

**Sec. 31-51kk. Family and medical leave: Definitions.** As used in sections 31-51kk to 31-51qq, inclusive:

(1) "Eligible employee" means an employee who has been employed (A) for at least twelve months by the employer with respect to whom leave is requested; and (B) for at least one thousand hours of service with such employer during the twelve-month period preceding the first day of the leave;

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

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

(4) "Employer" means a person engaged in any activity, enterprise or business who employs seventy-five 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, but shall not include the state, a municipality, a local or regional board of education, or a private or parochial elementary or secondary school. The number of employees of an employer shall be determined on October first annually;

(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) "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;

(7) "Parent" means a biological parent, foster parent, adoptive parent, stepparent or legal guardian of an eligible employee or an eligible employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a son or daughter;

(8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or organized groups of persons;

(9) "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

(10) "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;

(11) "Son or daughter" means a biological, adopted or foster child, stepchild, legal ward, or child of a person standing in loco parentis, who is (A) under eighteen years of age; or (B) eighteen years of age or older and incapable of self-care because of a mental or physical disability; and

(12) "Spouse" means a husband or wife, as the case may be.

**Sec. 31-51ll. Family and medical leave: Length of leave; eligibility; intermittent or reduced leave schedules; substitution of accrued paid leave; notice to employer.** (a)(1) Subject to section 31-51mm, an eligible employee shall be entitled to a total of sixteen workweeks of leave during any twenty-four-month period, such twenty-four-month period to be determined utilizing any one of the following methods: (A) Consecutive calendar years; (B) any fixed twenty-four-month period, such as two consecutive fiscal years or a twenty-four-month period measured forward from an employee's first date of employment; (C) a twenty-four-month period measured forward from an employee's first day of leave taken under sections 31-51kk to 31-51qq, inclusive; or (D) a rolling twenty-four-month period measured backward from an employee's first day of leave taken under sections 31-51kk to 31-51qq, inclusive.

(2) Leave under this subsection may be taken for one or more of the following reasons:

(A) Upon the birth of a son or daughter of the employee;

(B) Upon the placement of a son or daughter with the employee for adoption or foster care;

(C) In order to care for the spouse, or a son, daughter or parent of the employee, if such spouse, son, daughter or parent has a serious health condition;

(D) Because of a serious health condition of the employee; or

(E) In order to serve as an organ or bone marrow donor.

(b) Entitlement to leave under subparagraph (A) or (B) of subdivision (2) of subsection (a) of this section may accrue prior to the birth or placement of a son or daughter when such leave is required because of such impending birth or placement.

(c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of subsection (a) of this section for the birth or placement of a son or daughter may not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise. Subject to subdivision (2) of this subsection concerning an alternative position, subdivision (2) of subsection (f) of this section concerning the duties of the employee and subdivision (5) of subsection (b) of section 31-51mm concerning sufficient certification, leave under subparagraph (C) or (D) of subdivision (2) of subsection (a) of this section for a serious health condition may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this subsection shall not result in a reduction of the total amount of leave to which the employee is entitled under subsection (a) of this section beyond the amount of leave actually taken.

(2) If an employee requests intermittent leave or leave on a reduced leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of subsection (a) of this section that is foreseeable based on planned medical treatment, the employer may require the employee to transfer temporarily

to an available alternative position offered by the employer for which the employee is qualified and that (A) has equivalent pay and benefits, and (B) better accommodates recurring periods of leave than the regular employment position of the employee, provided the exercise of this authority shall not conflict with any provision of a collective bargaining agreement between such employer and a labor organization which is the collective bargaining representative of the unit of which the employee is a part.

(d) Except as provided in subsection (e) of this section, leave granted under subsection (a) of this section may consist of unpaid leave.

(e) (1) If an employer provides paid leave for fewer than sixteen workweeks, the additional weeks of leave necessary to attain the sixteen workweeks of leave required under sections 5-248a and 31-51kk to 31-51qq, inclusive, may be provided without compensation.

(2) (A) An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave or family leave of the employee for leave provided under subparagraph (A), (B) or (C) of subdivision (2) of subsection (a) of this section for any part of this sixteen-week period of such leave under said subsection.

(B) An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C), (D) or (E) of subdivision (2) of subsection (a) of this section for any part of the sixteen-week period of such leave under said subsection, except that nothing in section 5-248a or sections 31-51kk to 31-51qq, inclusive, shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(f) (1) In any case in which the necessity for leave under subparagraph (A) or (B) of subdivision (2) of subsection (a) of this section is foreseeable based on an expected birth or placement of a son or daughter, the employee shall provide the employer with not less than thirty days' notice, before the date of the leave is to begin, of the employee's intention to take leave under said subparagraph (A) or (B), except that if the date of the birth or placement of a son or daughter requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable.

(2) In any case in which the necessity for leave under subparagraph (C), (D) or (E) of subdivision (2) of subsection (a) of this section is foreseeable based on planned medical treatment, the employee (A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse or parent of the employee, as appropriate; and (B) shall provide the employer with not less than thirty days' notice, before the date the leave is to begin, of the employee's intention to take leave under said subparagraph (C), (D) or (E), except that if the date of the treatment requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable.

(g) In any case in which a husband and wife entitled to leave under subsection (a) of this section are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to sixteen workweeks during any twenty-four-month period, if such leave is taken: (1) Under subparagraph (A) or (B) of subdivision (2) of subsection (a) of this section; or (2) to care for a sick parent under subparagraph (C) of said subdivision.

(h) Unpaid leave taken pursuant to sections 5-248a and 31-51kk to 31-51qq, inclusive, shall not be construed to affect an employee's qualification for exemption under chapter 558.

(i) Notwithstanding the provisions of sections 5-248a and 31-51kk to 31-51qq, inclusive, all further rights granted by federal law shall remain in effect.

**Sec. 31-51mm. Family and medical leave: Certification.** (a) An employer may require that request for leave based on a serious health condition in subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 31-51// be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) Certification provided under subsection (a) of this section shall be sufficient if it states:

(1) The date on which the serious health condition commenced;

(2) The probable duration of the condition;

(3) The appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4) (A) For purposes of leave under subparagraph (C) of subdivision (2) of subsection (a) of section 31-51//, a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee needs to care for the son, daughter, spouse or parent; and (B) for purposes of leave under subparagraph (D) of subdivision (2) of subsection (a) of section 31-51//, a statement that the employee is unable to perform the functions of the position of the employee;

(5) In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(6) In the case of certification for intermittent leave or leave on a reduced leave schedule under subparagraph (D) of subdivision (2) of subsection (a) of section 31-51//, a statement of the medical necessity of the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(7) In the case of certification for intermittent leave or leave on a reduced leave schedule under subparagraph (C) of subdivision (2) of subsection (a) of section 31-51//, a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(c) (1) In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) of this section for leave under subparagraph (C) or (D) of subdivision (2) of subsection (a) of section 31-51//, the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) of this section for such leave.

(2) A health care provider designated or approved under subdivision (1) of this subsection shall not be employed on a regular basis by the employer.

(d) (1) In any case in which the second opinion described in subsection (c) of this section differs from the opinion in the original certification provided under subsection (a) of this section, the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health

care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b) of this section.

(2) The opinion of the third health care provider concerning the information certified under subsection (b) of this section shall be considered to be final and shall be binding on the employer and the employee.

(e) The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis, provided the standards for determining what constitutes a reasonable basis for recertification may be governed by a collective bargaining agreement between such employer and a labor organization which is the collective bargaining representative of the unit of which the worker is a part if such a collective bargaining agreement is in effect. Unless otherwise required by the employee's health care provider, the employer may not require recertification more than once during a thirty-day period and, in any case, may not unreasonably require recertification. The employer shall pay for any recertification that is not covered by the employee's health insurance.

**Sec. 31-51nn. Family and medical leave: Employment and benefits protection.** (a) Any eligible employee who takes leave under section 31-51// for the intended purpose of the leave shall be entitled on return from such leave (1) to be restored by the employer to the position of employment held by the employee when the leave commenced; (2) if the original position of employment is not available, to be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment; or (3) in the case of a medical leave, if the employee is medically unable to perform the employee's original job upon the expiration of such leave, to be transferred to work suitable to such employee's physical condition if such work is available.

(b) The taking of leave under section 31-51// shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(c) Nothing in this section shall be construed to entitle any restored employee to (1) the accrual of any seniority or employment benefits during any period of leave; or (2) any right, benefit or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken the leave.

(d) As a condition of restoration under subsection (a) of this section for an employee who has taken leave under subparagraph (D) of subdivision (2) of subsection (a) of section 31-51//, the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this subsection shall supersede a valid law of this state or a collective bargaining agreement that governs the return to work of such employees.

(e) Nothing in this section shall be construed to prohibit an employer from requiring an employee on leave under section 31-51// to report periodically to the employer on the status and intention of the employee to return to work.

(f) Employees may have additional rights under other state and federal law, including rights under the federal Americans with Disabilities Act of 1990. Nothing in sections 5-248a and 31-51kk to 31-51qq, inclusive, shall limit any such additional rights.

**Sec. 31-51oo. Family and medical leave: Confidentiality of medical records and documents.** Records and documents relating to medical certifications, recertifications or medical histories of employees or employees' family members, created for purposes of sections 5-248a and 31-51kk to 31-51qq, inclusive, shall be maintained as medical records pursuant to chapter 563a, except that: (1) Supervisors and managers may be informed regarding necessary restrictions on the

work or duties of an employee and necessary accommodations; (2) first aid and safety personnel may be informed, when appropriate, if the employee's physical or medical condition might require emergency treatment; and (3) government officials investigating compliance with sections 5-248a and 31-51kk to 31-51qq, inclusive, or other pertinent law shall be provided relevant information upon request.

**Sec. 31-51pp. Family and medical leave: Prohibited acts, complaints, rights and remedies.**

(a)(1) It shall be a violation of sections 5-248a and 31-51kk to 31-51qq, inclusive, for any employer to interfere with, restrain or deny the exercise of, or the attempt to exercise, any right provided under said sections.

(2) It shall be a violation of sections 5-248a and 31-51kk to 31-51qq, inclusive, for any employer to discharge or cause to be discharged, or in any other manner discriminate, against any individual for opposing any practice made unlawful by said sections or because such employee has exercised the rights afforded to such employee under said sections.

(b) It shall be a violation of sections 5-248a and 31-51kk to 31-51qq, inclusive, for any person to discharge or cause to be discharged, or in any other manner discriminate, against any individual because such individual:

(1) Has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to sections 5-248a and 31-51kk to 31-51qq, inclusive;

(2) Has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under said sections; or

(3) Has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under said sections.

(c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive, for any employer to deny an employee the right to use up to two weeks of accumulated sick leave or to discharge, threaten to discharge, demote, suspend or in any manner discriminate against an employee for using, or attempting to exercise the right to use, up to two weeks of accumulated sick leave to attend to a serious health condition of a son or daughter, spouse or parent of the employee, or for the birth or adoption of a son or daughter of the employee. For purposes of this subsection, "sick leave" means an absence from work for which compensation is provided through an employer's bona fide written policy providing compensation for loss of wages occasioned by illness, but does not include absences from work for which compensation is provided through an employer's plan, including, but not limited to, a short or long-term disability plan, whether or not such plan is self-insured.

(2) Any employee aggrieved by a violation of this subsection may file a complaint with the Labor Commissioner alleging violation of the provisions of this subsection. Upon receipt of any such complaint, the commissioner shall hold a hearing. After the hearing, the commissioner shall send each party a written copy of the commissioner's decision. The commissioner may award the employee all appropriate relief, including rehiring or reinstatement to the employee's previous job, payment of back wages and reestablishment of employee benefits to which the employee otherwise would have been eligible if a violation of this subsection had not occurred. Any party aggrieved by the decision of the commissioner may appeal the decision to the Superior Court in accordance with the provisions of chapter 54.

(3) The rights and remedies specified in this subsection are cumulative and nonexclusive and are in addition to any other rights or remedies afforded by contract or under other provisions of law.

**Sec. 31-51qq. Family and medical leave: Regulations, report.** On or before January 1, 1997, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish procedures and guidelines necessary to implement the provisions of sections 5-248a and 31-51kk to 31-51qq, inclusive, including, but not limited to, procedures for hearings and redress, including restoration and restitution, for an employee who believes that there is a violation by the employer of such employee of any provision of said sections, and procedures for the periodic reporting by employers to the commissioner of their current experience with leaves of absence taken pursuant to said sections. In adopting such regulations, the commissioner shall make reasonable efforts to ensure compatibility of state regulatory provisions with similar provisions of the federal Family and Medical Leave Act of 1993 and the regulations promulgated pursuant to said act.