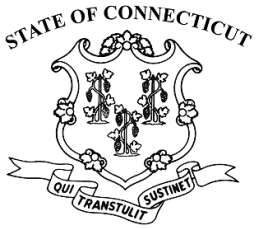

Substitute Senate Bill No. 222

Public Act No. 24-5

AN ACT CONCERNING CHANGES TO THE PAID FAMILY AND MEDICAL LEAVE STATUTES.

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

Section 1. Section 31-49e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

As used in this section, **[**and**]** sections 31-49f to 31-49t, inclusive, as amended by this act, and section 6 of this act:

(1) "Authority" means the Paid Family and Medical Leave Insurance Authority established in section 31-49f. "Authority" does not mean an appointing authority;

(2) "Base period" means the first four of the five most recently completed quarters;

(3) "Base weekly earnings" means an amount equal to one twenty-sixth, rounded to the next lower dollar, of a covered employee's total wages, as defined in subsection (b) of section 31-222 and self-employment income, as defined in 26 USC 1402(b), as amended from time to time, earned during the two quarters of the covered employee's base period in which such earnings were highest, provided self-employment income shall be included only if the recipient has enrolled

in the program pursuant to section 31-49m;

(4) "Covered employee" means an individual who has earned not less than two thousand three hundred twenty-five dollars in subject earnings during the employee's highest earning quarter within the base period and (A) is presently employed by an employer, (B) has been employed by an employer in the previous twelve weeks, or (C) is a self-employed individual or sole proprietor and Connecticut resident who has enrolled in the program pursuant to section 31-49m;

(5) "Covered public employee" means an individual who is (A) employed in state service, as defined in section 5-196, and who is not in a bargaining unit established pursuant to sections 5-270 to 5-280, inclusive, or (B) a member of a collective bargaining unit whose exclusive collective bargaining agent negotiates inclusion in the program, in accordance with chapter 68, sections 7-467 to 7-477, inclusive, or sections 10-153a to 10-153n, inclusive. If a municipal employer, as defined in section 7-467, or a local or regional board of education negotiates inclusion in the program for members of a collective bargaining unit, "covered public employee" also means an individual who is employed by such municipal employer or local or regional board of education and who is not in a bargaining unit established under sections 7-467 to 7-477, inclusive, or sections 10-153a to 10-153n, inclusive;

(6) "Employ" means to allow or permit to work;

(7) "Employee" means an individual engaged in service to an employer in this state in the business of the employer;

(8) "Employer" means a person engaged in any activity, enterprise or business <u>or a federally recognized tribe that has entered into a memorandum of understanding pursuant to section 6 of this act,</u> who employs one or more employees, and includes any person who acts,

directly or indirectly, in the interest of an employer to any of the employees of such employer and any successor in interest of an employer. "Employer" does not mean the federal government, the state or a municipality, a local or regional board of education or a nonpublic elementary or secondary school, except that the state, a municipal employer or local or regional board of education is an employer with respect to each of its covered public employees;

(9) "Family and medical leave compensation" or "compensation" means the paid leave provided to covered employees from the Family and Medical Leave Insurance Trust Fund;

(10) "Family and Medical Leave Insurance Authority Board" means the board of directors established in section 31-49f;

(11) "Family and Medical Leave Insurance Program" or "program" means the program established in section 31-49g, as amended by this act;

(12) "Family and Medical Leave Insurance Trust Fund" or "trust" means the trust fund established in section 31-49i;

(13) "Health care provider" has the same meaning as provided in section 31-51kk, as amended by this act;

(14) "Municipality" has the same meaning as provided in section 7-245;

[(14)**]** (15) "Person" means one or more individuals, partnerships, associations, corporations, limited liability companies, business trusts, legal representatives or any organized group of persons;

[(15)**]** (16) "Serious health condition" has the same meaning as provided in section 31-51kk, as amended by this act; and

[(16)**]** (17) "Subject earnings" means total wages, as defined in

subsection (b) of section 31-222 and self-employment income as defined in 26 USC 1402(b), as amended from time to time, that shall not exceed the Social Security contribution and benefit base, as determined pursuant to 42 USC 430, as amended from time to time, provided self-employment income shall be included only if the recipient has enrolled in the program pursuant to section 31-49m.

Sec. 2. Subsections (b) to (g), inclusive, of section 31-49g of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(b) (1) Beginning on January 1, 2021, but not later than February 1, 2021, each employee and each self-employed individual or sole proprietor who has enrolled in the program pursuant to section 31-49m shall contribute a percentage of **[**his or her**]** such employee's or self-employed individual's or sole proprietor's subject earnings that shall not exceed the Social Security contribution and benefit base, as determined pursuant to 42 USC 430, as amended from time to time, to the Family and Medical Leave Insurance Trust Fund. Such percentage shall be established by the authority, provided that the percentage shall not exceed one-half of one per cent.

(2) On September 1, 2022, and on each September first thereafter, the authority shall publish the following information: (A) The total amount of contributions collected and benefits paid during the previous fiscal year, as well as the total amount required for the administration of the Family and Medical Leave Insurance Program in such year; (B) the total amount remaining in the trust fund at the close of such fiscal year; (C) in light of such totals, and of expected future expenditures and contributions, a target fund balance sufficient to ensure the ongoing ability of the fund to pay the compensation described in subdivision (2) of subsection (c) of this section, and to limit the need for contribution rate increases or benefit reductions due to changing economic conditions; (D) the amount by which the total amount remaining in the

trust fund at the close of the previous fiscal year is less than or greater than that target fund balance. On November 1, 2022, and on each November first thereafter, the authority may announce a revision to the previously established contribution rate, provided the revised rate shall not exceed one-half of one per cent and shall be sufficient to ensure that the trust fund shall achieve and maintain such target fund balance. Effective on January first of the calendar year following each such announcement, the revised contribution rate announced by the authority under this subsection shall supersede the previously established contribution rate.

(3) Each employer making payment of any wages to an employee shall deduct and withhold from such wages for each payroll period a contribution computed in such manner as to result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the contribution reasonably estimated to be due from the employee under this subsection with respect to the amount of such wages during the calendar year.

(4) If, after notice, an employee or employer or self-employed individual or sole proprietor who has enrolled in the program pursuant to section 31-49m fails to make a payment required by this section, a state collection agency, as defined in section 12-35, shall collect such contribution and interest by any means provided in sections 12-35, 31-265 and 31-266.

(5) Each employer making payment of any wages to an employee shall (A) register with the authority, and (B) submit reports required by the authority in a form and manner prescribed by the authority.

(6) Any employer that fails to comply with the provisions of this subsection shall be subject to penalties established by the authority pursuant to subsection (b) of section 31-49h.

(c) (1) Beginning on January 1, 2022, but not later than February 1, 2022, covered employees shall receive compensation under this section for up to twelve weeks of leave in any twelve-month period taken for one or more of the reasons listed in subdivision (2) of subsection (a) of section 31-51*ll* or subsection (i) of said section or section 31-51ss, as amended by this act, as well as for two additional weeks for a serious health condition resulting in incapacitation that occurs during a pregnancy, if such covered employee (A) provides notice to the authority, and such covered employee's employer, if applicable, of the need for such compensation in a form and manner prescribed by the authority, and (B) upon the request of the authority, provides certification of such covered employee's need for leave and therefore compensation in the manner provided for in section 31-51mm to the authority and such employer, if applicable. Covered employees who are not currently employed or have enrolled in the program pursuant to section 31-49m shall receive compensation in like circumstances. Should the authority determine that it is administratively feasible and prudent, the program may begin providing compensation for leave taken for reasons listed in subparagraphs (A) and (B) of subdivision (2) of subsection (a) of section 31-51*ll* prior to offering compensation for leave taken for the other reasons listed in subdivision (2) of subsection (a) of section 31-51*ll* or the reasons listed in subsection (i) of said section or section 31-51ss, as amended by this act.

(2) The weekly compensation offered to covered employees shall be equal to ninety-five per cent of the covered employee's base weekly earnings up to an amount equal to forty times the minimum fair wage, as defined in section 31-58, and sixty per cent of that covered employee's base weekly earnings above an amount equal to forty times the minimum fair wage, except that the total weekly compensation shall not exceed an amount equal to sixty times the minimum fair wage. Compensation shall be available on a prorated basis.

(3) Notwithstanding subdivision (2) of this subsection, if employee contributions are the maximum percentage allowed and the authority determines that employee contributions are not sufficient to ensure solvency of the program, the authority shall reduce the benefit for covered employees by the minimum amount necessary in order to ensure the solvency of the program.

(4) If a covered **[**worker**]** employee elects to have income tax deducted and withheld from **[**his or her**]** such covered employee's compensation, the amount specified shall be deducted and withheld in a manner consistent with state law.

(d) Notwithstanding subsection (g) of section 31-51*ll*, two spouses employed by the same employer shall each be eligible for up to twelve weeks of compensation under this section in any twelve-month period. Such eligibility for compensation shall not increase their eligibility for job-protected leave beyond the number of weeks specified in said subsection.

(e) A covered employee may receive compensation under this section for nonconsecutive hours of leave.

(f) A covered employee may receive compensation under this section concurrently with any employer-provided employment benefits, provided the total compensation of such covered employee during such period of leave shall not exceed such covered employee's regular rate of compensation.

(g) **[**No**]** (1) Except as otherwise provided in subdivision (2) of this subsection, no covered employee shall receive compensation under this section concurrently with income replacement compensation under chapter 567 or 568 or any other state or federal program that provides wage replacement.

(2) A covered employee may receive compensation under this section

concurrently with compensation received from the victim compensation program administered by the Office of Victim Services within the Judicial Department, provided the total compensation received by the covered employee during the covered employee's period of leave shall not exceed such covered employee's regular rate of compensation.

Sec. 3. Section 31-49n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) The authority shall conduct a public education campaign to inform individuals and employers regarding the Family and Medical Leave Insurance Program. Such campaign shall include, but not be limited to, information about the requirements for receiving family and medical leave compensation, how to apply for such compensation and the circumstances for which such compensation may be available. The authority may use funds contributed to the Family and Medical Leave Insurance Trust Fund for purposes of the public education campaign. Information distributed or made available under the campaign shall be available in English and Spanish and in any other language prescribed by the authority.

(b) Not later than October 1, 2024, the authority shall develop or approve an informational poster for display by health care providers. Each health care provider shall display such poster in a clear and conspicuous manner accessible to patients and caregivers. For purposes of this subsection, "health care provider" has the same meaning as provided in section 31-51kk, as amended by this act.

[(b)**]** (c) The authority shall ensure to the greatest extent practicable that any web site, web-based form, application or digital service: (1) is accessible to individuals with disabilities in accordance with WCAG2.0 AA or similar updated standard; (2) has a consistent appearance; (3) contains a search function that allows users to easily search content intended for public use; (4) is provided through an industry standard

secure connection; (5) is designed around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs and behaviors and continually test the web site, web-based form, web-based application or digital service to ensure that user needs are addressed; (6) provides users of the new or redesigned web site, web-based form, web-based application or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; (7) is fully functional and usable on common mobile devices; and (8) uses free and open-source tools when possible, such as open standards in accordance with the US Web Design Standards built by the US General Services Administration.

Sec. 4. Section 31-49r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) Any individual participating in the program who wilfully makes a false statement or misrepresentation regarding a material fact, or wilfully fails to report a material fact, to obtain family and medical leave compensation shall be disqualified from receiving any compensation under the program for two years after making such false statement or misrepresentation or failing to report such material fact.

(b) If family and medical leave compensation is paid to a covered employee erroneously or as a result of wilful misrepresentation by such employee, or if a claim for family and medical leave compensation is rejected after compensation is paid, the authority may seek repayment of benefits from the employee having received such compensation. **[**and may also, in**]** In the case of wilful misrepresentation, the authority may seek payment of a penalty in the amount of fifty per cent of the benefits paid as a result of such misrepresentation. The authority may waive, in whole or in part, the amount of any such payments if the recovery would be against equity and good conscience.

(c) If family and medical leave compensation is paid as a result of wilful misrepresentation by any health care provider, the authority shall notify the Labor Commissioner and may seek payment of a penalty from such health care provider in the amount of three hundred per cent of the benefits paid as a result of such misrepresentation. The authority may waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(d) Any person, including an employer, who intentionally aids, abets, assists, promotes or facilitates the making of, or the attempt to make, any claim for benefits or the receipt or attempted receipt of benefits by another person in violation of subsection (b) of this section shall be liable for the same financial penalty as the person making or attempting to make the claim or receiving or attempting to receive the benefits.

(e) A health care provider shall complete a timely medical certification of a patient's serious medical condition at the request of the patient. No health care provider shall charge a patient a fee for such service.

(f) Any person who has received a greater amount of benefits than was due to such person under sections 31-49e to 31-49t, inclusive, as amended by this act, shall be charged by the authority with an overpayment of a sum equal to the amount overpaid to such person and shall pay such sum to the authority in accordance with a repayment schedule as determined by the authority. Any person who fails to make payments in accordance with such schedule shall be subject to interest at a rate of one per cent of the amount owed per month. If a person fails to repay according to the schedule established, the authority may request the Commissioner of Administrative Services to seek reimbursement for such amount owed plus interest pursuant to section 12-742.

(g) Any person who has been assessed a penalty by the authority

under sections 31-49e to 31-49t, inclusive, as amended by this act, shall pay such penalty to the authority in accordance with a payment schedule as determined by the authority. Any person who fails to make payments in accordance with such payment schedule shall be subject to interest at a rate of one per cent of the amount owed per month. If a person fails to repay according to the schedule, the authority may request the Commissioner of Administrative Services to seek reimbursement for such amount owed plus interest pursuant to section 12-742.

Sec. 5. Section 31-49t of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Not later than **[**July 1, 2022**]** September 1, 2024, and annually thereafter, the authority shall report, in accordance with section 11-4a of the general statutes, to the Office of Policy and Management and to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and labor, on (1) the projected and actual participation in the program, (2) the balance of the trust, (3) the reasons claimants are receiving family and medical leave compensation, (4) the success of outreach and education efforts, (5) demographic information of claimants, including gender, age, town of residence and income level, and (6) the total number of claims made and claims denied.

Sec. 6. (NEW) (*Effective October 1, 2024*) Notwithstanding the provisions of section 3-6c of the general statutes, the Governor, in consultation with the authority, may enter into a memorandum of understanding with any federally recognized tribe located within the state to authorize employees of both the tribe and any tribally owned business to participate in the Family and Medical Leave Insurance Program. Any such participation in the program shall be governed solely by the terms of any memorandum of understanding entered into pursuant to this section.

Sec. 7. Section 31-51kk of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

As used in sections 31-51kk to 31-51qq, inclusive, as amended by this act:

(1) "Eligible employee" means an employee who has been employed for at least three months immediately preceding his or her request for leave by the employer with respect to whom leave is requested;

(2) "Employ" includes to allow or permit to work;

(3) "Employee" means any person engaged in service to an employer in this state in the business of the employer;

(4) "Employer" means a person engaged in any activity, enterprise or business who employs one or more employees, and includes any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer and any successor in interest of an employer. "Employer" does not include a municipality, a local or regional board of education, or a nonpublic elementary or secondary school;

(5) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions, regardless of whether such benefits are provided by practice or written policy of an employer or through an "employee benefit plan", as defined in Section 1002(3) of Title 29 of the United States Code;

(6) "Family member" means a spouse, sibling, son or daughter, grandparent, grandchild or parent, or an individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships;

(7) "Grandchild" means a grandchild related to a person by (A) blood, (B) marriage, (C) adoption by a child of the grandparent, or (D) foster care by a child of the grandparent;

(8) "Grandparent" means a grandparent related to a person by (A) blood, (B) marriage, (C) adoption of a minor child by a child of the grandparent, or (D) foster care by a child of the grandparent;

(9) "Health care provider" means (A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; (B) a podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (C) an advanced practice registered nurse, nurse practitioner, nurse midwife or clinical social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; (D) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; (E) any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; (F) a health care provider as defined in subparagraphs (A) to (E), inclusive, of this subdivision who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or (G) such other health care provider as the Labor Commissioner determines, performing within the scope of the authorized practice. The commissioner may utilize any determinations made pursuant to chapter 568;

(10) "Municipality" has the same meaning as provided in section 7-245;

[(10)**]** (11) "Parent" means a biological parent, foster parent, adoptive parent, stepparent, parent-in-law or legal guardian of an eligible

employee or an eligible employee's spouse, an individual standing in loco parentis to an eligible employee, or an individual who stood in loco parentis to the eligible employee when the employee was a child;

[(11)**]** (12) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or organized groups of persons;

[(12)**]** (13) "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

[(13)**]** (14) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, nursing home or residential medical care facility; or (B) continuing treatment, including outpatient treatment, by a health care provider;

[(14)**]** (15) "Sibling" means a brother or sister related to a person by (A) blood, (B) marriage, (C) adoption by a parent of the person, or (D) foster care placement;

[(15)**]** (16) "Son or daughter" means a biological, adopted or foster child, stepchild, legal ward, or, in the alternative, a child of a person standing in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a child; and

[(16)**]** (17) "Spouse" means a person to whom one is legally married.

Sec. 8. Section 31-51ss of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) For the purposes of this section:

(1) "Employer" means a person engaged in business who has three or more employees, including the state and any political subdivision of the

state;

(2) "Employee" means any person engaged in service to an employer in the business of the employer;

(3) "Family violence" **[**means family violence, as defined**]** has the same meaning as provided in section 46b-38a; **[**and**]**

(4) "Leave" includes paid or unpaid leave which may include, but is not limited to, compensatory time, vacation time, personal days off or other time off; and

(5) "Sexual assault" has the same meaning as provided in section 31-57r.

(b) If an employee is a victim of family violence or sexual assault, an employer shall permit the employee to take paid or unpaid leave during any calendar year in which such leave is reasonably necessary (1) to seek medical care or psychological or other counseling for physical or psychological injury or disability for the victim, (2) to obtain services from a victim services organization on behalf of the victim, (3) to relocate due to such family violence or sexual assault, or (4) to participate in any civil or criminal proceeding related to or resulting from such family violence or sexual assault. An employer may limit unpaid leave under this section to twelve days during any calendar year. Leave under this section shall not affect any other leave provided under state or federal law.

(c) If an employee's need to use leave under this section is foreseeable, an employer may require advance notice, not to exceed seven days prior to the date such leave is to begin, of the intention to use such leave. If an employee's need for such leave is not foreseeable, an employer may require an employee to give notice of such intention as soon as practicable.

(d) Upon an employer's request, an employee who takes leave pursuant to this section shall provide the employer a signed written statement certifying that the leave is for a purpose authorized under this section. The employer may also, but need not, request that the employee provide a police or court record related to the family violence or sexual assault or a signed written statement that the employee is a victim of family violence or sexual assault, provided such statement is from an employee or agent of a victim services organization, an attorney, an employee of the **[**Judicial Branch's Office of Victim Services**]** Office of Victim Services within the Judicial Department or the Office of the Victim Advocate, or a licensed medical professional or other licensed professional from whom the employee has sought assistance with respect to the family violence or sexual assault.

(e) Nothing in this section shall be construed to (1) prevent employers from providing more leave than is required under this section, (2) diminish any rights provided to any employee under the terms of the employee's employment or a collective bargaining agreement, or (3) preempt or override the terms of any collective bargaining agreement effective prior to October 1, 2010.

(f) Nothing in this section shall be construed to require an employer to provide paid leave under this section if (1) the employee is not entitled to paid leave pursuant to the terms and conditions of the employee's employment, or (2) such paid leave exceeds the maximum amount of leave due the employee during any calendar year, provided the employee shall be entitled to unpaid leave under this section if paid leave is exhausted or not provided.

(g) Any written statement or police or court record provided to an employer pursuant to subsection (d) of this section shall be maintained as confidential by the employer and shall not be further disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace, provided the employee

is given notice prior to the disclosure.

(h) If an employer discharges, penalizes or threatens or otherwise coerces an employee in violation of this section, the employee, not later than one hundred eighty days from the occurrence of such action, may bring a civil action for damages and for an order requiring the employee's reinstatement or otherwise rescinding such action. If the employee prevails, the employee shall be allowed a reasonable attorney's fee to be fixed by the court.

Approved May 9, 2024