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## OLR Bill Analysis

### sSB 12

#### ***AN ACT EXPANDING ACCESS TO PAID SICK DAYS IN THE STATE.***

#### **SUMMARY**

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

1. covering almost all private sector employers and employees, except certain union construction workers and their employers;
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 changing the waiting period before they may use it; and
4. broadening the reasons employees may use the leave to include events like 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 and (2) requiring an employer to pay an employee's out-of-pocket expenses for getting the required documentation.

It 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.

The bill specifies that the paid sick leave law does not preempt or override the terms of any collective bargaining agreement entered into on or after July 1, 2012, under the law that allows certain family child care providers and personal care attendants (PCAs) to collectively bargain with the state (§ 4, see "BACKGROUND").

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

EFFECTIVE DATE: October 1, 2024

### **§§ 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 expands the law's coverage to nearly all private sector employers regardless of their size, industry, or non-profit status. However, it exempts (1) employers that participate in a multi-employer health plan requiring contributions from multiple employers and maintained under a collective bargaining agreement between employers and a construction-related trade person employee organization (e.g., union) or organizations and (2) the employees who are members of an employee organization that is a party to one of these health plans.

The bill also expands current law to cover all private sector employees (except for the union construction workers described above), rather than only the specified "service worker" occupations covered by current law. It also includes the day or temporary workers excluded from the current law.

#### ***Family Members (§§ 1 & 3)***

Current law allows covered employees to use paid sick leave to care for their minor or disabled child (or child for whom they stand in place of a parent) or spouse. The bill broadens the range of "family members" for whom employees may use paid sick leave to include their adult children, siblings, parents, grandparents, grandchildren, and anyone

related to the employee by blood or affinity whose close association the employee shows to be equivalent to those family members.

Under the bill, siblings and grandchildren include those relations by blood, marriage, adoption, or foster care, as is the case for children under current law. Parents include a biological, foster, or adoptive parent, stepparent, parent-in-law, legal guardian, and someone who stands or stood in the place of a parent.

Under current law, a “spouse” is a husband or wife, as the case may be. Under the bill, a spouse is instead (1) someone who is legally married to an employee under the laws of any state, or (2) an employee’s domestic partner registered under the laws of any state or political subdivision.

## **§ 2 — LEAVE ACCRUAL AND AVAILABILITY**

### ***Leave Accrual***

The bill increases the rate at which employees accrue leave, from one hour per every 40 hours worked to one hour per every 30 hours worked. It also specifies that employers may give their employees more paid sick leave at a faster rate than required by the bill.

The bill requires that employees exempt from federal law’s overtime pay requirements be presumed 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 the bill, employees maintain and may use their accrued paid sick leave when (1) they transfer to a separate division, entity, or location with the same employer or (2) 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 100 days after they started their employment. 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 in the most recent complete quarter.

### ***Replacements and Shift Swapping***

The bill prohibits employers from requiring employees taking paid sick leave to look for or find a replacement to cover the hours they were scheduled to work. It also removes a provision in current law that prohibits an employer from charging an employee for using their accrued sick leave when the employee, with the employer's mutual consent, agrees to work additional hours or shifts during the same or following pay period instead of the hours or shifts the employee missed.

### ***Leave Carry Over***

Current law entitles covered employees to carry over up to 40 unused accrued hours of paid sick leave from one year to the next. Under the bill, an employer may alternatively give an employee an amount of paid sick leave that meets or exceeds the bill's requirements and is available for the employee to use immediately at the beginning of the next year, instead of carrying over the unused paid sick leave.

### ***Other Employer-Provided Leave***

The current paid sick leave law deems an employer in compliance with its requirements if the employer offers other paid leave (e.g., vacation or personal days) that the employee can use for the same reasons allowed under the paid sick leave 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**

### ***Leave Uses***

The bill expands the reasons why an employee may use sick leave to include when the employer's place of business or a family member's school or place of care is closed by order of a public official due to a public health emergency.

It also allows for leave if the employee or a family member is under quarantine (i.e., when it has been determined that the employee or

family member poses a risk to others' health due to 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.

Under current law, an employee may use paid sick leave for preventative medical care for themselves or a covered family member. The bill specifies that this includes preventative care for mental or physical health.

Current law also allows an employee to use paid sick leave if he or she or the employee's child 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 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 (presumably, the documentation must state that the employee needs the leave without explaining why).

If the employer requires documentation but does not offer health insurance, the bill requires the employer to pay all of the employee's out-of-pocket expenses for getting the documentation. If the employee has health insurance, the employer must pay any costs that the employee's health care provider charges 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 he or she is taking paid sick leave for one of these reasons 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.

## **§ 6 — EMPLOYER NOTICE AND RECORDS**

Current law requires employers to notify employees about certain provisions of the paid sick leave law when they are hired (e.g., how leave accrues and how it may be used) and allows them to meet this requirement by displaying a poster in the workplace. The bill instead requires employers to display this poster. It also requires employers to give each employee written notice about these provisions by January 1, 2025, 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 employer must meet the notice requirement by sending the information through electronic communication or conspicuously posting it on a web-based or app-based platform. The bill also requires the labor commissioner to create a model poster and written notice and make them available to employers on the Department of Labor's website. It eliminates a provision in current law that requires the commissioner to administer the current law's notice requirements within available appropriations.

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 these paid sick leave records for three years and give the labor commissioner access to them, with appropriate notice and at a mutually agreeable time, to monitor compliance with the bill's recordkeeping requirements. Failure to do so is a violation of the bill.

As under existing law, employers found by a preponderance of the evidence to have violated these provisions are liable for a civil penalty of up to \$100 for each violation (CGS § 31-57v).

Lastly, the bill allows the labor commissioner to adopt regulations to implement the paid sick leave law. Current law allows her to adopt regulations about the law's notice requirements.

## **BACKGROUND**

### ***Family Child Care Providers and PCAs Who Collectively Bargain With the State***

State law allows certain family child care providers and PCAs to collectively bargain with the state over their reimbursement rates, benefits, payment procedures, contract grievance arbitration, training, professional development, and other requirements and opportunities. Covered child care providers include those paid by the state's Care 4 Kids program to provide day care in (1) licensed family day care homes or (2) their own homes for the children of neighbors or relatives. Covered PCAs include those who provide personal care assistance to a consumer under a state-funded program (e.g., the Medicaid Acquired Brain Injury Waiver Program, Medicaid Personal Care Assistance Waiver Program for adults with disabilities, or Connecticut Home Care Program for Elders).

### ***Related Bills***

sSB 7, reported favorably by the Labor and Public Employees Committee, is substantially similar to this bill, although it does not include the provision on family child care providers and PCAs who collectively bargain with the state.

sHB 5005, reported favorably by the Labor and Public Employees Committee, similarly expands the paid sick leave law, although among other things, it phases in the expansion to smaller employers over two additional years and requires employers to give employees 40 hours of sick leave annually, rather than having them accrue the time over the course of their work hours.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 4      (03/21/2024)