will assist in their recovery, and the
649 expected duration and schedule of the intermittent leave or reduced
650 leave schedule; and

651 (8) In the case of certification for intermittent leave or leave on a

652 reduced leave schedule under subsection (i) of section 31-51ll, as
653 amended by this act, a statement that the employee's intermittent leave
654 or leave on a reduced leave schedule is necessary for the care of the
655 spouse, sibling, son or daughter, grandparent, grandchild, parent or
656 next of kin who is a current member of the armed forces, as defined in
657 section 27-103, who is undergoing medical treatment, recuperation or
658 therapy, is otherwise in outpatient status or is on the temporary
659 disability retired list, for a serious injury or illness incurred in the line
660 of duty, and the expected duration and schedule of the intermittent
661 leave or reduced leave schedule. For the purposes of this subsection,
662 "son or daughter" and "next of kin" have the same meanings as
663 provided in subsection (i) of section 31-51ll, as amended by this act.

664 (c) (1) In any case in which the employer has reason to doubt the
665 validity of the certification provided under subsection (a) of this
666 section for leave under subparagraph (C) or (D) of subdivision (2) of
667 subsection (a) or under subsection (i) of section 31-51ll, as amended by
668 this act, the employer may require, at the expense of the employer, that
669 the eligible employee obtain the opinion of a second health care
670 provider designated or approved by the employer concerning any
671 information certified under subsection (b) of this section for such leave.

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

675 (d) (1) In any case in which the second opinion described in
676 subsection (c) of this section differs from the opinion in the original
677 certification provided under subsection (a) of this section, the
678 employer may require, at the expense of the employer, that the
679 employee obtain the opinion of a third health care provider designated
680 or approved jointly by the employer and the employee concerning the
681 information certified under subsection (b) of this section.

682 (2) The opinion of the third health care provider concerning the
683 information certified under subsection (b) of this section shall be

684 considered to be final and shall be binding on the employer and the
685 employee.

686 (e) The employer may require that the eligible employee obtain
687 subsequent recertifications on a reasonable basis, provided the
688 standards for determining what constitutes a reasonable basis for
689 recertification may be governed by a collective bargaining agreement
690 between such employer and a labor organization which is the
691 collective bargaining representative of the unit of which the worker is
692 a part if such a collective bargaining agreement is in effect. Unless
693 otherwise required by the employee's health care provider, the
694 employer may not require recertification more than once during a
695 thirty-day period and, in any case, may not unreasonably require
696 recertification. The employer shall pay for any recertification that is not
697 covered by the employee's health insurance.

698 Sec. 17. Section 31-51oo of the general statutes is repealed and the
699 following is substituted in lieu thereof (*Effective January 1, 2018*):

700 Records and documents relating to medical certifications,
701 recertifications or medical histories of employees or employees' family
702 members, created for purposes of sections [5-248a and] 31-51kk to 31-
703 51qq, inclusive, as amended by this act, and sections 2 to 13, inclusive,
704 of this act, shall be maintained as medical records pursuant to chapter
705 563a, except that: (1) Supervisors and managers may be informed
706 regarding necessary restrictions on the work or duties of an employee
707 and necessary accommodations; (2) first aid and safety personnel may
708 be informed, when appropriate, if the employee's physical or medical
709 condition might require emergency treatment; and (3) government
710 officials investigating compliance with sections [5-248a and] 31-51kk to
711 31-51qq, inclusive, as amended by this act, and sections 2 to 13,
712 inclusive, of this act, or other pertinent law shall be provided relevant
713 information upon request.

714 Sec. 18. Section 31-51pp of the general statutes is repealed and the
715 following is substituted in lieu thereof (*Effective January 1, 2018*):

716 (a) (1) It shall be a violation of sections [5-248a and] 31-51kk to 31-
717 51qq, inclusive, as amended by this act, for any employer to interfere
718 with, restrain or deny the exercise of, or the attempt to exercise, any
719 right provided under said sections.

720 (2) It shall be a violation of sections [5-248a and] 31-51kk to 31-51qq,
721 inclusive, as amended by this act, for any employer to discharge or
722 cause to be discharged, or in any other manner discriminate, against
723 any individual for opposing any practice made unlawful by said
724 sections or because such employee has exercised the rights afforded to
725 such employee under said sections.

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

730 (1) Has filed any charge, or has instituted or caused to be instituted
731 any proceeding, under or related to sections [5-248a and] 31-51kk to
732 31-51qq, inclusive, as amended by this act;

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

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

738 (c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive,
739 as amended by this act, for any employer to deny an employee the
740 right to use up to two weeks of accumulated sick leave or to discharge,
741 threaten to discharge, demote, suspend or in any manner discriminate
742 against an employee for using, or attempting to exercise the right to
743 use, up to two weeks of accumulated sick leave to attend to a serious
744 health condition of a spouse, sibling, son or daughter, [spouse]
745 grandparent, grandchild or parent of the employee, or for the birth or
746 adoption of a son or daughter of the employee. For purposes of this

747 subsection, "sick leave" means an absence from work for which
748 compensation is provided through (A) an employer's bona fide written
749 policy providing compensation for loss of wages occasioned by illness,
750 or (B) the Family and Medical Leave Compensation Program
751 established pursuant to section 2 of this act, but does not include
752 absences from work for which compensation is provided through an
753 employer's plan, including, but not limited to, a short or long-term
754 disability plan, whether or not such plan is self-insured.

755 (2) Any employee aggrieved by a violation of this subsection may
756 file a complaint with the Labor Commissioner alleging violation of the
757 provisions of this subsection. Upon receipt of any such complaint, the
758 commissioner shall hold a hearing. After the hearing, the
759 commissioner shall send each party a written copy of the
760 commissioner's decision. The commissioner may award the employee
761 all appropriate relief, including rehiring or reinstatement to the
762 employee's previous job, payment of back wages and reestablishment
763 of employee benefits to which the employee otherwise would have
764 been eligible if a violation of this subsection had not occurred. Any
765 party aggrieved by the decision of the commissioner may appeal the
766 decision to the Superior Court in accordance with the provisions of
767 chapter 54.

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

771 Sec. 19. Section 31-51qq of the general statutes is repealed and the
772 following is substituted in lieu thereof (*Effective January 1, 2018*):

773 On or before January 1, [1997] 2018, the Labor Commissioner shall
774 adopt regulations, in accordance with the provisions of chapter 54, to
775 establish procedures and guidelines necessary to implement the
776 provisions of sections [5-248a and] 31-51kk to 31-51qq, inclusive, as
777 amended by this act, and sections 2 to 13, inclusive, of this act,
778 including, but not limited to, procedures for hearings and redress,

779 including restoration and restitution, for an employee who believes
780 that there is a violation by the employer of such employee of any
781 provision of said sections. [In adopting such regulations, the
782 commissioner shall make reasonable efforts to ensure compatibility of
783 state regulatory provisions with similar provisions of the federal
784 Family and Medical Leave Act of 1993 and the regulations
785 promulgated pursuant to said act.]

786 Sec. 20. Section 31-51ss of the general statutes is repealed and the
787 following is substituted in lieu thereof (*Effective January 1, 2018*):

788 (a) For the purposes of this section:

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

792 (2) "Employee" means any person engaged in service to an employer
793 in the business of the employer;

794 (3) "Family violence" means family violence, as defined in section
795 46b-38a; and

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

800 (b) If an employee is a victim of family violence, an employer shall
801 permit the employee to take paid or unpaid leave during any calendar
802 year in which such leave is reasonably necessary (1) to seek medical
803 care or psychological or other counseling for physical or psychological
804 injury or disability for the victim, (2) to obtain services from a victim
805 services organization on behalf of the victim, (3) to relocate due to such
806 family violence, or (4) to participate in any civil or criminal proceeding
807 related to or resulting from such family violence. An employer may
808 limit unpaid leave under this section to twelve days during any

809 calendar year. Leave under this section shall not affect any other leave
810 provided under state or federal law.

811 (c) If an employee's need to use leave under this section is
812 foreseeable, an employer may require advance notice, not to exceed
813 seven days prior to the date such leave is to begin, of the intention to
814 use such leave. If an employee's need for such leave is not foreseeable,
815 an employer may require an employee to give notice of such intention
816 as soon as practicable.

817 (d) Upon an employer's request, an employee who takes leave
818 pursuant to this section shall provide the employer a signed written
819 statement certifying that the leave is for a purpose authorized under
820 this section. The employer may also, but need not, request that the
821 employee provide a police or court record related to the family
822 violence or a signed written statement that the employee is a victim of
823 family violence, provided such statement is from an employee or agent
824 of a victim services organization, an attorney, an employee of the
825 Judicial Branch's Office of Victim Services or the Office of the Victim
826 Advocate, or a licensed medical professional or other licensed
827 professional from whom the employee has sought assistance with
828 respect to the family violence.

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

835 (f) Nothing in this section shall be construed to require an employer
836 to provide paid leave under this section if (1) the employee is not
837 entitled to paid leave pursuant to the terms and conditions of the
838 employee's employment or under the Family and Medical Leave
839 Compensation Program established pursuant to section 2 of this act, or
840 (2) such paid leave exceeds the maximum amount of leave due the

841 employee during any calendar year, provided the employee shall be
842 entitled to unpaid leave under this section if paid leave is exhausted or
843 not provided.

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

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

857 Sec. 21. Section 3-13c of the general statutes is repealed and the
858 following is substituted in lieu thereof (*Effective July 1, 2016*):

859 Trust funds as used in sections 3-13 to 3-13e, inclusive, and 3-31b
860 shall be construed to include Connecticut Municipal Employees'
861 Retirement Fund A, Connecticut Municipal Employees' Retirement
862 Fund B, Soldiers, Sailors and Marines Fund, Family and Medical Leave
863 Compensation Trust Fund, State's Attorneys' Retirement Fund,
864 Teachers' Annuity Fund, Teachers' Pension Fund, Teachers'
865 Survivorship and Dependency Fund, School Fund, State Employees
866 Retirement Fund, the Hospital Insurance Fund, Policemen and
867 Firemen Survivor's Benefit Fund and all other trust funds
868 administered, held or invested by the State Treasurer.

869 Sec. 22. Sections 5-248a, 5-248b and 31-51rr of the general statutes
870 are repealed. (*Effective January 1, 2018*)

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>January 1, 2018</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>January 1, 2018</i>	31-51kk
Sec. 15	<i>January 1, 2018</i>	31-51ll
Sec. 16	<i>January 1, 2018</i>	31-51mm
Sec. 17	<i>January 1, 2018</i>	31-51oo
Sec. 18	<i>January 1, 2018</i>	31-51pp
Sec. 19	<i>January 1, 2018</i>	31-51qq
Sec. 20	<i>January 1, 2018</i>	31-51ss
Sec. 21	<i>July 1, 2016</i>	3-13c
Sec. 22	<i>January 1, 2018</i>	Repealer section

LAB *Joint Favorable Subst.*