



General Assembly

Substitute Bill No. 1

January Session, 2019



AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in this section and
2 sections 2 to 13, inclusive, of this act:

3 (1) "Covered employee" means an individual who (A) (i) has earned
4 not less than two thousand three hundred twenty-five dollars 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 31-51oo 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 31-51ll, 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 31-51ll, 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 31-51ll, 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 31-51ll, 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 31-51ll, 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.*