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## **OLR Bill Analysis**

### **sHB 5005 (as amended by House "B")\***

#### ***AN ACT EXPANDING 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 nearly all private sector employees and employers with at least 25 employees in 2025, those with at least 11 employees in 2026, and then those with at least one employee in 2027 (the bill exempts seasonal employees and 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 prohibits employers from requiring their employees to provide documentation to support their reasons for taking leave. It also removes provisions in the current law that generally allow employers to require employees to give them advance notice about a leave that is foreseeable.

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.

For FY 25, the bill also (1) requires the labor commissioner to ensure that certain duties and responsibilities for the paid sick leave law are performed within available appropriations and (2) prohibits the Office of Policy and Management (OPM) secretary from reducing certain budgetary expenditures and allotments for the Department of Labor’s (DOL) wage enforcement agents.

Lastly, the bill creates a task force to study establishing a paid sick leave tax credit for employers with five or less employees in the state. The task force must study the feasibility of establishing the tax credit, including whether or how to mitigate any expenses these employers incur due to the paid sick leave law.

\*House Amendment “B” replaces the underlying bill and, among other things, (1) requires employees to accrue their sick leave, rather than receive it annually all at once as in the underlying bill; (2) removes a provision that would have allowed employers to meet the sick leave requirement by giving employees a one-time payment equal to 40 hours of their normal hourly wage; (3) adds the provisions on the FY 25 budget; and (4) creates the task force.

EFFECTIVE DATE: January 1, 2025, except that the provisions on the (1) FY 25 budget are effective July 1, 2024, and (2) task force are effective upon passage.

**§§ 1-3 — COVERED EMPLOYERS, EMPLOYEES, & FAMILY MEMBERS*****Employers***

The current paid sick leave law covers private sector employers with at least 50 employees, except manufacturers and certain non-profits. The bill gradually expands the law’s coverage to nearly all private sector employers regardless of their size, industry, or non-profit status by extending coverage to employers with at least 25 employees starting January 1, 2025; then to employers with at least 11 employees starting January 1, 2026; and to all employers starting January 1, 2027.

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 tradesperson employee organization (e.g., union) or organizations; (2) employees who are members of an employee organization that is a party to one of these health plans; and (3) self-employed people (as the bill does not define “self-employed,” it is unclear if this exempts the self-employed from having to give paid sick leave to their employees, if they have any).

***Employees***

The bill also expands current law to cover nearly all private sector employees, except for seasonal employees and the union construction workers described above, rather than only the specified “service worker” occupations covered by current law (e.g., home health aides, nurses, security guards, janitors, and cashiers). It also covers the day or temporary workers excluded from the current law. Under the bill, “seasonal employees” are employees who work 120 days or less in any year.

For determining the sick leave law’s applicability, the number of an employer’s employees is based on the employees on the employer’s payroll for a particular week each year. Under current law, this is the payroll for the week with each October 1. The bill changes this to the payroll for the week with each January 1.

***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. For newly covered employers and employees, the leave begins accruing on the January 1 that they become covered by the law (i.e., 2025 for employers with at least 25 employees, 2026 for employers with at least 11 employees, and 2027 for employers with at least one employee). Employees hired after those dates begin accruing the leave on their first day of employment. The bill 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 starting on the 120th calendar day of 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***

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.

### ***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 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 (1) requires that employees also be able to use the other paid leave under the same conditions for the exception to apply and (2) specifies that "other paid

leave” includes unlimited paid time off.

### **§ 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 the employee or family member poses a risk to others’ health due to their exposure to a communicable disease, regardless of whether they 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.

#### ***Employee Notice and Documentation***

Under current law, if an employee’s need for paid sick leave is foreseeable, an employer may require employees to provide up to seven days’ advance notice about it. If the leave is not foreseeable, an employer may require notification from employees as soon as practicable. The bill eliminates both of these provisions, leaving the law silent on the issue.

If the leave lasts for at least three consecutive days, current law also allows employers to require employees to provide documentation to support their reasons for taking leave. The bill instead prohibits

employers from requiring their employees to provide any documentation that they are taking the leave for a reason allowed by the law.

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

The 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 may be used). Current law allows them to meet this requirement by displaying a poster in the workplace, but 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. The bill requires the labor commissioner to create a model poster and written notice and make them available to employers on DOL’s website.

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 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 notice and recordkeeping 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.

## **§ 8 — FY 25 BUDGET-RELATED PROVISIONS**

The bill requires the labor commissioner to ensure that DOL's necessary wage enforcement duties and responsibilities for the paid sick leave law are performed within available appropriations for FY 25.

It also prohibits the OPM secretary, during FY 25, from reducing any expenditures, allotment requisitions, or allotments in force, as otherwise allowed under the biennial budget act (PA 23-204), for DOL's wage enforcement agents.

## **§ 7 — TASK FORCE**

The bill creates a task force to study establishing a paid sick leave tax credit for employers with five or less employees. The task force must study the feasibility of establishing the tax credit, including whether or how to mitigate any expenses these employers incur due to the paid sick leave law. It must submit a report on its findings and recommendations to the Labor and Public Employees Committee by January 1, 2025, and end on that date or when it submits the report, whichever is later.

Under the bill, the task force consists of six members, with one appointed by each of the six legislative leaders. Task force members may be state legislators. The appointing authorities must make all initial appointments within 30 days after the bill is enacted and fill any vacancy.

The bill requires the House speaker and Senate president pro tempore to select the task force's chairpersons from among the task force members. The chairpersons must schedule and hold the first meeting within 60 days after the bill is enacted, and the Labor and Public Employees Committee's administrative staff must serve as the task force's administrative staff.

## **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 (File 339) and sSB 12 (File 340), reported favorably by the Labor and Public Employees Committee, similarly expand the paid sick leave law, although they do not, among other things, (1) phase in their expansion to smaller employers; (2) prohibit employers from requiring documentation to support an employee's leave; or (3) create a task force.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/21/2024)