
OLR Bill Analysis

sSB 312

AN ACT CONCERNING THE EXPANSION OF CONNECTICUT PAID SICK DAYS.

SUMMARY

This bill expands the state's paid sick leave law in numerous ways. The current paid sick leave law generally requires employers with at least 50 employees to provide up to 40 hours of paid sick leave annually to their "service workers" in certain specified occupations. The bill expands the law by, among other things:

1. covering all private-sector employers and employees under it;
2. broadening the range of family members for whom an employee may use the leave;
3. increasing the rate at which employees accrue leave and removing the waiting period before they may use it; and
4. broadening the reasons employees may use the leave to include events such as closures due to a public health emergency and quarantines.

The bill limits the extent to which employers may require employees to provide documentation to support their reasons for taking leave by (1) limiting the details that can be required in the documentation and (2) requiring an employer to pay an employee's out-of-pocket expenses for getting the required documentation.

It expands the current law's enforcement mechanisms by allowing anyone aggrieved by a violation to bring a lawsuit against an employer without first filing an administrative complaint with the labor commissioner. It also expands current employer notice requirements by requiring employers to give written notice to each employee about the

paid sick leave law. The bill also sets employer recordkeeping requirements that, among other things, require (1) employee “pay stubs” to include an employee’s accrued paid sick time and use for the calendar year and (2) employers to maintain their paid sick leave records for three years.

It also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2022

§§ 1 & 3 — COVERED EMPLOYERS, EMPLOYEES, & FAMILY MEMBERS

Employers and Employees

The current paid sick leave law covers private sector employers with at least 50 employees, except manufacturers and certain non-profits. The bill covers all private sector employers regardless of their size, industry, or non-profit status. For providing paid sick leave under the bill, it also makes the state’s Personal Care Attendant Workforce Council the employer of people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders. (The consumer for whom the PCA provides services is, generally, otherwise considered the PCA’s employer.)

The bill also expands current law to cover all private sector employees, rather than only the specified “service worker” occupations covered by current law. It also includes the day or temporary workers excluded from the current paid sick day law.

Family Members (§§ 1 & 3)

Current law allows covered employees to use paid sick time to care for their child (or a minor or disabled child for whom they stand in place of a parent) or spouse. The bill broadens the range of “family members” that employees may use paid sick time to care for to include their adult children, siblings, parents, grandparents, grandchildren, and anyone related by blood or affinity whose close association is the equivalent of these family members. Under the bill, children, siblings, parents, and grandchildren include those relations by blood, marriage, adoption, or

foster care.

§§ 2 & 4 — LEAVE ACCRUAL AND AVAILABILITY

Leave Accrual

The bill increases the rate at which employees accrue leave time, from one hour per every 40 hours worked to one hour per every 30 hours worked. It also allows employers to provide an employee, at the beginning of the year, with all of the sick leave that the employer expects the employee to accrue in the year.

The bill specifies that employees exempt from federal law's overtime pay requirements must be assumed to work 40 hours per week for leave accrual purposes, unless their normal work week is less than 40 hours. If it is, then their leave accrual must be based on their normal work week. (Current law does not explicitly address this issue.)

Under current law, an employee's termination is a break in service and the employee's previously accrued sick time does not carry over if the employee is rehired by the same employer. The bill instead entitles a re-employed employee to any sick time he or she previously accrued with the employer (§ 4).

The bill requires that employees maintain their accrued paid sick time when (1) they transfer to a separate division, entity, or location with the same employer or (2) when a different employer succeeds or replaces an existing employer. (Current law does not explicitly address either of these issues.)

Leave Availability

Under current law, employees must work 680 hours for their employer before they can use their leave. The bill instead allows employees to use their leave as it is accrued. It also allows employees to use the leave regardless of how much they work by eliminating a provision in current law that allows employees to use leave only if they average at least 10 work hours per week.

Replacements & Shift Swapping

The bill prohibits employers from requiring employees taking paid sick leave to look for or find a replacement employee to cover their hours while on leave. It also removes a provision in current law that prohibits an employer from requiring employees to use their accrued paid sick leave if they choose to work additional hours or shifts during the same or following pay period, in place of hours or shifts missed.

Leave Carryover

The law, unchanged by the bill, allows eligible employees to carryover up to 40 hours of unused accrued sick leave from one year to the next. The bill also allows employers to pay employees for their unused sick leave at the end of the year, instead of letting the leave carryover to the next year. If they do so, the employer must give the employee at least the same amount of paid sick leave required by the bill and allow for its immediate use at the beginning of the next year.

Other Employer-Provided Paid Leave

The current paid sick leave law deems an employer in compliance with its requirements to give leave if the employer offers other paid leave that may be used for the same purposes as provided in the law. The bill requires that employees also be able to use the other paid leave under the same conditions for the exception to apply.

§ 3 — LEAVE USES & DOCUMENTATION

The bill expands the reasons why an employee may use sick leave to include when (1) the employer's place of business is closed by order of a public official due to a public health emergency or (2) an employee needs to care for a family member whose school or place of care has been closed by such an order.

It also allows for leave if the employee needs to care for him or herself or a family member under quarantine (i.e., when it has been determined that the employee or family member's presence in the community may jeopardize others' health because of their exposure to a communicable disease, regardless of whether they actually contracted it). The determination for a quarantine must be made by a health authority with jurisdiction, a health care provider, or the employee's or family

member's employer.

Current law allows an employee to use paid sick leave if he or she was a victim of family violence or sexual assault and needs leave to do certain things (e.g., get counseling or participate in civil or criminal proceedings). The bill also allows employees to use the leave if their family member is a victim of family violence or sexual assault and needs to do these same things.

Documentation

Under certain circumstances, current law allows employers to require employees to provide documentation to support their reasons for taking leave. The bill limits this authority by prohibiting employers from requiring documentation that explains the nature of the illness or, if the employee is taking leave due to family violence or sexual assault, the details of the domestic violence or sexual assault.

If the employer requires documentation but does not offer health insurance, the bill requires the employer to pay all out-of-pocket expenses for getting the documentation. If the employee has health insurance, the employer must pay any costs charged to the employee for the documentation. The employer must pay any costs charged to the employee for getting documentation for leave related to family violence or sexual assault.

Under the bill, if a leave is taken due to a closure under a public health emergency order or a quarantine, a written statement from the employee affirming that the he or she is taking paid sick leave for one of these qualifying purposes must be considered reasonable documentation. The statement may be written in the employee's first language and does not have to be notarized or in any particular format.

§ 5 — LAWSUITS

The bill expands the current law's enforcement provisions to also allow the labor commissioner, the attorney general, a person aggrieved by a violation of the paid sick leave law, or an entity in which the person is a member to bring a lawsuit against an employer without first filing

an administrative complaint with the labor commissioner. Under current law, someone aggrieved by a violation may file a complaint with the labor commissioner and then appeal the commissioner's decision to the Superior Court.

§ 6 — EMPLOYER NOTICE AND RECORDS

Current law requires employers to notify employees about certain provisions of the paid sick leave law and allows them to do so by displaying a poster in the workplace. The bill instead requires employers to give written notice to each employee about these provisions and display a poster about them in the workplace. They must do this by January 1, 2023, or when an employee is hired, whichever is later. If the employer does not maintain a physical workplace, or an employee teleworks or works through a web-based or app-based platform, the bill requires the employer to meet the poster requirement through electronic communication or a posting on a web-based or app-based platform. It also requires the labor commissioner, within available appropriations, to provide posters and model written notices to employers.

The bill requires that employee "pay stubs" include an employee's accrued paid sick time and use for the calendar year. It also requires employers to maintain their paid sick leave records for three years and give the labor commissioner access to them, with appropriate notice and at a mutually agreeable time (the bill does not specify when this three-year period begins). If an issue arises over an employee's entitlement to paid sick leave and the employer does not have the required records, the bill requires that it be presumed that the employer violated the law's notice and records requirements, absent clear and convincing evidence otherwise.

§ 6 — DOL OUTREACH PROGRAM & REGULATIONS

The bill allows the labor commissioner, within available appropriations, to develop and implement a multilingual outreach program to inform people about the paid sick leave law. The program must include notices and other written material in English, Spanish, and any language that is the first language spoken by at least 5% of the

state's population. These must be distributed to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers, and other health care providers.

Lastly, the bill requires the labor commissioner to adopt regulations to implement the paid sick time law. Current law allows her to adopt regulations about the law's notice requirements. The bill also explicitly allows her to coordinate the law's implementation and enforcement.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/24/2022)