

Labor and Public Employees Committee JOINT FAVORABLE REPORT

Bill No.: SB-881
Title: AN ACT ESTABLISHING A PAID FAMILY AND MEDICAL LEAVE PROGRAM.
Vote Date: 3/21/2019
Vote Action: Joint Favorable
PH Date: 3/12/2019
File No.: 525

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SPONSORS OF BILL:

Governor Lamont

REASONS FOR BILL:

The bill will create the Family and Medical Leave Insurance (FMLI) program. This program would replace wage benefits up to twelve weeks of wages. It will extend the states FMLA to cove more private sector employers, change the employee requirements for leave eligibility and allow employees to take leave for a wider range of family members, siblings, grandparents, and grandchildren. The Governor's bill does recommend that the program is administered by the State Department of Labor or a quasi-public agency.

RESPONSE FROM ADMINISTRATION/AGENCY:

Comptroller Kevin Lembo: Supports this bill as it benefits both employees and employers. Employees need this program for a variety of reasons - when they or their family members have a serious illness, when they are fostering or adopting a child, or if they must take military leave. Citing a study of California's Family and Medical Leave Insurance Trust Fund, employers showed cost savings and/no additional costs to implement the program.

NATURE AND SOURCES OF SUPPORT:

State Representative Quentin Phipps: The Representative testified in support of SB 881, noting the hard working people of the state deserve to have a program that would allow them to take leave from work. He stated with a slight modification to the term "family" this bill would positively impact the lives of Connecticut residents. He believes times are shifting away from a traditional household and with changes to culture, economic, and social norms- households today require a new definition. He highlighted LGBTQ workers to less likely have biological families or partner supporters. He also mentioned 53% of Americans are both working and

caring for an older adult. 378,000 households in Connecticut comprise of individuals who live alone. These individuals would rely on someone to care for them in case of an emergency. Likewise, 80,000 residents live with an unmarried partner. He further stated in 2016, 32% of people reportedly took off work to care for another person- 42% of those persons were absent for work to care for someone with disabilities.

Jennifer Barahona, Fairfield Resident: Speaking as a social worker who deals with trauma, there is absolutely nothing more essential than connection with a caring, trusted loved one during critical life milestones. In her professional role, she spend the past 5 ½ years overseeing much of the recovery in Newtown from the shooting at Sandy Hook School. It is unconscionable that we put people in a position where they have to decide between going to work and caring for themselves or a sick/dying loved one. Each of us is vulnerable. It is shameful that this is looked on as a 'benefit' afforded only if you work in certain industries. Everyone deserves a chance to be with family when most needed or to care for oneself in the event of illness.

Janet Bellamy, Occupational Therapist, Visiting Nurses and Health Services of CT: She sees firsthand the difference made when an adult child is able to take time off to care for a parent. Often 24/7 care is required after hospitalization and few people can afford hundreds of dollars a day for private care. Paid family leave would allow one or two family member to provide consistent care without the stress of scheduling and lost wages. She asks that the language meet the needs of all workers, not just those who fit the standard narrow definition of a family. Many times people who play a significant role are not biological or legal family members. She also recommends against privatizing the management of this program because this would introduce a profit motive and not save the state money.

John Brady, Registered Nurse, Executive Vice President, AFT CT: Employees are forced to choose between caring for a loved one or financial security, which contributes to employee turnover, foreclosure on homes, bankruptcy and increased cost to the state in the form of a larger need for public assistance. The question is not do we want CT's residents to have the ability to care for loved ones, but rather do we want ALL of CT's residents to have it or only the well-to-do? CT residents deserve to have the ability to care for loved ones.

Kristen Chang, Canton Resident: In the absence of a public paid leave program, only those who are privileged are able to look for employment based on the benefits they offer, including paid medical leave. Most employers can't or don't offer such a program, and many employees do without this necessary benefit and suffer financial, emotional and sometimes physical consequences when faced with medical emergencies. Although providing some financial compensation, not receiving the applicant's full wages may hamper the ability for some people to use the program since many struggle just to make ends meet even with full wages.

Alberto Cifuentes, Jr., Doctoral Student/Research Assistant, UCONN, School of Social Work: As a community social worker and openly queer, he applauds Gov. Lamont for espousing this bill, however it does not include language that affirms an inclusive and expanded definition of family, particularly non-biological and chosen. Any paid program must protect the rights of the LGBTQ community. These people are often rejected/neglected at an early age and the effects of trauma and abuse are intensified. Paid family and medical leave

should not punish and discriminate against LGBTQ individuals who fall outside the prototype nuclear family. Healthcare is a basic human right and should not be denied to anyone.

Patrick Comerford, New Haven Resident: Although in general support, Paid Family Medical Leave is undeniably a queer issue and the Governor's bill is not fully inclusive of the diversity of family structures. He urges support only if it includes amended language with the definition of expanded family and offers full wage replacement. He urges passage of a comprehensive, accessible and real paid family and medical leave policy which is accessible to everyone.

Michael Dubreuil & Rachel Dubreuil, East Haddam Residents: Their testimony told of a series of life events where paid family leave would have greatly benefited their family since they did not have access to short time disability. It is imperative a high wage replacement is included or it will not truly take the burdens away. They urge passage of a comprehensive, accessible and real paid family and medical leave policy inclusive and accessible to all workers.

Merrill Gay, Executive Director, CT Early Childhood Alliance: His testimony urged support of a system that provides high wage replacement and job protection for all workers, expands the definition of family to include chosen family, is portable to the employee and based on earning rather than hours worked, covers at least 12 weeks of family and medical leave and is publicly administered through CT Department of Labor. This strengthens the long-term viability of the CT workforce.

Eric George, President, American Property Casualty Insurance Association: In support of the bill, but with suggested revisions. They think the state should take advantage of the experience and expertise of the private companies who have been providing popular, successful and efficient leave programs for decades. By creating a public/private partnership, the state, employers and the employees benefit. His testimony included several pages of suggested revisions/additions.

Kayla Goldfarb, Policy Analyst , CT Association for Human Services: They largely support the bill, but feel it could be strengthened by: providing high wage replacement and job protection for all workers, expanding the definition of family to include chosen family, make it portable to the employee based on earnings, not hours worked, cover up to at least 12 weeks of family and medical leave and administer the program through CT Department of Labor. This bill will boost the state's economic competitiveness.

Madeline Granato, Policy Manager, CT Women's Education and Legal Fund: Although largely supporting the bill, they recommend strengthening some of the elements to create a truly accessible and inclusive system. It is important to insure high wage replacement, include definitions that support LGBTQ families, and publicly administer the program to ensure transparency, lower costs and portability. Workers cannot wait any longer.

Bethany Hamilton, Associate Director, CT Alliance to End Sexual Violence: This bill will provide critical support to survivors and decrease the likelihood people would opt-out of necessary care in fear of losing their job. It creates opportunities for the most vulnerable members of our communities. People of color are significantly more likely to have employers who do not provide paid leave and have fewer financial resources to rely on during a

personal or family medical issue. An expanded definition of family would ensure all LGBTQ families are included in a paid family medical leave system.

William Hass, President/CEO, CT Council of Family Service Agencies: Middle class status often requires two full time incomes and families are struggling with a work-life balance. Enacting public policies providing parents with paid leave from work to care for their young children is critical for their healthy development. The return on investment for employers is also a benefit. It helps retain workers and saves employers' money through reduced turnovers costs. This bill helps level the playing field for employers of all sizes.

Shannon Jacovino, Director of Advocacy & Public Policy, Arc of CT: Workers with disabilities and their family members need access to paid leave in order to balance competing personal, financial and workplace responsibilities. They cited information relevant specifically for this group. As an example, they often experience greater financial insecurity and are more likely to face barriers to employment that can make the financial impact of unpaid time off particularly devastating. They balance their personal needs and lead to better overall health and well-being. They included a link in their testimony (<https://www.thearc.org/file/public-policydocument/Georgetown>) and urged legislators to read it to more fully understand the needs of this group.

Sam King, Marketing/Business Expansion, Blue Earth Compost: Opponents of this bill would have everyone believe that what is good for workers is bad for business. This is false and creates an insincere premise that the interest of employees and workers are diametrically opposed. When employees are faced with personal/family health issues, they are unable to give their full attention to their work and be distracted. This poses safety hazards. Accidents at work are much more costly and much less preferable than training a short-term replacement. It is small price to pay in return for knowing your employees are taken care of. This bill provides peace of mind to many people and is cost neutral .

Zak Leavy, Legislative and Political Advocate- Council 4 AFSCME: Supportive of the measure as it will provide families with an option to take a leave and not risk losing employment. Has concerns with sections of the bill that define administrator of the program. Believe that this should not be administered by a quasi-public agency and rather that the program should be housed by the Department of Labor as their workers are capable and excited about doing this work.

Elizabeth Litt, Newtown Resident: Believes that this program would allow people the opportunity to keep their jobs in the event of a family emergency. It creates a safety net. She shared that prior to living in CT, she lived in NY which has a PFML Program that she used. She stated that studies show bipartisan support for the legislation.

Sarah Locke, New Haven Resident: Shared the story of her own battle with cancer and how she had come to rely on her mother to help her through her treatments. She explained that they both quit their jobs which allowed them to get through the treatment process, but it meant that medical bills mounted and when she was cured, she faced financial hardships. If this program had existed, she may have faced different circumstances post treatment. She is concerned with a lack of inclusive and expanded definition of family. Stated that she herself is queer and unmarried and therefore her friends are her chosen family who would have helped her had her mother been unable to do so.

Sal Luciano, AFL-CIO: Supportive of the bill, but only with amendments that include an expanded definition of family, meaningful wage replacement as the bill only provides 90% of base weekly earnings, and ensuring that the plan is publicly administered.

Deborah McKenna, CT Employment Lawyer's Association: Many people will find themselves in need of a program like this at some point in their lives. CELA represents people who could benefit from a program like this. They do have concerns about the definition of family as it is presently written in the bill. They believe that it must be expanded to honor the many "shapes and sizes" that families come in, especially LGBTQ individuals. Explained that some critics argue that an expanded definition can mean that folks will abuse the system, but they argue if a certification process is used there should not be any abuses.

Tia Murphy, AARP: Unpaid caregivers are the backbone of the "long-term care system" and they often include the family members and friends of an ill individual. According to an AARP study, there are about 459,000 unpaid caregivers in CT, they provide about \$5.93 billion in care, and about 60% of them are employed, having to take time off from work to care for loved ones. They do have concerns about the current definition of family, citing that many of their members are "elder orphans" meaning they do not have family and live on their own, relying on friends to help. They urge an expansion of this definition.

Lorelei Ohagan, member of Greenwich Representative Town Meeting: As a working Mom supports the bill. It would bring zero cost to small business owners who seem to be the most opposed. Paid family leave helps support family and by its nature would provide cost savings to businesses. Women who took paid family leave were 40% less likely to receive food stamps according to the Institute for Policy Research in DC.

Daniel Parker, Haddam, CT: This bill would alleviate a lot of stresses families looking to have another child. The modern workplace does not prioritize family over business. Most families have to use their two week vacations when their babies are born, which is not nearly enough time. Paid family leave would help families be able to plan.

Lauren Pease, Hartford, CT: The bill would cover all workers regardless of who they need to care for, Grandparents, spouses, new born babies, and partners. Many people have to choose between financial security and the health of a loved one. This bill would extend the definition of family which would also broaden the scope of the outreach and allow a stability in a family that may have illness.

Ann Pratt, CT Citizen Action Group: Ann Pratt testified in support of SB 881 stating it will create a uniformed system of Paid Family Leave throughout the state. Ms. Pratt further indicated the bill would provide essential financial support when caring for a newborn child or a sick family member. Ms. Pratt requested the following issues to be addressed: 1) inclusive definition of family-to fit the needs of all families that extend beyond "traditional or nuclear definition of families" ; 2) Wage replacement-the disproportionate low-wage jobs occupied by people of color would hinder from participation in the program immediately; 3)Private option-"private plans are not any cheaper than a public plan and instead result in increased costs associated with administrative oversight and regulations"; 4) Public Administration-"must be publicly administered through Connecticut's Department of Labor to ensure transparency,

protect workers' privacy, and remove any profit incentive from a program that should already exist as a human right."

Gretchen Raffa, Director, Public Policy, Advocacy, & Strategic Engagement- Planned Parenthood Supports the bill, but requests amendments to the bill as it is written to add a more inclusive definition of "family." The following are reasons for this amendment: 1) LGBTQ workers- are nearly twice as likely to live alone than non-LGBTQ workers. 42% of the LGBTQ population stated they would rely heavily on a family or close friends in case of an emergency. 2) Working caregivers: 53% provide unpaid care to an older adult. 3)28% of households in CT consist of an individual who lives alone. 4) 80,000 CT residents live with an unmarried partner 5) 32% of people in the United States reported they have taken time off to care for a family member. A change to the family term would greatly benefit the LGBTQ community which is currently struggling from government recognition.

Aliya Robinson, Senior Vice President- Retirement and Compensation Policy: The ERISA Industry Committee is in support, but voiced concerns about the following: 1) Lack of preemption of local and municipal paid leave ordinances- "an effective state paid FMLA program should preempt local and municipal ordinances, providing employers with a single standard with which to comply while operating within a state; 2) The expanded definition of family member- the current proposal would result in a compliance burden for employers operating across multiple states as different states implement different definitions of family members; 3)Employee exemption from state program participation should not be conditioned on a majority vote of the employer's employees.

Jeff Shaw, Senior Director of Public Policy and Advocacy- The Alliance: The Alliance generally supports SB881, but wishes to address the following prior to final legislation: contract amounts for nonprofits that provide community services on behalf of the State must be adjusted to build in protections and ensure resources are available to cover increased costs such as funding vacancies or temporary workers at a sustainable rate.

Lisa Thomas is in support of SB 881.

Karlene Whonder is in support of SB 881.

NATURE AND SOURCES OF OPPOSITION:

John L. Cattelan, Executive Director, CT Alliance of YMCAs: Although not opposed to the implementation of paid family medical leave, they have concerns with the bill's language. This could put a financial burden on non-profit organizations that serve CT residents and provide financial aid. They suggest the following changes: Consider aligning the weekly payments with the current unemployment payments. Discuss a requirement that all employees must take their paid sick and vacation time before applying for paid family medical leave. Consider an opt-out provision for employees who do not want to participate in the program. Discuss requiring an employee to work 12 months and work 1,000 hours before they are eligible to participate in the program. Consider requiring all paid family leave be taken concurrently and an employee only use 12 weeks of leave during a two-year period. They support the definition that allows the program be used only for a family member with a serious health condition.

Dr. Mark Albin, Eva Ceranowicz, DVM. CT Veterinary Medical Association: They understand and support the idea that with the evolution of extended families, people need time to care for their family members. Their concern is the proposed solution which will make businesses unable to provide customers with the goods/services they desire and lead to a decline in economic activity due to the potential displacement of employees. Veterinary hospitals have no source for temporary replacement employees who have the technical skills needed. For these small businesses to have to hold positions of 12 weeks has the potential to adversely affect the services and care for the animals. They ask the reasons for leave be clearly defined. Also noted concerns about payroll deductions. The impact of this bill on all businesses should be considered.

Patience Crozier, Senior Staff Attorney, GLBTQ Legal Advocates and Defenders: This legislation is particularly important to the LGBTQ community but they want the addition of language with the definitions of family. The most important omissions are the exclusion of non-marital partners. The law prohibits discrimination on the basis of marital status and the bill must allow committed, non-marital partners to access the protections by including definitions for domestic partners and family members. The word 'spouse' is too narrow and doesn't include or protect people who have legal relationships with the same rights and responsibilities of marriage. Adding "any other individual related by blood or whose close association with the employee is the equivalent of a family member", as in SB1 and HB5003, would ensure all employees are protected. They cannot support this legislation without inclusive family definitions that reflect true diversity.

Chaim Gewitzman, Chairman, Home Care Association of Connecticut: This bill could have significant unintended consequences unique to the home care industry and be disruptive to the continuity of care to seniors. They ask consideration of the following issues: Weekly compensation offered at 90% of earnings is a very generous benefit, but could be a disincentive for employees return to work. There are few protections against fraudulent use, such as employees using the benefit to care for any other individual whose close association with the employee is the equivalent of a family member. The employee is eligible upon return for the same job and rate of pay and working conditions, even if circumstances change for the employer such as a client is no long employed with the agency. He mentions the significant cost in the mandatory program of non-wage benefits such as health insurance, and the start-up/operating costs. There would also be administration and compliance costs for the employers. There are costly and challenging requirements for small home-care companies.

Eric Gjede, Vice President, Government Affairs, CBIA: Although an improvement over SB 1 and HB 5003, they are opposed to the inflexible and unsustainable state mandates in this proposal. Operating a business in CT is often costlier than running the same business in other states. They dispute the claim this bill has no cost to employers. Businesses are required to continue to provide non-wage benefits for those using the program and employers/taxpayers will be on the hook to pay for the projected \$13 million in startup cost and \$18 million for ongoing operations. They offered suggestions/revisions that would improve the proposal such as the deductible amount from wages be increased to ensure the fund is capable of paying all claims. They suggest between 67 -70% wage replacement rather than the 90% proposed. Do not expand the number of family members for which paid FMLA is permitted. Do more to discourage program fraud. Employers that hire independent contractors should not be required to administer this benefit. The minimum time period for

intermittent use of paid FMLA should be one day. Disputes and violations should not be resolved by the courts. The state should be subject to the same FMLA requirements. These revisions will help make the program more sustainable even though they will not prevent the adverse economic impact this will have on the state.

Deborah Hoyt, President/CEO, CT Association for Healthcare at Home: Member agencies have serious concerns about the mandate proposed in this bill. It is inflexible, duplicative, prescriptive and unaffordable, especially for home health agencies with thin or negative margins due to more than a decade of under-reimbursement by the State of CT for the Medicaid home health services provided. Paid FMLA is not free. Workers, employers and taxpayers will bear a significant cost. Workers will see pay reductions of at least .5% whether they utilize this benefit or not. Employers will be required to continue to pay non-wage costs. Taxpayers will pay the projected \$13 million in startup costs and \$18 million in ongoing cost to administer the program. This association concurs with CBIA's suggested amendments to the proposed bill.

National Federation of Independent Business NFIB: It would be unworkable for small businesses because it ignores questions as to whether a small business can fund adequate replacement staffing and /or can actually afford to keep a position open for an entire quarter. It dramatically alters the long standing federal and state FMLA laws so that all businesses with one or more employees would be subjected to its mandates. Government mandates such as this law take away the employers and employees freedom and flexibility.

CT Food Association, CFA: It is far more generous than our neighboring states. Most CFA members already offer a host of benefits disability, and the bill would impact the flexibility of the current benefits. The bill would initiate the need to hire hundreds of new state employees to administer the program. The startup costs projected at \$13.6 million.

Scott Shepard, Policy Director- Yankee Institute: Opposes SB 881 as unsustainable and believes it would result in significant tax hikes. The Yankee Institute testifies that this bill would charge all workers, which in turn would encourage all workers to use the program "generously." The high usage rate would result in increased payroll tax. The trickle effect would lead to workers utilizing the program even more because they are paying high taxes into the program anyway. Also notes the bill is written with "pre-anticipation that the program would be over utilized."

Marie Knudsen

Date: April 8, 2019