



# House of Representatives

General Assembly

**File No. 22**

January Session, 2019

Substitute House Bill No. 5003

*House of Representatives, March 7, 2019*

The Committee on Labor and Public Employees reported through REP. PORTER, R. of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT IMPLEMENTING A PAID FAMILY MEDICAL LEAVE PROGRAM.***

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 from one  
5 or more employers during the employee's highest earning quarter  
6 within the five most recently completed calendar quarters, and (ii) is  
7 employed by an employer or not currently employed, (B) is a self-  
8 employed individual or sole proprietor who is enrolled in the Family  
9 and Medical Leave Insurance Program pursuant to section 8 of this act,  
10 or (C) is a covered public employee;

11 (2) "Covered public employee" means an individual who is (A)  
12 employed in state service, as defined in section 5-196 of the general

13 statutes, and who is not in a bargaining unit established pursuant to  
14 sections 5-270 to 5-280, inclusive, of the general statutes, or (B) a  
15 member of a collective bargaining unit that has negotiated inclusion in  
16 the program, in accordance with chapter 68 of the general statutes,  
17 sections 7-467 to 7-477, inclusive, of the general statutes or sections 10-  
18 153a to 10-153n, inclusive, of the general statutes. If a municipal  
19 employer, as defined in section 7-467 of the general statutes, or a local  
20 or regional board of education negotiates inclusion in the program for  
21 members of a collective bargaining unit, "covered public employee"  
22 also means an individual who is employed by such municipal  
23 employer or local or regional board of education and who is not in a  
24 bargaining unit established under sections 7-467 to 7-477, inclusive, of  
25 the general statutes, or sections 10-153a to 10-153n, inclusive, of the  
26 general statutes;

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

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

29 (5) "Employee" means an individual engaged in service to an  
30 employer in this state in the business of the employer and includes a  
31 self-employed individual or sole proprietor in this state who elects  
32 coverage under section 8 of this act;

33 (6) "Employer" means a person engaged in any activity, enterprise  
34 or business who employs one or more employees, and includes any  
35 person who acts, directly or indirectly, in the interest of an employer to  
36 any of the employees of such employer and any successor in interest of  
37 an employer. "Employer" does not mean the state or a municipality, a  
38 local or regional board of education or a nonpublic elementary or  
39 secondary school, except that the state, a municipal employer or local  
40 or regional board of education shall be an employer with respect to  
41 each of its covered public employees;

42 (7) "Family and medical leave compensation" or "compensation"  
43 means the paid leave provided to covered employees from the Family  
44 and Medical Leave Insurance Trust Fund;

45 (8) "Family and Medical Leave Insurance Program" or "program"  
46 means the program established in section 2 of this act;

47 (9) "Family and Medical Leave Insurance Trust Fund" or "trust"  
48 means the trust fund established in section 3 of this act; and

49 (10) "Person" means one or more individuals, partnerships,  
50 associations, corporations, limited liability companies, business trusts,  
51 legal representatives or any organized group of persons.

52 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a  
53 Family and Medical Leave Insurance Program. The program shall be  
54 administered by the administrator and shall offer up to twelve  
55 workweeks of family and medical leave compensation to covered  
56 employees during any twelve-month period. The program shall offer  
57 two additional weeks of family and medical leave compensation to a  
58 covered employee for a serious health condition that occurs during a  
59 pregnancy that results in incapacitation.

60 (b) Not later than July 1, 2020, the administrator shall begin  
61 collecting contributions to the Family and Medical Leave Insurance  
62 Trust Fund, established in section 3 of this act and, on and after July 1,  
63 2021, shall begin to provide compensation to covered employees. For  
64 the purposes of this section and sections 3 to 13, inclusive, of this act,  
65 the administrator shall have the power to (1) determine whether an  
66 individual meets the requirements for compensation under this  
67 section; (2) require a covered employee's claim for compensation  
68 pursuant to this section be supported by certification pursuant to  
69 section 31-51mm of the general statutes, as amended by this act, and  
70 subsection (d) of section 31-51ss of the general statutes; (3) examine, or  
71 cause to be produced or examined, any books, records, documents,  
72 contracts or other papers relevant to the eligibility of a covered  
73 employee; (4) summon and examine under oath such witnesses as may  
74 provide information relevant to a covered employee's claim for family  
75 and medical leave compensation; (5) establish procedures and forms  
76 for the filing of claims for compensation, including the certification  
77 required for establishing eligibility for such compensation; and (6)

78 ensure the confidentiality of records and documents relating to  
79 medical certifications, recertifications or medical histories of covered  
80 employees or covered employees' family members pursuant to section  
81 31-5100 of the general statutes, as amended by this act.

82 (c) (1) Each employee shall contribute a percentage of his or her  
83 weekly earnings to the Family and Medical Leave Insurance Trust  
84 Fund, in a manner and form prescribed by the administrator pursuant  
85 to section 6 of this act, provided such percentage shall not exceed one-  
86 half of one per cent. The amount of earnings subject to contributions  
87 for a given year shall not exceed the Social Security contribution and  
88 benefit base, as determined pursuant to 42 USC 430, as amended from  
89 time to time, and shall be utilized to provide compensation to covered  
90 employees pursuant to this subsection and subsections (d) to (f),  
91 inclusive, of this section.

92 (2) Notwithstanding subdivision (1) of this subsection, if employee  
93 contributions are the maximum percentage allowed pursuant to said  
94 subdivision and the administrator determines that employee  
95 contributions are not sufficient to ensure solvency of the program, the  
96 administrator, subject to the provisions of subdivision (3) of this  
97 subsection, shall increase the amount of earnings subject to  
98 contributions to an appropriate amount that exceeds the Social  
99 Security contribution and benefit base specified in said subdivision, in  
100 order to ensure the solvency of the program.

101 (3) The administrator shall not increase the amount of earnings  
102 subject to contributions pursuant to subdivision (2) of this subsection  
103 unless the General Assembly, by resolution, approves such increase.  
104 The General Assembly may reject such increase by a three-fifths vote  
105 of each house. Such increase shall be deemed approved if the General  
106 Assembly fails to vote to approve or reject such increase within thirty  
107 days of submittal by the administrator. Each proposed increase shall  
108 be submitted by the administrator to the General Assembly and shall  
109 be referred to the joint standing committee of the General Assembly  
110 having cognizance of matters relating to labor.

111 (d) (1) The weekly compensation offered to covered employees shall  
112 be one hundred per cent of a covered employee's weekly earnings,  
113 except that the weekly compensation shall not exceed one thousand  
114 dollars. If the Internal Revenue Service determines that family and  
115 medical leave compensation is subject to federal income tax and a  
116 covered employee elects to have federal income tax deducted and  
117 withheld from his or her compensation, the administrator shall deduct  
118 and withhold the amount specified in the United States Internal  
119 Revenue Code in a manner consistent with state law.

120 (2) On July 1, 2022, and not later than each July fifteenth thereafter,  
121 the Labor Commissioner shall announce an adjustment to the  
122 maximum compensation established pursuant to subdivision (1) of this  
123 subsection that shall be equal to the percentage increase between the  
124 last complete calendar year and the previous calendar year in the  
125 consumer price index for urban wage earners and clerical workers in  
126 the northeast urban area of New York-Northern New Jersey-Long  
127 Island, NY-NJ-CT-PA, with no seasonal adjustment, as calculated by  
128 the United States Department of Labor's Bureau of Labor Statistics,  
129 with the amount of the maximum compensation increase rounded to  
130 the nearest five cents. The maximum compensation plus the  
131 adjustment announced by the Labor Commissioner on July fifteenth  
132 shall become the new maximum compensation and shall be effective  
133 on the January first immediately following.

134 (e) A covered employee shall receive compensation under this  
135 section for leave taken for one or more of the reasons listed in  
136 subparagraphs (A) to (E), inclusive, of subdivision (2) of subsection (a)  
137 of section 31-51ll of the general statutes, as amended by this act, or the  
138 reasons listed in subsection (i) of said section or section 31-51ss of the  
139 general statutes, if such covered employee (1) provides notice to the  
140 administrator, and such covered employee's employer, if applicable, of  
141 the need for such compensation in a form and manner prescribed by  
142 the administrator, and (2) upon the request of the administrator,  
143 provides certification of such covered employee's need for  
144 compensation in accordance with the provisions of section 31-51mm of

145 the general statutes, as amended by this act, to the administrator and  
146 such employer, if applicable.

147 (f) A covered employee may receive compensation under this  
148 section for nonconsecutive hours of leave, provided such leave shall  
149 not be less than four hours of leave in any workweek. If family and  
150 medical leave compensation is received for four hours or more, but for  
151 less than one full week, such hourly compensation shall be determined  
152 on a pro rata basis at the discretion of the administrator.

153 (g) A covered employee may receive compensation under this  
154 section concurrently with any employer-provided employment  
155 benefits, provided the total compensation of such covered employee  
156 during such period of leave shall not exceed such covered employee's  
157 regular rate of compensation.

158 (h) No covered employee shall receive compensation under this  
159 section concurrently with compensation under chapter 567 or 568 of  
160 the general statutes or any other state or federal program that provides  
161 wage replacement.

162 (i) Any moneys expended from the General Fund for the purpose of  
163 administering the Family and Medical Leave Insurance Program, or  
164 providing compensation to covered employees, shall be reimbursed to  
165 the General Fund by the administrator not later than October 1, 2021.

166 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a fund  
167 to be known as the "Family and Medical Leave Insurance Trust Fund"  
168 for the purpose of providing family and medical leave compensation  
169 to covered employees. The Family and Medical Leave Insurance Trust  
170 Fund shall be a nonlapsing fund held by the State Treasurer separate  
171 and apart from all other moneys, funds and accounts. Investment  
172 earnings credited to the trust shall become part of the trust.

173 (b) The trust shall constitute an instrumentality of the state and shall  
174 perform essential governmental functions, in accordance with the  
175 provisions of this section. The trust shall receive and hold all payments

176 and deposits and premiums intended for the trust, as well as gifts,  
177 bequests, endowments or federal, state or local grants and any other  
178 funds from any public or private source and all earnings until  
179 disbursed in accordance with the provisions of this section.

180 (c) The amounts on deposit in the trust shall not constitute property  
181 of the state and the trust shall not be construed to be a department,  
182 institution or agency of the state. Amounts on deposit in the trust shall  
183 not be commingled with state funds and the state shall have no claim  
184 to or against, or interest in, such funds. Any contract entered into by or  
185 any obligation of the trust shall not constitute a debt or obligation of  
186 the state and the state shall have no obligation to any designated  
187 beneficiary or any other person on account of the trust and all amounts  
188 obligated to be paid from the trust shall be limited to amounts  
189 available for such obligation on deposit in the trust. The trust shall  
190 continue in existence as long as it holds any deposits or has any  
191 obligations and until its existence is terminated by law and upon  
192 termination any unclaimed assets shall return to the state. Property of  
193 the trust shall be governed by section 3-61a of the general statutes.

194 (d) The State Treasurer shall be responsible for the receipt and  
195 investment of moneys held by the trust. The trust shall not receive  
196 deposits in any form other than cash. No depositor or designated  
197 beneficiary may direct the investment of any contributions or amounts  
198 held in the trust other than the specific fund options provided for by  
199 the trust.

200 (e) The assets of the trust shall be used for the purpose of  
201 distributing family and medical leave compensation to covered  
202 employees, educating and informing persons about the program and  
203 paying the operational, administrative and investment costs of the  
204 trust, including those incurred pursuant to section 6 of this act.

205 Sec. 4. (NEW) (*Effective from passage*) The State Treasurer, on behalf  
206 of the Family and Medical Leave Insurance Trust Fund and for  
207 purposes of the trust, shall:

208 (1) Receive and invest moneys in the trust in any instruments,  
209 obligations, securities or property in accordance with sections 3 to 5,  
210 inclusive, of this act;

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

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

216 Sec. 5. (NEW) (*Effective from passage*) The State Treasurer shall invest  
217 the amounts on deposit in the Family and Medical Leave Insurance  
218 Trust Fund in a manner reasonable and appropriate to achieve the  
219 objectives of the trust, exercising the discretion and care of a prudent  
220 person in similar circumstances with similar objectives. The State  
221 Treasurer shall give due consideration to rate of return, risk, term or  
222 maturity, diversification of the total portfolio within the trust,  
223 liquidity, the projected disbursements and expenditures and the  
224 expected payments, deposits, contributions and gifts to be received.  
225 The State Treasurer shall not require the trust to invest directly in  
226 obligations of the state or any political subdivision of the state or in  
227 any investment or other fund administered by the State Treasurer. The  
228 assets of the trust shall be continuously invested and reinvested in a  
229 manner consistent with the objectives of the trust until disbursed upon  
230 order of the administrator or expended on expenses incurred by the  
231 operations of the trust.

232 Sec. 6. (NEW) (*Effective from passage*) The administrator, in  
233 consultation with the State Treasurer and the Department of Revenue  
234 Services, shall establish the procedures necessary to implement the  
235 Family and Medical Leave Insurance Program. The administrator  
236 shall:

237 (1) Design, establish and operate the program to ensure  
238 transparency in the management of the program and the Family and  
239 Medical Leave Insurance Trust Fund through oversight and ethics



240 review of plan fiduciaries;

241 (2) Design and establish the process by which employees shall  
242 contribute a portion of their salary or wages to the trust. Such process  
243 shall include, but need not be limited to, the creation of an information  
244 packet including the necessary paperwork for an employee to  
245 participate in the program pursuant to section 8 of this act;

246 (3) Evaluate and establish the process by which employers may  
247 credit employee premiums to the trust through payroll deposit;

248 (4) Determine the number of employees of an employer as of  
249 October first of each year and determine the amount of employee  
250 contributions necessary to ensure solvency of the program, provided  
251 total contributions shall not be less than four million dollars per month  
252 and contribution amounts shall be established in accordance with  
253 section 2 of this act;

254 (5) Ensure that contributions to the trust collected from employees  
255 shall not be used for any purpose other than to provide compensation  
256 to covered employees, educating and informing persons about the  
257 program and paying the operational, administrative and investment  
258 costs of the trust;

259 (6) Establish and maintain a secure Internet web site that displays all  
260 public notices issued by the administrator and such other information  
261 as the administrator deems relevant and necessary for the  
262 implementation of the program and for the education of the public  
263 regarding the program; and

264 (7) Not later than January 1, 2020, submit a report, in accordance  
265 with the provisions of section 11-4a of the general statutes, to the  
266 General Assembly regarding any recommendations for legislative  
267 action that may be necessary for the implementation and  
268 administration of the program.

269 Sec. 7. (NEW) (*Effective January 1, 2020*) The administrator, in  
270 consultation with the State Treasurer, shall conduct a public education

271 campaign to inform individuals and employers about the Family and  
272 Medical Leave Insurance Program. Such campaign shall include, but  
273 not be limited to, information about the requirements for receiving  
274 family and medical leave compensation, how to apply for such  
275 compensation and the circumstances for which such compensation  
276 may be available. The administrator may use funds contributed to the  
277 Family and Medical Leave Insurance Trust Fund for purposes of the  
278 public education campaign. Information distributed or made available  
279 under the campaign shall be available in English and Spanish and in  
280 any other language prescribed by the administrator.

281       Sec. 8. (NEW) (*Effective from passage*) (a) A self-employed individual  
282 or sole proprietor, upon application to the administrator, in a form and  
283 manner prescribed by the administrator, may enroll in the Family and  
284 Medical Leave Insurance Program, provided such self-employed  
285 individual or sole proprietor is enrolled in the program for an initial  
286 period of not less than three years. Such self-employed individual or  
287 sole proprietor shall be automatically reenrolled in the program for a  
288 subsequent period, or periods, of not less than one year. Such  
289 reenrollment begins immediately following a period of participation in  
290 the program.

291       (b) A self-employed individual or sole proprietor may withdraw  
292 from the program upon submitting written notice to the administrator  
293 not less than thirty days prior to the expiration of the initial enrollment  
294 or subsequent reenrollment period, or at such other times as the  
295 administrator may prescribe by rule.

296       Sec. 9. (NEW) (*Effective from passage*) Any covered employee, or self-  
297 employed individual or sole proprietor participating in the program,  
298 aggrieved by a denial of compensation under the Family and Medical  
299 Leave Insurance Program may file a complaint with the Labor  
300 Commissioner. Upon receipt of any such complaint, the commissioner  
301 shall hold a hearing. After the hearing, the commissioner shall send  
302 each party a written copy of the commissioner's decision. The  
303 commissioner may award the covered employee, or self-employed

304 individual or sole proprietor, all appropriate relief, including any  
305 compensation or benefits to which the employee otherwise would  
306 have been eligible if such denial had not occurred. Any party  
307 aggrieved by the decision of the commissioner may appeal the  
308 decision to the Superior Court in accordance with the provisions of  
309 chapter 54 of the general statutes.

310 Sec. 10. (NEW) (*Effective July 1, 2021*) Each employer shall, at the  
311 time of hiring, and annually thereafter, provide written notice to each  
312 of the employer's employees (1) of the entitlement to family and  
313 medical leave under sections 31-51kk to 31-51qq, inclusive, of the  
314 general statutes, as amended by this act, and 31-51ss of the general  
315 statutes and the terms under which such leave may be used, (2) that  
316 retaliation by the employer against the employee for requesting,  
317 applying for or using family and medical leave for which the employee  
318 is eligible is prohibited, and (3) that the employee has a right to file a  
319 complaint with the Labor Commissioner for any violation of said  
320 sections. The Labor Commissioner may adopt regulations, in  
321 accordance with chapter 54 of the general statutes, to establish  
322 additional requirements concerning the means by which employers  
323 shall provide such notice.

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

330 (b) If family and medical leave compensation is paid to an  
331 individual or covered employee erroneously or as a result of wilful  
332 misrepresentation by such individual or covered employee, or if a  
333 claim for family and medical leave compensation is rejected after  
334 compensation is paid, the administrator may seek repayment of  
335 benefits from the individual or covered employee who received such  
336 compensation. The Labor Commissioner may, in his or her discretion,

337 waive, in whole or in part, the amount of any such payments where  
338 the recovery would be against equity and good conscience.

339 Sec. 12. (NEW) (*Effective from passage*) Nothing in sections 31-51kk to  
340 31-51qq, inclusive, of the general statutes, as amended by this act, and  
341 31-51ss of the general statutes or sections 2 to 13, inclusive, of this act,  
342 shall be construed to (1) prevent employers from providing any  
343 benefits that are more expansive than those provided for under said  
344 sections, (2) diminish any rights provided to any covered employee  
345 under the terms of the covered employee's employment or a collective  
346 bargaining agreement, or (3) interfere with, impede or in any way  
347 diminish the right of an employee to bargain collectively with his or  
348 her employer through a representative of his or her choosing, in order  
349 to establish wages or conditions of work in excess of the applicable  
350 minimum pursuant to sections 3-13c, 31-51kk to 31-51mm, inclusive,  
351 31-51oo to 31-51qq, inclusive, of the general statutes, as amended by  
352 this act, and sections 1 to 13, inclusive, and section 20 of this act.

353 Sec. 13. (*Effective from passage*) Not later than July 1, 2022, and  
354 annually thereafter, the Labor Commissioner shall report, in  
355 accordance with section 11-4a of the general statutes, to the joint  
356 standing committees of the General Assembly having cognizance of  
357 matters relating to appropriations and the budgets of state agencies  
358 and labor, on (1) the projected and actual participation in the program,  
359 (2) the balance of the trust, (3) the size of employers at which covered  
360 employees are employed, (4) the reasons covered employees are  
361 receiving family and medical leave compensation, (5) the success of the  
362 administrator's outreach and education efforts, and (6) demographic  
363 information of covered employees, including gender, age, town of  
364 residence and income level.

365 Sec. 14. Section 31-51kk of the general statutes is repealed and the  
366 following is substituted in lieu thereof (*Effective July 1, 2021*):

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

369 (1) "Eligible employee" means an employee who has [been  
370 employed (A) for at least twelve months by the employer with respect  
371 to whom leave is requested; and (B) for at least one thousand hours of  
372 service with such employer during the twelve-month period preceding  
373 the first day of the leave] earned not less than two thousand three  
374 hundred twenty-five dollars from one or more employers during the  
375 employee's highest earning quarter within the five most recently  
376 completed calendar quarters;

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

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

380 (4) "Employer" means a person engaged in any activity, enterprise  
381 or business who employs [seventy-five] one or more employees, and  
382 includes any person who acts, directly or indirectly, in the interest of  
383 an employer to any of the employees of such employer and any  
384 successor in interest of an employer, [but] and shall not include the  
385 state, or a municipality, a local or regional board of education, or a  
386 [private or parochial] nonpublic elementary or secondary school. The  
387 number of employees of an employer shall be determined on October  
388 first annually;

389 (5) "Employment benefits" means all benefits provided or made  
390 available to employees by an employer, including group life insurance,  
391 health insurance, disability insurance, sick leave, annual leave,  
392 educational benefits and pensions, regardless of whether such benefits  
393 are provided by practice or written policy of an employer or through  
394 an "employee benefit plan", as defined in Section 1002(3) of Title 29 of  
395 the United States Code;

396 (6) "Grandchild" means a grandchild related to a person by (A)  
397 blood, (B) marriage, (C) adoption by a child of the grandparent, or (D)  
398 foster care by a child of the grandparent;

399 (7) "Grandparent" means a grandparent related to a person by (A)

400 blood, (B) marriage, (C) adoption of a minor child by a child of the  
401 grandparent, or (D) foster care by a child of the grandparent;

402 [(6)] (8) "Health care provider" means (A) a doctor of medicine or  
403 osteopathy who is authorized to practice medicine or surgery by the  
404 state in which the doctor practices; (B) a podiatrist, dentist,  
405 psychologist, optometrist or chiropractor authorized to practice by the  
406 state in which such person practices and performs within the scope of  
407 the authorized practice; (C) an advanced practice registered nurse,  
408 nurse practitioner, nurse midwife or clinical social worker authorized  
409 to practice by the state in which such person practices and performs  
410 within the scope of the authorized practice; (D) Christian Science  
411 practitioners listed with the First Church of Christ, Scientist in Boston,  
412 Massachusetts; (E) any health care provider from whom an employer  
413 or a group health plan's benefits manager will accept certification of  
414 the existence of a serious health condition to substantiate a claim for  
415 benefits; (F) a health care provider as defined in subparagraphs (A) to  
416 (E), inclusive, of this subdivision who practices in a country other than  
417 the United States, who is licensed to practice in accordance with the  
418 laws and regulations of that country; or (G) such other health care  
419 provider as the Labor Commissioner determines, performing within  
420 the scope of the authorized practice. The commissioner may utilize any  
421 determinations made pursuant to chapter 568;

422 [(7)] (9) "Parent" means a biological parent, foster parent, adoptive  
423 parent, stepparent, parent-in-law or legal guardian of an eligible  
424 employee or an eligible employee's spouse, [or] an individual [who  
425 stood] standing in loco parentis to an eligible employee, [when the  
426 employee was a son or daughter] or an individual who stood in loco  
427 parentis to the eligible employee when the employee was a child;

428 [(8)] (10) "Person" means one or more individuals, partnerships,  
429 associations, corporations, business trusts, legal representatives or  
430 organized groups of persons;

431 [(9)] (11) "Reduced leave schedule" means a leave schedule that  
432 reduces the usual number of hours per workweek, or hours per

433 workday, of an employee;

434 [(10)] (12) "Serious health condition" means an illness, injury,  
435 impairment, or physical or mental condition that involves (A) inpatient  
436 care in a hospital, hospice, nursing home or residential medical care  
437 facility; or (B) continuing treatment, including outpatient treatment, by  
438 a health care provider;

439 (13) "Sibling" means a brother or sister related to a person by (A)  
440 blood, (B) marriage, (C) adoption by a parent of the person, or (D)  
441 foster care placement;

442 [(11)] (14) "Son or daughter" means a biological, adopted or foster  
443 child, stepchild, legal ward, or, in the alternative, a child of a person  
444 standing in loco parentis, [who is (A) under eighteen years of age; or  
445 (B) eighteen years of age or older and incapable of self-care because of  
446 a mental or physical disability] or an individual to whom the employee  
447 stood in loco parentis when the individual was a child; and

448 [(12)] (15) "Spouse" means a [husband or wife, as the case may be]  
449 person to whom one is legally married.

450 Sec. 15. Section 31-51ll of the general statutes is repealed and the  
451 following is substituted in lieu thereof (*Effective July 1, 2021*):

452 (a) (1) Subject to section 31-51mm, as amended by this act, an  
453 eligible employee shall be entitled to a total of [sixteen] twelve  
454 workweeks of leave during any [twenty-four-month] twelve-month  
455 period, such [twenty-four-month] twelve-month period to be  
456 determined utilizing any one of the following methods: (A)  
457 [Consecutive] A calendar [years] year; (B) any fixed [twenty-four-  
458 month] twelve-month period, such as [two] a consecutive fiscal [years]  
459 year or a [twenty-four-month] twelve-month period measured forward  
460 from an employee's first date of employment; (C) a [twenty-four-  
461 month] twelve-month period measured forward from an employee's  
462 first day of leave taken under sections 31-51kk to 31-51qq, inclusive, as  
463 amended by this act; or (D) a rolling [twenty-four-month] twelve-

464 month period measured backward from an employee's first day of  
465 leave taken under sections 31-51kk to 31-51qq, inclusive, as amended  
466 by this act. Such employee may take up to two additional weeks of  
467 leave due to a serious health condition during a pregnancy that results  
468 in incapacitation.

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

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

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

474 (C) In order to care for the spouse, [or a son,] sibling, son or  
475 daughter, [or] grandparent, grandchild, parent [of the employee,] or  
476 any other individual related by blood or whose close association with  
477 the employee is the equivalent of a family member if such spouse,  
478 [son,] sibling, son or daughter, [or] grandparent, grandchild, parent or  
479 any other individual related by blood or whose close association with  
480 the employee is the equivalent of a family member has a serious health  
481 condition;

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

483 (E) In order to serve as an organ or bone marrow donor; or

484 (F) Because of any qualifying exigency, as determined in regulations  
485 adopted by the United States Secretary of Labor, arising out of the fact  
486 that the spouse, son, daughter or parent of the employee is on active  
487 duty, or has been notified of an impending call or order to active duty,  
488 in the armed forces, as defined in subsection (a) of section 27-103.

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



493 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of  
494 subsection (a) of this section for the birth or placement of a son or  
495 daughter may not be taken by an employee intermittently or on a  
496 reduced leave schedule unless the employee and the employer agree  
497 otherwise. Subject to subdivision (2) of this subsection concerning an  
498 alternative position, subdivision (2) of subsection (f) of this section  
499 concerning the duties of the employee and subdivision (5) of  
500 subsection (b) of section 31-51mm, as amended by this act, concerning  
501 sufficient certification, leave under subparagraph (C) or (D) of  
502 subdivision (2) of subsection (a) or under subsection (i) of this section  
503 for a serious health condition may be taken intermittently or on a  
504 reduced leave schedule when medically necessary. The taking of leave  
505 intermittently or on a reduced leave schedule pursuant to this  
506 subsection shall not result in a reduction of the total amount of leave to  
507 which the employee is entitled under subsection (a) of this section  
508 beyond the amount of leave actually taken.

509 (2) If an employee requests intermittent leave or leave on a reduced  
510 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of  
511 subsection (a) or under subsection (i) of this section that is foreseeable  
512 based on planned medical treatment, the employer may require the  
513 employee to transfer temporarily to an available alternative position  
514 offered by the employer for which the employee is qualified and that  
515 (A) has equivalent pay and benefits, and (B) better accommodates  
516 recurring periods of leave than the regular employment position of the  
517 employee, provided the exercise of this authority shall not conflict  
518 with any provision of a collective bargaining agreement between such  
519 employer and a labor organization which is the collective bargaining  
520 representative of the unit of which the employee is a part.

521 (d) Except as provided in subsection (e) of this section, leave  
522 granted under subsection (a) of this section may consist of unpaid  
523 leave.

524 (e) (1) If an employer provides paid leave for fewer than [sixteen]  
525 twelve workweeks, the additional weeks of leave necessary to attain

526 the [sixteen] twelve workweeks of leave required under sections 5-  
527 248a and 31-51kk to 31-51qq, inclusive, as amended by this act, may be  
528 provided without compensation or with compensation through the  
529 Family and Medical Leave Insurance Program established in section 2  
530 of this act.

531 (2) (A) An eligible employee may elect [, or an employer may  
532 require the employee,] to substitute any of the accrued paid vacation  
533 leave, personal leave or family leave of the employee for leave  
534 provided under subparagraph (A), (B) or (C) of subdivision (2) of  
535 subsection (a) of this section for any part of the [sixteen-week] twelve-  
536 week period of such leave under said subsection or under subsection  
537 (i) of this section for any part of the twenty-six-week period of such  
538 leave.

539 (B) An eligible employee may elect [, or an employer may require  
540 the employee,] to substitute any of the accrued paid vacation leave,  
541 personal leave, or medical or sick leave of the employee for leave  
542 provided under subparagraph (C), (D) or (E) of subdivision (2) of  
543 subsection (a) of this section for any part of the [sixteen-week] twelve-  
544 week period of such leave under said subsection or under subsection  
545 (i) of this section for any part of the twenty-six-week period of leave,  
546 except that nothing in section 5-248a or sections 31-51kk to 31-51qq,  
547 inclusive, as amended by this act, shall require an employer to provide  
548 paid sick leave or paid medical leave in any situation in which such  
549 employer would not normally provide any such paid leave.

550 (f) (1) In any case in which the necessity for leave under  
551 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this  
552 section is foreseeable based on an expected birth or placement of a son  
553 or daughter, the employee shall provide the employer with not less  
554 than thirty days' notice, before the date of the leave is to begin, of the  
555 employee's intention to take leave under said subparagraph (A) or (B),  
556 except that if the date of the birth or placement of a son or daughter  
557 requires leave to begin in less than thirty days, the employee shall  
558 provide such notice as is practicable.

559 (2) In any case in which the necessity for leave under subparagraph  
560 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection  
561 (i) of this section is foreseeable based on planned medical treatment,  
562 the employee (A) shall make a reasonable effort to schedule the  
563 treatment so as not to disrupt unduly the operations of the employer,  
564 subject to the approval of the health care provider of the employee or  
565 the health care provider of the spouse, sibling, son [,] or daughter,  
566 [spouse or] grandparent, grandchild, parent [of the employee] or any  
567 other individual related by blood or whose close association with the  
568 employee is the equivalent of a family member, as appropriate; and (B)  
569 shall provide the employer with not less than thirty days' notice,  
570 before the date the leave is to begin, of the employee's intention to take  
571 leave under said subparagraph (C), (D) or (E) or said subsection (i),  
572 except that if the date of the treatment requires leave to begin in less  
573 than thirty days, the employee shall provide such notice as is  
574 practicable.

575 (g) In any case in which [a husband and wife] two spouses entitled  
576 to leave under subsection (a) of this section are employed by the same  
577 employer, the aggregate number of workweeks of leave to which both  
578 may be entitled may be limited to [sixteen] twelve workweeks during  
579 any [twenty-four-month] twelve-month period, if such leave is taken:  
580 (1) Under subparagraph (A) or (B) of subdivision (2) of subsection (a)  
581 of this section; or (2) to care for a sick sibling, son or daughter,  
582 grandparent, grandchild, parent or any other individual related by  
583 blood or whose close association with the employee is the equivalent  
584 of a family member under subparagraph (C) of said subdivision. In  
585 any case in which [a husband and wife] two spouses entitled to leave  
586 under subsection (i) of this section are employed by the same  
587 employer, the aggregate number of workweeks of leave to which both  
588 may be entitled may be limited to twenty-six workweeks during any  
589 twelve-month period.

590 (h) Unpaid leave taken pursuant to sections 5-248a and 31-51kk to  
591 31-51qq, inclusive, as amended by this act, shall not be construed to  
592 affect an employee's qualification for exemption under chapter 558.

593 (i) Subject to section 31-51mm, as amended by this act, an eligible  
594 employee who is the spouse, son or daughter, parent or next of kin of a  
595 current member of the armed forces, as defined in section 27-103, who  
596 is undergoing medical treatment, recuperation or therapy, is otherwise  
597 in outpatient status or is on the temporary disability retired list for a  
598 serious injury or illness incurred in the line of duty shall be entitled to  
599 a one-time benefit of twenty-six workweeks of leave during any  
600 twelve-month period for each armed forces member per serious injury  
601 or illness incurred in the line of duty. Such twelve-month period shall  
602 commence on an employee's first day of leave taken to care for a  
603 covered armed forces member and end on the date twelve months  
604 after such first day of leave. For the purposes of this subsection, (1)  
605 "next of kin" means the armed forces member's nearest blood relative,  
606 other than the covered armed forces member's spouse, parent, son or  
607 daughter, in the following order of priority: Blood relatives who have  
608 been granted legal custody of the armed forces member by court  
609 decree or statutory provisions, brothers and sisters, grandparents,  
610 aunts and uncles, and first cousins, unless the covered armed forces  
611 member has specifically designated in writing another blood relative  
612 as his or her nearest blood relative or any other individual whose close  
613 association with the employee is the equivalent of a family member for  
614 purposes of military caregiver leave, in which case the designated  
615 individual shall be deemed to be the covered armed forces member's  
616 next of kin; and (2) "son or daughter" means a biological, adopted or  
617 foster child, stepchild, legal ward or child for whom the eligible  
618 employee or armed forces member stood in loco parentis and who is  
619 any age.

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

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

626 Sec. 16. Section 31-51mm of the general statutes is repealed and the  
627 following is substituted in lieu thereof (*Effective July 1, 2021*):

628 (a) An employer may require that request for leave based on a  
629 serious health condition in subparagraph (C) or (D) of subdivision (2)  
630 of subsection (a) of section 31-51ll, as amended by this act, or leave  
631 based on subsection (i) of section 31-51ll, as amended by this act, be  
632 supported by a certification issued by the health care provider of the  
633 eligible employee or of the spouse, sibling, son [,] or daughter,  
634 [spouse] grandparent, grandchild, parent, [or] next of kin or any other  
635 individual related by blood or whose close association with the  
636 employee is the equivalent of a family member of the employee, as  
637 appropriate. The employee shall provide, in a timely manner, a copy of  
638 such certification to the employer.

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

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

642 (2) The probable duration of the condition;

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

645 (4) (A) For purposes of leave under subparagraph (C) of subdivision  
646 (2) of subsection (a) of section 31-51ll, as amended by this act, a  
647 statement that the eligible employee is needed to care for the spouse,  
648 sibling, son [,] or daughter, [spouse or] grandparent, grandchild,  
649 parent or any other individual related by blood or whose close  
650 association with the employee is the equivalent of a family member  
651 and an estimate of the amount of time that such employee needs to  
652 care for the spouse, sibling, son [,] or daughter, [spouse or]  
653 grandparent, grandchild, parent or any other individual related by  
654 blood or whose close association with the employee is the equivalent  
655 of a family member; and (B) for purposes of leave under subparagraph  
656 (D) of subdivision (2) of subsection (a) of section 31-51ll, as amended

657 by this act, a statement that the employee is unable to perform the  
658 functions of the position of the employee;

659 (5) In the case of certification for intermittent leave or leave on a  
660 reduced leave schedule for planned medical treatment, the dates on  
661 which such treatment is expected to be given and the duration of such  
662 treatment;

663 (6) In the case of certification for intermittent leave or leave on a  
664 reduced leave schedule under subparagraph (D) of subdivision (2) of  
665 subsection (a) of section 31-511l, as amended by this act, a statement of  
666 the medical necessity of the intermittent leave or leave on a reduced  
667 leave schedule, and the expected duration of the intermittent leave or  
668 reduced leave schedule;

669 (7) In the case of certification for intermittent leave or leave on a  
670 reduced leave schedule under subparagraph (C) of subdivision (2) of  
671 subsection (a) of section 31-511l, as amended by this act, a statement  
672 that the employee's intermittent leave or leave on a reduced leave  
673 schedule is necessary for the care of the spouse, sibling, son [,] or  
674 daughter, grandparent, grandchild, parent [or spouse] or any other  
675 individual related by blood or whose close association with the  
676 employee is the equivalent of a family member who has a serious  
677 health condition, or will assist in their recovery, and the expected  
678 duration and schedule of the intermittent leave or reduced leave  
679 schedule; and

680 (8) In the case of certification for intermittent leave or leave on a  
681 reduced leave schedule under subsection (i) of section 31-511l, as  
682 amended by this act, a statement that the employee's intermittent leave  
683 or leave on a reduced leave schedule is necessary for the care of the  
684 spouse, son or daughter, parent or next of kin who is a current member  
685 of the armed forces, as defined in section 27-103, who is undergoing  
686 medical treatment, recuperation or therapy, is otherwise in outpatient  
687 status or is on the temporary disability retired list, for a serious injury  
688 or illness incurred in the line of duty, and the expected duration and  
689 schedule of the intermittent leave or reduced leave schedule. For the

690 purposes of this subsection, "son or daughter" and "next of kin" have  
691 the same meanings as provided in subsection (i) of section 31-511l, as  
692 amended by this act.

693 (c) (1) In any case in which the employer has reason to doubt the  
694 validity of the certification provided under subsection (a) of this  
695 section for leave under subparagraph (C) or (D) of subdivision (2) of  
696 subsection (a) or under subsection (i) of section 31-511l, as amended by  
697 this act, the employer may require, at the expense of the employer, that  
698 the eligible employee obtain the opinion of a second health care  
699 provider designated or approved by the employer concerning any  
700 information certified under subsection (b) of this section for such leave.

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

704 (d) (1) In any case in which the second opinion described in  
705 subsection (c) of this section differs from the opinion in the original  
706 certification provided under subsection (a) of this section, the  
707 employer may require, at the expense of the employer, that the  
708 employee obtain the opinion of a third health care provider designated  
709 or approved jointly by the employer and the employee concerning the  
710 information certified under subsection (b) of this section.

711 (2) The opinion of the third health care provider concerning the  
712 information certified under subsection (b) of this section shall be  
713 considered to be final and shall be binding on the employer and the  
714 employee.

715 (e) The employer may require that the eligible employee obtain  
716 subsequent recertifications on a reasonable basis, provided the  
717 standards for determining what constitutes a reasonable basis for  
718 recertification may be governed by a collective bargaining agreement  
719 between such employer and a labor organization which is the  
720 collective bargaining representative of the unit of which the worker is  
721 a part if such a collective bargaining agreement is in effect. Unless

722 otherwise required by the employee's health care provider, the  
723 employer may not require recertification more than once during a  
724 thirty-day period and, in any case, may not unreasonably require  
725 recertification. The employer shall pay for any recertification that is not  
726 covered by the employee's health insurance.

727 Sec. 17. Section 31-51oo of the general statutes is repealed and the  
728 following is substituted in lieu thereof (*Effective July 1, 2021*):

729 Records and documents relating to medical certifications,  
730 recertifications or medical histories of employees or employees' family  
731 members, created for purposes of sections 5-248a and 31-51kk to 31-  
732 51qq, inclusive, as amended by this act, and sections 2 to 13, inclusive,  
733 of this act shall be maintained as medical records pursuant to chapter  
734 563a, except that: (1) Supervisors and managers may be informed  
735 regarding necessary restrictions on the work or duties of an employee  
736 and necessary accommodations; (2) first aid and safety personnel may  
737 be informed, when appropriate, if the employee's physical or medical  
738 condition might require emergency treatment; and (3) government  
739 officials investigating compliance with sections 5-248a and 31-51kk to  
740 31-51qq, inclusive, as amended by this act, and sections 2 to 13,  
741 inclusive, of this act, or other pertinent law shall be provided relevant  
742 information upon request.

743 Sec. 18. Section 31-51pp of the general statutes is repealed and the  
744 following is substituted in lieu thereof (*Effective July 1, 2021*):

745 (a) (1) It shall be a violation of sections 5-248a and 31-51kk to 31-  
746 51qq, inclusive, as amended by this act, for any employer to interfere  
747 with, restrain or deny the exercise of, or the attempt to exercise, any  
748 right provided under said sections.

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



754 such employee under said sections.

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

759 (1) Has filed any charge, or has instituted or caused to be instituted  
760 any proceeding, under or related to sections 5-248a and 31-51kk to 31-  
761 51qq, inclusive, as amended by this act;

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

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

767 (c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive,  
768 as amended by this act, for any employer to deny an employee the  
769 right to use up to two weeks of accumulated sick leave or to discharge,  
770 threaten to discharge, demote, suspend or in any manner discriminate  
771 against an employee for using, or attempting to exercise the right to  
772 use, up to two weeks of accumulated sick leave to attend to a serious  
773 health condition of a spouse, sibling, son or daughter, [spouse or]  
774 grandparent, grandchild, parent or any other individual related by  
775 blood or whose close association with the employee is the equivalent  
776 of a family member of the employee, or for the birth or adoption of a  
777 son or daughter of the employee. For purposes of this subsection, "sick  
778 leave" means an absence from work for which compensation is  
779 provided through an employer's bona fide written policy providing  
780 compensation for loss of wages occasioned by illness, but does not  
781 include absences from work for which compensation is provided  
782 through an employer's plan, including, but not limited to, a short or  
783 long-term disability plan, whether or not such plan is self-insured.

784 (2) Any employee aggrieved by a violation of this subsection may

785 file a complaint with the Labor Commissioner alleging violation of the  
786 provisions of this subsection. Upon receipt of any such complaint, the  
787 commissioner shall hold a hearing. After the hearing, the  
788 commissioner shall send each party a written copy of the  
789 commissioner's decision. The commissioner may award the employee  
790 all appropriate relief, including rehiring or reinstatement to the  
791 employee's previous job, payment of back wages and reestablishment  
792 of employee benefits to which the employee otherwise would have  
793 been eligible if a violation of this subsection had not occurred. Any  
794 party aggrieved by the decision of the commissioner may appeal the  
795 decision to the Superior Court in accordance with the provisions of  
796 chapter 54.

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

800 Sec. 19. Section 31-51qq of the general statutes is repealed and the  
801 following is substituted in lieu thereof (*Effective July 1, 2020*):

802 [On or before January 1, 1997] Not later than July 1, 2021, the Labor  
803 Commissioner shall adopt regulations, in accordance with the  
804 provisions of chapter 54, to establish procedures and guidelines  
805 necessary to implement the provisions of sections [5-248a and] 31-51kk  
806 to 31-51qq, inclusive, as amended by this act, and sections 2 to 13,  
807 inclusive, of this act, including, but not limited to, procedures for  
808 hearings and redress, including restoration and restitution, for an  
809 employee who believes that there is a violation by the employer of  
810 such employee of any provision of said sections. [In adopting such  
811 regulations, the commissioner shall make reasonable efforts to ensure  
812 compatibility of state regulatory provisions with similar provisions of  
813 the federal Family and Medical Leave Act of 1993 and the regulations  
814 promulgated pursuant to said act.]

815 Sec. 20. (*Effective from passage*) (a) For the purposes described in this  
816 section, the State Bond Commission shall have the power, from time to  
817 time, to authorize the issuance of bonds of the state in one or more

818 series and in principal amounts not exceeding in the aggregate twenty  
819 million dollars.

820 (b) The proceeds of the sale of said bonds, to the extent of the  
821 amount stated in subsection (a) of this section, shall be used by the  
822 Labor Department for the purpose of the Family and Medical Leave  
823 Insurance Program established in section 2 of this act, provided (1) ten  
824 million dollars of the amount stated in subsection (a) of this section  
825 shall be used for start-up costs in fiscal year 2020, and (2) ten million  
826 dollars of the amount stated in subsection (a) of this section shall be  
827 used for start-up costs in fiscal year 2021.

828 (c) All provisions of section 3-20 of the general statutes, or the  
829 exercise of any right or power granted thereby, which are not  
830 inconsistent with the provisions of this section are hereby adopted and  
831 shall apply to all bonds authorized by the State Bond Commission  
832 pursuant to this section, and temporary notes in anticipation of the  
833 money to be derived from the sale of any such bonds so authorized  
834 may be issued in accordance with said section 3-20 and from time to  
835 time renewed. Such bonds shall mature at such time or times not  
836 exceeding twenty years from their respective dates as may be provided  
837 in or pursuant to the resolution or resolutions of the State Bond  
838 Commission authorizing such bonds. None of said bonds shall be  
839 authorized except upon a finding by the State Bond Commission that  
840 there has been filed with it a request for such authorization which is  
841 signed by or on behalf of the Secretary of the Office of Policy and  
842 Management and states such terms and conditions as said commission,  
843 in its discretion, may require. Said bonds issued pursuant to this  
844 section shall be general obligations of the state and the full faith and  
845 credit of the state of Connecticut are pledged for the payment of the  
846 principal of and interest on said bonds as the same become due, and  
847 accordingly and as part of the contract of the state with the holders of  
848 said bonds, appropriation of all amounts necessary for punctual  
849 payment of such principal and interest is hereby made, and the State  
850 Treasurer shall pay such principal and interest as the same become  
851 due.

852 Sec. 21. Section 3-13c of the general statutes is repealed and the  
853 following is substituted in lieu thereof (*Effective July 1, 2019*):

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

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>January 1, 2020</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>July 1, 2021</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>July 1, 2021</i>	31-51kk
Sec. 15	<i>July 1, 2021</i>	31-51ll
Sec. 16	<i>July 1, 2021</i>	31-51mm
Sec. 17	<i>July 1, 2021</i>	31-51oo
Sec. 18	<i>July 1, 2021</i>	31-51pp
Sec. 19	<i>July 1, 2020</i>	31-51qq
Sec. 20	<i>from passage</i>	New section
Sec. 21	<i>July 1, 2019</i>	3-13c

**Statement of Legislative Commissioners:**

In Section 20(b)(1) and (2), the references to fiscal years 2019 and 2020 were changed to 2020 and 2021, respectively, for accuracy.

**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 20 \$	FY 21 \$	FY 22 \$
Labor Dept.	GF - Cost	None	None	300,000 - 625,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	None	None	114,689 - 238,938
Treasurer	GF - Cost	Up to 75,000	None	None
Treasurer, Debt Serv.	GF - Cost	None	Up to 500,000	Up to 2,000,000
Labor Dept.; Treasurer	Family and Medical Leave Insurance Trust Fund - Cost / Revenue	See Below	See Below	See Below

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 20 \$	FY 21 \$	FY 22 \$
Various Municipalities	Potential Cost	None	None	See Below

**Explanation**

The bill: 1) expands the state's current Family Medical Leave Act (FMLA) as it applies to the private sector; and 2) establishes a Family and Medical Leave Insurance (FMLI) program. This results in a significant annual state cost beginning as early as FY 20. The impact is explained in detail below.

**FAMILY MEDICAL LEAVE ACT EXPANSION**

<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 38.23% of payroll in FY 20 and FY 21.

The bill expands the FMLA by reducing, from 75 to one, the minimum number of employees that makes an employer subject to FMLA beginning July 1, 2021. The bill also extends allowable leave under FMLA to caring for grandparents, grandchildren, siblings, all other blood relatives, or those with a “close association...the equivalent of a family member” in addition to relatives covered under current law. In addition, the bill extends the benefit from 16 weeks every 24 months to 12 weeks every 12 months. The FMLA expansion aligns with the terms of the FMLI program.

### **Expanded FMLA Administrative Costs**

The expansion of the existing FMLA program results in a cost to the Department of Labor (DOL) of between \$414,690 and \$863,938 beginning in FY 21, associated with hiring between four and eight additional staff. At the top of the range, DOL would need to hire two Principal Attorneys (\$100,000 for salary and \$38,230 for fringe benefit costs), five Staff Attorneys (\$75,000 for salary and \$28,673 each for fringe benefit costs), and one Administrative Assistant (\$50,000 for salary and \$19,115 for fringe benefit costs).

The estimate is based on the current costs for handling all FMLA inquiries and investigating complaints of alleged violations. There are currently approximately 2,900 employers with 840,000 employees covered by existing FMLA law; under the bill’s FMLA expansion, an estimated 103,600 employers with approximately 1,456,000 employees will be covered.<sup>2</sup>

## **FAMILY AND MEDICAL LEAVE INSURANCE**

### **FMLI Program – Start-up Costs**

The bill establishes the FMLI program to provide wage replacement benefits to covered employees taking leave under certain circumstances. The program will incur start up administrative costs to

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<sup>2</sup> Source: Department of Labor

DOL of at least \$13.6 million prior to FY 22. The start-up costs include approximately \$4.7 million in salaries and fringe benefit costs, \$7.7 million for information technology, \$776,700 for overhead and capital needs, and \$340,000 for outreach and marketing.<sup>3</sup>

The bill includes an authorization of \$20 million of General Obligation (GO) bonds (\$10 million for start-up costs in each of FY 20 and FY 21). To the extent that the bonding authorized in the bill is fully allocated and expended, debt repayment of up to \$500,000 on the bonds could begin as early as FY 20. Total debt service costs for \$20 million of GO bonds issued at market rates in FY 19 and FY 20 is estimated to be approximately \$30 million between FY 20 and FY 40.

The bill results in one-time costs to the State Treasurer associated with the establishment of the FMLI Trust Fund of up to \$75,000, which includes funding for legal fees and asset allocation consultation.

Though bond funds are authorized for DOL's programmatic start-up costs, it is possible they will be allocated in such a manner as to allow their use for costs incurred by the Office of the State Treasurer.

The bill specifies that any funds expended from the General Fund for the purpose of administering the FMLI program, or providing compensation to employees, be reimbursed no later than October 1, 2021.<sup>4</sup>

### **FMLI Program - Ongoing Costs**

There will be ongoing annual administrative and investment costs associated with the FMLI as a result of the bill. Beginning in FY 21, the

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<sup>3</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.

<sup>4</sup> This analysis assumes that the debt service costs associated with the bonds authorized within the bill will not be repaid by the FMLI Trust Fund, as the majority of the debt repayment would not be incurred until after the October 1, 2021 FMLI Trust Fund repayment date.



ongoing administrative expenses are estimated to be at least \$18.6 million annually, including fringe benefits.<sup>5</sup>

The bill specifies the ongoing costs of administering the FMLI program are to be covered by the FMLI Trust Fund, which receives revenue from employee contributions. Such contributions are required to be collected by the start of FY 21. To the extent that there are ongoing administrative and investment costs prior to funding being available in the FMLI and prior to October 1, 2021, these costs are assumed to be paid through the General Fund, and later reimbursed by the FMLI Trust Fund.

### **FMLI State Employee Impact**

The bill separates state employees into two categories for the purpose of FMLI program participation: employees with and without a collective bargaining unit.

#### *State Employees with a Bargaining Unit*

For those state employees with a collective bargaining unit, the bill allows these state employees to opt-in through collective bargaining. To the extent that otherwise excluded employees participate in the program through collective bargaining agreements, there is the potential for increased costs to the state beginning in FY 22 associated with the expansion of leave benefits and subject to the negotiated terms that allow them to participate in the program.

#### *State Employees without a Bargaining Unit*

The bill includes state employees without a collective bargaining unit in the FMLI program from its establishment. As there is no employer contribution, there is no expected impact to the state from their participation through FY 21. Beginning in FY 22, there is potential for a minimal increase in personnel costs, which is largely mitigated in

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<sup>5</sup> Source: "Implementing Paid Family and Medical Leave Insurance Connecticut" Institute for Women's Policy Research, 2015 pursuant to a contract with the Labor Department

three key ways: 1) the share of state employees covered is relatively low; 2) accumulation of overtime or other shift-covering personnel requirements is uncommon for non-collective bargaining unit employees; and 3) the impact of the program represents a marginal increase in use of leave compared to use under current law.

State employees who are not covered by a collective bargaining unit represent a relatively small portion of the state workforce. For example, approximately 11 percent of full-time equivalents paid from the General Fund are employees without a collective bargaining unit.

An increase in personnel costs would only be expected to occur in situations where overtime, temporary hires, or other measures were necessary to ensure proper employee coverage. Non-collective bargaining unit employees are highly unlikely to be in positions where such shift coverage concerns are present. For example, less than \$630,000 of General Fund overtime costs were incurred by non-collectively bargaining employees in FY 18, which represents less than 0.3% of all General Fund overtime costs in that year.

Lastly, the potential increase in personnel costs refers only to the marginal increase in leave taken or extended due to the availability of paid leave, where shorter or no leave would have been taken in absence of the program. The marginal nature of the increase here also applies to potential increases for collectively bargained state employees (discussed above) and municipal employees (discussed below).

### **FMLI Municipal Employee Impact**

The bill excludes municipal employees from participation in the FMLI program. However, as with state employees who are covered by a collective bargaining unit, the bill allows these municipal employees to opt-in through collective bargaining. Current law does not preclude municipal employees from collectively bargaining for any type of paid leave program. To the extent that municipal employees choose to collectively bargain for the FMLI benefits established by the

underlying bill, there is a cost to municipal employers associated with the expansion of leave benefits. Such costs would be subject to the terms of municipal collective bargaining agreements.

The bill also specifies that municipal employees outside of collective bargaining units would not be participants in the program until and unless a collective bargaining unit of their municipality negotiates inclusion into the program. As collectively bargained employees are estimated to represent greater than 95% of municipal employees, there is limited potential for increased municipal costs from inclusion of non-collectively bargaining municipal employees in the program, similar to the potential for minimal costs described for state employees outside of collective bargaining units.

### ***The Out Years***

Ongoing costs for FMLI program administration and employee compensation are expected to be funded by revenues generated by employee contributions and the proceeds of investments of the resources of the FMLI Trust Fund beginning in FY 21.

The increased administrative cost for the expansion of existing FMLA benefits will begin in FY 22.

The annualized ongoing fiscal impact of FMLI and the expansion of FMLA will continue into the future subject to inflation.

Repayment of GO bonds would occur according to the debt service repayment schedule established when the bonds are issued.

**OLR Bill Analysis****sHB 5003*****AN ACT IMPLEMENTING A PAID FAMILY MEDICAL LEAVE PROGRAM.***

This bill creates the Family and Medical Leave Insurance (FMLI) program to provide wage replacement benefits to certain employees taking leave for reasons allowed 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 FMLI benefits over a 12-month period in an amount equal to 100% of the employee's weekly earnings, up to a maximum of \$1,000 per week (or an inflation-adjusted equivalent). The program also provides two additional weeks of benefits for a serious health condition that occurs during pregnancy and results in incapacitation.

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

1. people who earned at least \$2,325 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 one employee or (b) unemployed;
2. sole practitioners and self-employed people who enroll in the program; and
3. “covered public employees.”

Covered public employees include those who are (1) employed in state service (i.e., state employees), but are not in a collective bargaining unit and (2) state, municipal, or local or regional board of education (BOE) employees who collectively bargain to join the program. Once a municipal employer or BOE collectively bargains to

include one of its bargaining units in the program, any of the municipality's or BOE's employees who are not part of a collective bargaining unit also become covered public employees.

The bill requires the Department of Labor (DOL) to administer the FMLI 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 July 1, 2020, DOL must begin collecting contributions from (1) private-sector employees, (2) the self-employed and sole proprietors who enroll in the program, and (3) covered public employees. The program must begin paying FMLI benefits by July 1, 2021. Anyone aggrieved by a denial of benefit may file a complaint with the labor commissioner.

The bill caps employee contributions at 0.5% of an employee's earnings. It also caps the amount of an employee's earnings subject to contributions at the amount of earnings subject to Social Security taxes (currently \$132,900). However, if employee contributions are not sufficient to ensure the program's solvency, DOL, subject to legislative approval, must increase the amount of employee earnings subject to contributions to an amount that ensures the program's solvency.

The program is funded by employee contributions, although the bill also authorizes up to \$20 million in bonds (\$10 million in FY 20 and \$10 million in FY 21) to pay for the program's start-up costs. Any funds expended from the General Fund to administer the program or provide benefits must be reimbursed to the General Fund by October 1, 2021. The bill establishes the FMLI Trust Fund, administered by the state treasurer, to hold employee contributions and pay for FMLI benefits and administrative costs.

Starting on July 1, 2021, (when the FMLI program begins paying benefits), the bill also changes various provisions of the state's FMLA, which generally requires certain private-sector employers to provide job-protected unpaid leave to employees for various reasons related to their health or their family members' health. Among other things, the

bill:

1. extends the FMLA to cover private-sector employers with at least one, rather than 75, employees;
2. changes the criteria for employees to qualify for leave from (a) 12 months of employment and 1,000 work-hours with their employer to (b) having earned at least \$2,325 from one or more employers during their highest earning quarter within the five most recently completed calendar quarters;
3. changes the maximum FMLA leave allowed from 16 weeks over a 24-month period to 12 weeks over a 12-month period, and allows an additional two weeks of leave due to a serious health condition that occurs during pregnancy and results in incapacitation;
4. 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;
5. adds to the family members for whom an employee can take FMLA leave to include the employee's siblings, grandparents, grandchildren, and anyone else related by blood or whose close association with the employee is the equivalent of a family member; and
6. requires employers to allow their employees to use up to two weeks of any employer-provided paid sick leave for the serious health condition of the employee's sibling, grandparent, and grandchild (including each of those related by marriage) and anyone else related by blood or whose close association with the employee is the equivalent of a family member.

The bill requires the labor commissioner to adopt regulations by July 1, 2021, to implement the FMLI 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) extend requirements for funds administered by the treasurer to the FMLI Trust Fund are effective July 1, 2019; (2) require DOL to conduct a public education campaign are effective January 1, 2020; (3) require the labor commissioner to adopt regulations are effective July 1, 2020; and (4) establish employer notice requirements and affect the terms of the current family and medical leave laws are effective July 1, 2021.

## **FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM**

### ***Administration (§§ 2, 6, 19, & 20)***

The bill establishes the FMLI program and requires DOL to administer it. It authorizes DOL to do the following:

1. determine if a person is eligible for FMLI;
2. require a covered employee to provide certification from a health care provider or certain other documents related to family violence leave to support the employee's FMLI 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 FMLI claim;
5. establish procedures and forms for filing FMLI 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 FMLI 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 implement the program and educate the public about it; and
3. submit a report to the General Assembly by January 1, 2020, with recommendations for legislative action needed to implement the program.

The bill requires the labor commissioner, by July 1, 2021, to adopt regulations to establish the procedures and guidelines needed to implement the (1) FMLI program and (2) bill's related changes to the private-sector FMLA. 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.

The bill authorizes the State Bond Commission to authorize an aggregate of up to \$20 million in general obligation bonds, with \$10 million of the proceeds to be used by DOL for the program's start-up costs in FY 20 and again in FY 21.

### ***Employee Contributions (§§ 2 & 6)***

The bill requires DOL to begin collecting employee contributions to the FMLI Trust Fund by July 1, 2020. Private-sector employees (except nonpublic elementary or secondary school employees), covered public employees, and the self-employed and sole proprietors who opt in to the program must contribute a percentage of their weekly earnings to the trust fund in a manner the commissioner prescribes.

“Employers” under the bill are private-sector employers (except



nonpublic elementary or secondary schools) with at least one employee. DOL must determine the number of employees of an employer as of October first each year. The state, municipalities, and local or regional boards of education are also employers under the bill, but only for each of their covered public employees (they are not considered employers for employees who are not covered public employees).

The bill requires DOL to determine the amount of contributions necessary to ensure (1) the program's solvency and (2) that contributions total at least \$4 million per month. It caps an employee's contributions at 0.5% of his or her weekly earnings. It also uses the Social Security contribution base (i.e., amount of earnings subject to Social Security taxes, currently \$132,900) to cap the annual amount of an employee's earnings subject to contributions, but this cap may be exceeded to protect the program's solvency (see "Solvency Adjustment" below).

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 self-employed people or sole proprietors to participate;
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 for (1) providing FMLI benefits, (2) educating and informing people about the program, and (3) paying the trust's (presumably, the program's) operational, administrative, and investment costs.

### ***FMLI Benefits (§ 2)***

The bill requires DOL, by July 1, 2021, to begin paying FMLI benefits to covered employees who file claims. The program must

provide up to 12 weeks of FMLI benefits to covered employees during any 12-month period, plus two additional weeks of benefits for a serious health condition that occurs during a pregnancy and results in incapacitation.

Under the bill, a covered employee's weekly benefit is 100% of his or her weekly earnings, but it cannot be more than \$1,000 per week or an inflation adjusted equivalent. If the IRS determines that the 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 (in practice, the employee may not have a choice of whether to have taxes withheld, depending on the IRS's determination).

Starting July 1, 2022, and by July 15 each following year, the bill requires the labor commissioner to annually announce an adjustment to the 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, rounding the increase amount to the nearest five cents. The adjusted benefit cap takes effect on the following January first.

### ***Solvency Adjustment***

If employee contributions are at the maximum allowed rate (0.5%), but DOL determines that it is not enough to ensure the program's solvency, the bill requires the department to increase the amount of earnings subject to contributions to an appropriate amount that exceeds the Social Security contribution base (see "Employee Contributions" above) in order to ensure the program's solvency. However, DOL may not increase the amount of earnings subject to contributions unless the legislature approves it by resolution.

To do so, the bill requires DOL to submit the proposed increase to the legislature, where it must be referred to the Labor and Public Employees Committee. The legislature may reject the proposal by a three-fifths vote of each house, but if the legislature fails to vote on it within 30 days after DOL submits it, the proposal will be deemed approved.

***Benefit Uses (§§ 2 & 15)***

The bill generally allows a covered employee to receive FMLI benefits for leave taken for the same reasons allowed under the state's FMLA, as amended by the bill, or family violence leave law.

Under current law, 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, son's, daughter'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 services 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.

Since the bill also adds to the family members for whom an employee can take FMLA leave (see "Changes to Current FMLA,

below), FMLI benefits will also be available for these types of leave. Under the bill, the added family members include the employee's siblings, grandparents, grandchildren, and anyone else related by blood or whose close association with the employee is the equivalent of a family member (presumably, DOL will establish how to determine such associations). Although the FMLA allows leave under certain circumstances when certain family members are in the armed forces and on active duty or have been notified of an impending call or order to active duty, the bill does not provide FMLI benefits for employees on this type of leave.

To qualify for benefits under the bill, an employee must notify DOL and his or her employer, if applicable, of the need for FMLI 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 a four-hour minimum in any work week. If an employee takes benefits for at least four 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 FMLI 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 FMLI benefits concurrently with unemployment compensation benefits or workers' compensation benefits.

#### ***Participation by Sole Proprietors and the Self-Employed (§ 8)***

The bill allows sole proprietors and the self-employed to enroll in the FMLI program and includes them in its definition of "covered employees" and "employees." They must apply to DOL for enrollment in the program in a form and manner the department prescribes. Their initial enrollment must be for a term of at least three years and they

will be automatically re-enrolled for subsequent periods of at least one year beginning immediately after their current period of participation in the program. They can withdraw from the program by submitting a written notice to DOL (1) at least 30 days before their initial or subsequent enrollment period expires or (2) at other times the department may prescribe by rule.

### ***Complaints and Enforcement (§§ 9 & 11)***

The bill allows an FMLI 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 may 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 FMLI 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 FMLI 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.

### **§§ 3-5 & 21 — THE FMLI TRUST FUND**

#### ***Trust Fund***

The bill establishes the FMLI Trust Fund to provide FMLI 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) FMLI 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 government 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 (CGS § 3-61a). 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 may 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 FMLI 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 he 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 (1) any obligations of the state or its political subdivisions or (2) 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.

## **§ 7 — FMLI PUBLIC EDUCATION CAMPAIGN**

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The bill requires DOL, in consultation with the state treasurer, to conduct a public education campaign to inform the public and employers about the FMLI 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 FMLI 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.

### **§ 10 — EMPLOYER NOTICE REQUIREMENT**

Starting July 1, 2021, the bill requires employers to notify their employees at the time of hiring and every year thereafter:

1. of their entitlement to family and medical leave, as amended by the bill, and family violence leave, 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.

The labor commissioner may adopt regulations to establish additional requirements about how employers must provide notice.

### **§ 12 — SEVERABILITY AND EXCEPTIONS**

The bill specifies that its FMLI provisions are severable, and if any are found to contravene state or federal law, then the remainder remain in full force and effect.

It also specifies that nothing in its FMLI provisions or the state FMLA, as amended by the bill, (1) prevents employers from providing



more expansive benefits; (2) diminishes any rights provided under a collective bargaining agreement; or (3) interferes with, impedes, or diminishes the right of any employee to collectively bargain for wages or working conditions that exceed the minimums established in the bill's FMLI program or the state FMLA.

### **§ 13 — REPORT REQUIREMENT**

Beginning by July 1, 2022, 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 size of employers at which covered employees are employed;
4. the reasons why covered employees are receiving FMLI 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.

### **§§ 14-19 — CHANGES TO CURRENT FMLA**

#### ***Covered Employers & Employee Eligibility (§ 14)***

Current law requires private-sector employers with at least 75 employees to provide eligible employees with unpaid FMLA leave. The bill reduces this employee threshold from 75 to one.

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 employees eligible if they earned at least \$2,325 from one or more employers during their highest earning quarter within the five most recently completed calendar quarters.

#### ***Maximum Leave Duration (§ 15)***

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. It also allows an additional two weeks of leave due to a serious health condition that occurs during pregnancy and results in incapacitation.

#### ***Uses of Leave for Serious Health Conditions (§ 14)***

Current law allows employees to take leave for their own serious health condition or to provide care when their children who are either under age 18 or unable to care for themselves, their spouses, or their parents (including in-laws) have a serious health condition.

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 and through foster care. Siblings, grandparents, and grandchildren also include those related by marriage. The bill also allows an employee to take leave to care for anyone else with a serious health condition if they are related by blood or have a close association with the employee that is equivalent to a family member.

#### ***Military Caregiver Leave (§ 15)***

The law allows employees covered by the FMLA to take a one-time benefit of up to 26 weeks of unpaid leave when certain family members or "next of kin" in the armed forces undergo treatment for an injury or illness incurred in the line of duty. The bill allows the injured armed forces member to designate someone as their "next of kin" (thus making him or her eligible for the leave and FMLI benefits) if their close association is the equivalent of a family member.

#### ***Employer-provided Paid Leave (§ 15)***

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, unchanged by the bill,

employees can opt to use their employer-provided paid leave while they are on FMLA leave.

Current law requires employers to allow their employees to use up to two weeks of their employer-provided paid sick leave for a spouse's or child's serious health condition or the birth or adoption of a child. The bill expands this requirement to include serious health conditions of siblings, grandparents, grandchildren, or anyone else related by blood or whose close association with the employee is equivalent to a family member.

### ***Confidentiality (§ 17)***

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 FMLI benefits.

## **BACKGROUND**

### ***Related Bill***

sSB 1, reported favorably by the Labor and Public Employees Committee, is identical to sHB 5003.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 5 (02/19/2019)