



# Senate

General Assembly

**File No. 264**

February Session, 2016

Substitute Senate Bill No. 221

*Senate, March 29, 2016*

The Committee on Labor and Public Employees reported through SEN. GOMES of the 23rd Dist., Chairperson of the Committee on the part of the Senate, 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 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

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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.*

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 17 \$	FY 18 \$
Labor Dept.	GF - Cost	None	150,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	See Below	59,910
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
Labor Dept.	GF - Cost	See Below	See Below
Labor Dept.	Family Medical Leave Compensation Trust Fund - Cost/Revenue Gain	See Below	See Below

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

**Municipal Impact:**

Municipalities	Effect	FY 17 \$	FY 18 \$
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,

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<sup>1</sup>The 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 39.94% of payroll in FY 17 and FY 18.

and establishes a Family and Medical Leave Compensation (FMLC) program. This results in a significant annual state cost beginning in FY 17, as well as a potential cost to various municipalities beginning in FY 18. These impacts are explained in detail below.

### **Expanded FMLA State Employee Impact**

The bill's expanded eligibility for FMLA 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 FMLA monthly.<sup>2</sup>

This bill would result in costs to certain state agencies with large numbers of employees such as the Department of Correction (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 \$2,975 to cover the 10 day period.<sup>3</sup> 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.

### **Expanded FMLA Municipal Impact**

The bill expands private sector FMLA provisions to municipalities. Municipalities currently must comply with federal FMLA

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<sup>2</sup> According to a 2015 Department of Administrative Services study.

<sup>3</sup> On average, the cost to DOC for a Corrections Officer to work one overtime hour is \$39.62.

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 a shift covered by an employee with a higher salary, or by an employee working an overtime shift.

### **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 beginning January 1, 2018. 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 \$209,910 in FY 18 and \$419,820 annually thereafter associated with one Principal Attorney (\$100,000 for salary and \$39,940 for fringe costs), two Staff Attorneys (\$75,000 for salary and \$29,955 for fringe costs), and one Administrative Assistant (\$50,000 for salary and \$19,970 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 3,185 employers with 1,042,067 employees covered by existing FMLA law; it is projected that the bill would expand coverage to approximately 60,600 employers with approximately 1,626,000 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 approximately \$13.6 million in FY 17 and up to \$18.9 million annually thereafter, 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 March 1, 2017. Consequently, it is assumed the General Fund will cover the costs of the program until such time that FMLC Trust Fund revenues are sufficient.<sup>4</sup>

The FY 17 start-up costs include approximately \$4.7 million in salaries and fringe costs, \$7.7 million for information technology, \$776,700 for overhead and capital needs, and \$340,000 for outreach and marketing. The fully annualized cost of program administration increases to approximately \$18.9 million beginning as early as FY 18.

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 17. 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 costs identified in the "Implementing Paid Family and Medical Leave Insurance

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<sup>4</sup> The bill specifies that any funds expended from the General Fund for the purpose of administering the FMLC program be reimbursed no later than June 30, 2018.

Connecticut” report undertaken by the Institute for Women’s Policy Research pursuant to a contract with the Labor Department.<sup>5</sup>

### ***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  
Institute for Women's Policy Research "Implementing Paid Family and Medical Leave Insurance Connecticut"*

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<sup>5</sup> Section 413 of PA 15-5 JSS required the Labor Commissioner to contract with a consultant to create an implementation plan for a paid family and medical leave program by October 1, 2015, including an actuarial analysis and report on the employee contribution level needed to ensure sustainable funding and administration for the program.

**OLR Bill Analysis****sSB 221*****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 certain employees taking leave under the state's Family and Medical Leave Act (FMLA) or the family violence leave law, as amended by the bill. It provides them with up to 12 weeks of weekly FMLC benefits over a 12-month period in an amount that is the lesser of (1) the employee's average weekly net earnings during their highest earning quarter within the five most recently completed calendar quarters or (2) \$1,000 (or an inflation adjusted equivalent). The program is funded by employee contributions.

Under the bill, employees eligible for benefits ("covered employees") are:

1. people who earned at least \$2,325 (or an inflation adjusted equivalent) from one or more employers during their highest earning quarter within the five most recently completed calendar quarters and are (a) employed by an employer with at least two employees or (b) unemployed and
2. sole practitioners and self-employed people who enroll in the program.

The bill requires the Department of Labor (DOL) to administer the FMLC program and, among other things, determine the amount that employees must contribute to the program to ensure (1) its solvency and (2) that total employee contributions are at least \$4 million per month. By March 1, 2017, DOL must begin collecting contributions

from all employees who work for employers with at least two employees and the self-employed and sole proprietors who enroll in the program. The program must begin paying FMLC benefits by March 1, 2018.

The bill establishes the FMLC Trust Fund to hold employee contributions and pay for FMLC benefits and administrative costs. Any funds expended from the General Fund to administer the program or provide benefits must be reimbursed to the General Fund by June 30, 2018.

The bill also changes various provisions of the state's FMLA and family violence leave law, which generally require certain employers to provide unpaid leave to employees for various reasons related to their health or their family members' health. Among other things it:

1. expands the FMLA's coverage from private-sector employers with at least 75 employees to all employers (including the state, municipalities, and other currently exempted employers) with at least two employees;
2. repeals the law that provides similar family and medical leave for state employees;
3. makes employees eligible for FMLA leave if they meet the FMLC's minimum earnings requirement (current law requires (a) private-sector employees to have been employed by their employer for at least 12 months and 1,000 work-hours; (b) most municipal employees to have been employed by their employer for at least 12 months and 1,250 work-hours; and (c) state employees to be in permanent positions);
4. changes the maximum FMLA leave allowed for currently covered private sector employees from 16 weeks over a 24-month period to 12 weeks over a 12-month period;
5. changes the maximum FMLA leave allowed for state employees from 24 weeks over a 24-month period to 12 weeks over a 12-

month period;

6. eliminates an employer's ability to require an employee taking FMLA leave to use his or her employer-provided paid sick time or other employer-provided paid leave; and
7. adds to the family members for whom an employee can take FMLA leave to include the employee's siblings, grandparents, and grandchildren (including those related by marriage).

The bill requires the labor commissioner to adopt regulations by January 1, 2018, to implement the FMLC program and the bill's changes to the FMLA. It also makes numerous minor and conforming changes.

**EFFECTIVE DATE:** Upon passage, except the provisions that (1) affect the terms of the current various family medical leave laws are effective January 1, 2018 and (2) extend requirements for treasurer-administered funds to the FMLC Trust Fund are effective July 1, 2016.

## **FAMILY AND MEDICAL LEAVE COMPENSATION PROGRAM**

### **§§ 2, 6, 8 & 19 — *The FMLC Program***

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

1. determine if 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 FMLA.

The bill also requires DOL, in consultation with the state treasurer and the Department of Revenue Services, to establish the procedures needed to implement the program. DOL must:

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 DOL and other information it deems relevant and necessary to educate the public about the FMLC program; and
3. submit a report to the General Assembly by January 1, 2017 with recommendations for legislative action needed to implement the program.

The bill requires the labor commissioner, by January 1, 2018, 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) DOL to begin collecting contributions to the FMLC Trust Fund by March 1, 2017 and (2) every employee who works for an employer with at least two

employees and the self-employed and sole proprietors who opt in to the program to contribute a percentage of his or her weekly earnings to the trust fund in a manner the commissioner prescribes. The department must determine the amount of contributions necessary to ensure (1) the program's solvency and (2) that contributions total at least \$4 million per month. The bill also requires DOL to:

1. design and establish the process by which employees must contribute a portion of their salaries to the trust fund, including creating an information packet with the necessary paperwork for participating;
2. evaluate and establish a process that allows employers to credit their employee's contributions to the trust fund 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.

***FMLC Benefits.*** The bill requires DOL, by March 1, 2018, 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 average weekly earnings during his or her highest earning quarter within the five most recently completed calendar quarters before going on leave, after state and federal tax deductions. But the benefit cannot be more than \$1,000 per week, or an inflation adjusted equivalent.

If the IRS determines that FMLC benefits are subject to federal income taxes and the employee chooses to have the taxes withheld from the benefits, DOL must deduct and withhold the amount required by the U.S. Internal Revenue Code in a manner consistent with state law. (The bill does not specify how contributions to the fund or benefits paid from it will be treated under state tax laws.)

***Inflation Adjustments.*** Starting July 1, 2018 and by July 15<sup>th</sup> each year, the bill requires the labor commissioner to annually announce an adjustment to the earnings threshold and benefit cap based on the Consumer Price Index (CPI) for urban wage earners and clerical workers in the northeast urban area of New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment, as calculated by the U.S. Bureau of Labor Statistics. The adjustment must be the CPI's percentage increase between the last complete calendar year and the previous calendar year, with the amount of the increase rounded to the nearest five cents. The adjusted earnings threshold and benefit cap take effect on the following January first.

***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. These allow leave:

1. on the birth of the employee's son or daughter;
2. on 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 because of 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, an employee must notify DOL and his or her employer, if applicable, of the need for FMLC benefits. The department must determine the notice's form and manner. If DOL requests it, the employee must also provide a health care provider's certification as required under the FMLA 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. If an employee takes benefits for at least eight hours, but less than one week, the employee's hourly compensation must be determined on a pro rata basis at DOL's discretion.

The bill allows employees to receive FMLC benefits concurrently with any employer-provided employment benefits as long as their total compensation while they are on leave does not exceed their regular compensation rate. Under the bill, no employees can receive FMLC benefits concurrently with unemployment compensation benefits or workers' compensation benefits.

### **§§ 3-5 & 21 — 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 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 money 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 the trust provides.

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 DOL's order or spent on the trust's operating expenses.

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

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**§ 7 — FMLC Public Education Campaign**

The bill requires DOL, in consultation with the state treasurer, to conduct a public education campaign to inform the public and employers about the FMLC program. The campaign must at least include information about (1) 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 DOL to use funds from 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 department prescribes.

**§ 8 — Participation by Sole Proprietors and the Self-Employed**

The bill allows someone who is self-employed or a sole proprietor to enroll in the FMLC program and includes them in its definition of “covered employees” and “employees.” Such a person must apply to DOL for enrollment in the program, in a form and manner the department prescribes. The person can enroll as long as he or she initially does so 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 DOL 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 DOL at least 30 days before his or her initial enrollment period expires, or at other times the department may prescribe by rule.

**§§ 9 & 11 — Complaints and Enforcement**

The bill allows an FMLC participant aggrieved by a denial of benefits to file a complaint with the labor commissioner. The commissioner must hold a hearing after receiving the complaint and must subsequently send each party a written copy of his 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 may appeal to the Superior Court under the Uniform Administrative Procedure Act.

Under the bill, anyone 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 receiving program benefits for one year. DOL 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 labor commissioner discretion to waive any repayments, in whole or in part, when they would be against equity and good conscience.

#### **§ 10 — Employer Notice Requirement**

Starting January 1, 2018 (when the bill's changes to the FMLA become effective), the bill requires all employers covered by the amended FMLA (see below) to notify their employees at the time of hiring and every year thereafter:

1. of their entitlement to family and medical leave and family violence leave, as amended by the bill, and the terms under which the leave may 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 FMLA or 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 labor commissioner may adopt regulations to establish additional requirements about how employers must provide notice.

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**§ 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 its 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, 2019, the bill requires the labor commissioner to submit an annual report to the Labor and Appropriations committees on (1) the projected and actual participation in the program; (2) the balance in the trust; (3) the work force size of covered employees' employers; (4) the reasons why covered employees are receiving FMLC benefits; (5) the success of DOL'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****§§ 14-18 — FMLA**

**Covered Employers.** Current law requires private-sector employers with at least 75 employees to provide eligible employees with unpaid FMLA leave. The bill (1) reduces this employee threshold from 75 to two and (2) includes the state, municipalities, boards of education, and private or parochial elementary or secondary schools (all of whom are currently excluded from the law), subjecting them to the FMLA's other provisions, as amended by the bill.

**Maximum Leave Duration.** The bill changes the maximum amount of leave an employee may take from 16 weeks over a 24-month period to 12 weeks over a 12-month period. This change reduces the amount of leave that employees covered under the federal FMLA can potentially take in one year, because under current law, an employee can choose to take all 16 weeks of state leave in the first year followed

by 12 weeks of federal FMLA leave in the second year (when they are ineligible for state FMLA leave).

**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 an employee eligible if he or she meets the minimum earnings threshold for FMLC benefits. (This includes unemployed people who are not receiving unemployment benefits, although it is unclear how the law, which requires employers to provide their employees with leave, would apply to the unemployed.)

Current law allows employees to take leave for themselves, their children under age 18, their spouses, and their parents (including in-laws). The bill 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.

**Military Caregiver Leave.** The law allows employees covered by the 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 workweeks of FMLC benefits while on this leave.

It also adds to the family members for whom the employee can take 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 allows an employer to require employees to use their accrued employer-provided paid vacation, personal, family, medical, or sick leave during the time they are 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 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.

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 (including those related by marriage).

**Confidentiality.** With certain exceptions, the FMLA requires employers to keep records and documents related to their employees' medical histories and medical certifications as confidential medical records under the state's Personnel Files Act. The bill extends this requirement to include the same records related to providing FMLC benefits.

## **§ 20 — 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 because of 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 unpaid family violence 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-week benefit limit.

## **§ 22 — State Employee Family Medical Leave**

Current law provides state employees with unpaid family and medical leave under a separate statute and under somewhat different conditions than private-sector employees covered by the FMLA. The bill brings state employees under the FMLA and repeals the separate state employee leave law. This changes state employees' eligibility requirements, maximum leave duration, and the family members for whom they can take the leave.

**Eligibility.** Current law provides leave for permanent state employees (i.e., classified state employees in permanent positions and unclassified employees employed for at least six months). The bill instead provides leave for any state employees who meet the minimum earnings threshold for FMLC benefits, regardless of whether they are in permanent or temporary, classified or unclassified, positions.

**Maximum Leave Duration.** Under current law, state employees can take up to 24 weeks of leave over a two-year period. The bill instead allows for up to 12 weeks of leave over a one-year period. Thus, it reduces the amount of leave that could potentially be taken in one year, because under current law, a state employee could choose to take all 24 weeks of leave in the first year of a two-year period.

**Family Members.** The bill adds to the family members for whom state employees 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.

It also adds to the family members for whom state employees can take military caregiver 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.

### **§ 22 — *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. But current state law also allows certain municipal employees to qualify for leave under a lower work-hour threshold and in certain circumstances not allowed under federal law.

The bill eliminates these laws on January 1, 2018 and brings all municipal employees under the state FMLA. Thus, to qualify for leave they will only have to meet the minimum earnings threshold for FMLC benefits and will be able to take leave for any reasons allowed under the state FMLA.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9      Nay 4      (03/10/2016)