

*REVISED: Please note, due to a technological issue the correct version of this bill was not available to the Office of Legislative Research prior to file copy production. The issue has been resolved and the revised version of the bill analysis, for the most recent version of the bill, appears below.*

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## **OLR Bill Analysis**

### **sSB 1178**

#### ***AN ACT EXPANDING 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 certain 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, 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 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 and (2) requiring an employer to pay an employee's out-of-pocket expenses for getting the required documentation.

It expands 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 Department of Labor (DOL) 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 allows DOL to develop an outreach program and makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2023

## **§§ 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.

For accruing and using paid sick leave, the bill also makes the state’s Personal Care Attendant Workforce Council the employer of personal care attendants (PCAs) who provide personal care assistance 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 (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 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 by blood or affinity whose close association is the equivalent of these family members. Under the bill, siblings, parents, and grandchildren include those relations by blood, marriage, adoption, or foster care, as is the case for children under current law.

## **§§ 2 & 4 — LEAVE ACCRUAL AND AVAILABILITY**

### ***Leave Accrual***

The bill increases the (1) rate at which employees accrue leave, from one hour per every 40 hours worked to one hour per every 30 hours worked, and (2) maximum amount of leave that an employee can accrue, from 40 to 80 hours per year. It also specifies that employers may give their employees more paid sick leave at a faster rate than required by the bill.

The bill specifies that employees exempt from federal law’s overtime pay requirements must 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 current law, an employee’s termination is a break in service and the employee’s previously accrued sick leave does not carry over if the employee is rehired by the same employer. The bill (1) specifies that the employee’s sick leave begins accruing immediately upon rehire and (2) removes a provision that explicitly allowed the employer and rehired employee to agree to allow the employee to recover any sick leave accrued before the break in service (§ 4).

The bill requires that employees maintain 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 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 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 their hours while on leave. It also removes a provision in current law that prohibits an employee's use of 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***

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 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 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 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.

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.

## **§ 5 — LAWSUITS**

Under current law, someone aggrieved by a violation of the paid sick leave law may file a complaint with the labor commissioner and then appeal the commissioner's decision to the Superior Court. The bill expands 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. The aggrieved person may bring the lawsuit without first filing an administrative complaint with the labor commissioner.

## **§ 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). The bill requires this notice to also include the employee's right to bring a civil action in Superior Court.

Current law allows employers to meet the notice requirement 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. Employers must give employees the written notice by January 1, 2024, 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 notice requirement by sending the information through electronic communication or conspicuously posting it on a web-based or app-based platform. It also requires the labor commissioner, within available appropriations, to create a model poster and written notice and make them available to employers on DOL's website.

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 record keeping requirements. Under the bill, if an employer does not retain adequate records documenting an employee's hours worked and paid sick leave used, or does not allow reasonable access to the records, it must be presumed that the employer violated the record keeping requirements unless there is clear and convincing evidence otherwise.

## **§ 6 — DOL OUTREACH PROGRAM AND REGULATIONS**

The bill allows the labor commissioner, within available appropriations, to develop and implement a multilingual outreach program to inform people about the availability of paid sick leave. The program must include notices and other written material in English, Spanish, and any language that is the primary 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, public and private schools, hospitals, community health centers, and other health care providers.

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

## **BACKGROUND**

***Related Bill***

sHB 6668, reported favorably by the Labor and Public Employees Committee, also expands the paid sick leave law. Among other differences with this bill, however, it (1) requires employers with 10 or fewer employees to only give employees unpaid sick leave, (2) broadens the law to include a smaller range of family members, (3) does not increase the maximum annual leave allowed, and (4) does not allow aggrieved employees to bring a lawsuit.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 4      (03/21/2023)