# OVERVIEW OF LEAVE BENEFITS FOR CONNECTICUT EMPLOYEES

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## I. VACATION

- Not required by law to provide vacation.

- If an employer opts to provide vacation, it is the employer's discretion to set the terms and conditions of vacation.

- Not required to pay for accrued but unused vacation at time of termination, unless policy/practice provides otherwise.

## II. CONNECTICUT PAID SICK LEAVE ACT

- Applies to any employer (defined as a person, firm, business, educational institution, nonprofit agency, corporation, LLC or other entity) if it has at least 50 employees working within Connecticut on its payroll determined annually as of October 1st. Manufacturers (classified in Sectors 31-33 in the North American Industrial Classification System) and nationally chartered 501(c)(3) organizations that provide recreation, child care and educational services (such as the YMCA) are exempt.

- Any part-time or full-time "service workers" paid on an hourly basis or classified as non-exempt are eligible to take paid sick leave under the Act after they have completed 680 hours of employment after January 1, 2012 (if hired prior to January 1, 2012) or from date of hire after January 1, 2012 and worked at least an average of 10 or more hours per week for the employer in the most recent complete calendar quarter. Day or temporary workers (who perform work on a per diem or occasional or irregular basis) are not eligible.

- There are 69 different categories of eligible "service workers" specifically identified as covered by the Act based on the definitions contained in the Bureau of Labor Statistics Standard Occupational Classification System ("SOC").[1]

[1] The categories of "service workers" covered under the Act are as follows: Food Service Managers; Medical and Health Services Managers; Social Workers; Social and Human Service Assistants; Community Health Workers; Community and Social Service Specialists, All Other; Librarians; Pharmacists; Physician Assistants; Therapists; Registered Nurses; Nurse Anesthetists; Nurse Midwives; Nurse Practitioners; Dental Hygienists; Emergency Medical Technicians and Paramedics; Health Practitioner Support Technologists and Technicians; Licensed Practical and Licensed Vocational Nurses; Home Health Aides; Nursing Aides, Orderlies and Attendants; Psychiatric Aides; Dental Assistants; Medical Assistants; Security Guards; Crossing Guards; Supervisors of Food Preparation and Serving Workers; Cooks; Food Preparation Workers; Bartenders; Fast Food and Counter Workers; Waiters and Waitresses; Food Servers, Nonrestaurant; Dining Room and Cafeteria Attendants and Bartender Helpers; Dishwashers; Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; Miscellaneous Food Preparation and Serving Related Workers; Janitors and Cleaners, Except Maids and Housekeeping Cleaners; Building Cleaning Workers, All Other; Ushers, Lobby Attendants and Ticket Takers; Barbers, Hairdressers, Hairstylists and Cosmetologists; Baggage Porters, Bellhops and Concierges; Child Care Workers; Personal Care Aides; First-Line Supervisors of Sales Workers; Cashiers; Counter and Rental

- Qualifying sick leaves under the Act can be taken for any illness, injury or health condition of the service worker or his/her spouse or child or for preventative medical care for the same. A service worker who is the victim of family violence or sexual assault may also take paid leave for medical care and for other reasons related to the family violence or sexual assault (such as to obtain services from a victim services organization; to relocate due to the violence and/or assault; or to participate in any civil or criminal proceedings related to the violence and/or assault).

- Beginning January 1, 2012 (or for service workers hired after that date, when employment begins), service workers will be entitled to immediately accrue at a rate of one hour for each 40 hours worked (regular or overtime hours), up to a maximum of 40 hours of paid sick leave for each calendar year.

- Service workers who do not use their entire allotment of paid sick leave benefits in one calendar year may carry over up to 40 accrued hours to the next calendar year (but may not use more than 40 hours in each calendar year).

- If an employer terminates a service worker, whether voluntarily or involuntarily, it is considered a break in service. If the employer later rehires the service worker, it need not recognize any previously accrued unused hours of paid sick leave unless it agrees to do so.

- The 40 hours of sick leave must be paid at a rate equal to the service worker's normal hourly rate or the minimum wage under Connecticut law, whichever is greater. Service workers whose wage rates vary must be paid the average hourly wage he/she earned in the pay period prior to the period in which he/she takes sick leave.

- An employer is <u>not</u> obligated to pay accrued sick leave benefits upon a service worker's termination unless the employer provides for such payment in its policies or in a collective bargaining agreement.

- The Act operates as a floor below which employers subject to the Act may not fall. However, an employer will be deemed fully compliant with the Act if the employer offers any form(s) of paid leave benefits that satisfy the

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Clerks; Retail Salespersons; Tellers; Hotel, Motel and Resort Desk Clerks; Receptionists and Information Clerks; Couriers and Messengers; Secretaries and Administrative Assistants; Computer Operators; Data Entry and Information Processing Workers; Desktop Publishers; Insurance Claims and Policy Processing Clerks; Mail Clerks and Mail Machine Operators, Except Postal Service; Office Clerks, General; Office Machine Operators, Except Computer; Proofreaders and Copy Markers; Statistical Assistants; Miscellaneous Office and Administrative Support Workers; Bakers; Butchers and Other Meat, Poultry and Fish Processing Workers; Miscellaneous Food Processing Workers; Ambulance Drivers and Attendants, Except Emergency Medical Technicians; Bus Drivers; Taxi Drivers and Chauffeurs; Radiologic Technicians.

minimum 40 hours of paid sick leave under the Act. For these purposes, other paid leave benefits might include paid vacation, personal days or other paid time off. To get "credit" for compliance under the Act for having existing paid leave policies, employers must ensure such policies are not predicated on longer eligibility provisions, do not mandate different accrual methods and do not restrict the use of paid time in any manner that is inconsistent with the types of leave mandated by the Act.

- Employers may require service workers to provide up to seven days' notice of the need to take paid sick leave under the Act if the need for leave is foreseeable; if the leave is not foreseeable, then the service worker must give notice as soon as practicable.

- Employers may require documentation from a health care provider for leaves taken for three or more consecutive days for leave taken due to the illness, injury or health condition, or for preventative medical care, for the service worker or his/her spouse or child. Employers may require a court record or documentation from a victim services organization, the police or counselor for leave taken due to family violence or sexual assault issues.

- Employers are required, as of January 1, 2012, to provide notice, at the time of hiring, regarding the service worker's entitlement to sick leave, and to specifically advise service workers that employers are prohibited from retaliating against them (as further described below) and that the service worker has a right to file a complaint with the Connecticut Department of Labor for violations of the Act (as further described below). Employers may comply with this notice obligation by posting a notice (in both English and Spanish) in a conspicuous location incorporating these requirements.

- The Act prohibits employers from taking retaliatory action or otherwise discriminating against employees because the employee requests or uses paid sick leave or files a complaint with the CT Dept. of Labor regarding leave under the Act. Note that the anti-retaliation provision applies more broadly to any employee of an employer who is covered by the Act, not just the service workers who are entitled to take leave under the Act. The Act does not prohibit disciplinary action against any service worker who takes leave for a purpose other than those specified in the Act.

- Complaints for violations of the Act will be handled by the CT Dept. of Labor, which is empowered to hold hearings, and which may assess a civil penalty of $500.00 for a violation of the retaliation and discrimination provisions, and a civil penalty of $100.00 for each violation of the substantive provisions (or notice provision) of the Act. The Labor Commissioner is also empowered to require an offending employer to rehire or reinstate an employee and to pay back wages and benefits.

## III. JURY DUTY

- Employers are required to pay full-time employees (defined as 30 hours or more per week for 90 or more days) serving as jurors their regular wages (minus jury fees paid by court) for day of jury exam and up to 5 days of juror service; discretionary to pay beyond five days or to pay for service by other types of employees.

- Employers must provide leave for jury duty for any employee for any duration without any adverse action.

- Employers may not discharge, threaten, or coerce employees who must comply with a jury summons.

## IV. VOTING LEAVE

- Connecticut employers are not required to provide employees with time off to vote.

- Connecticut employers are prohibited from attempting to influence the vote of any employee by threats of withholding employment from him/her or by promises of employment, and may not dismiss an employee on account of any vote s/he has given.

## V. MILITARY LEAVE

- Uniformed Services Employment and Reemployment Rights Act ("USERRA") applies to all employers, regardless of size.

    a. Applies to employees who perform duty, voluntarily or involuntarily, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA. In addition, certain disaster response work (and authorized training for such work) is considered "service in the uniformed services."
    b. Uniformed service includes active duty, active duty for training, inactive duty training (such as drills), initial active duty training, and funeral honors duty performed by National Guard and reserve members, as well as the period for which a person is absent from a position of employment for the purpose of an examination to determine fitness to perform any such duty.

- USERRA requires employers to provide employees with notice of the rights, benefits, and obligations under USERRA.

- USERRA requires employers to reemploy servicemembers returning from a period of service in the uniformed services if those servicemembers meet five criteria:

    a. Must have been absent from a civilian job on account of service in the uniformed services;
    b. Must have given advance notice to the employer that he or she was leaving the job for service in the uniformed services, unless such notice was precluded by military necessity or otherwise impossible or unreasonable;
    c. The cumulative period of military service with that employer must not have exceeded five years (with certain exceptions allowed for situations such as call-ups during emergencies, reserve drills, and annually scheduled active duty for training).
    d. Must not have been released from service under dishonorable or other punitive conditions; and
    e. Must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment, unless timely reporting back or application was impossible or unreasonable.

- The time limits for the servicemembers to return to work from a military leave under USERRA are as follows:

    a. **Less than 31 days service**: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
    b. **31 to 180 days**: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible.
    c. **181 days or more**: The employee must apply for reemployment no later than 90 days after completion of military service.
    d. **Service-connected injury or illness**: Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.
    e. Returning servicemembers must be reemployed in the job that they would have attained had they not been absent for military service, (the "escalator" principle), with the same seniority, status and pay, as well as other rights and benefits determined by seniority (i.e., as if he never left for military duty). USERRA also requires that reasonable efforts (such as training or retraining) be made to

enable returning servicemembers to qualify for reemployment. If the servicemember cannot qualify for the "escalator" position, he or she must be reemployed, if qualified (with or without reasonable accommodation), in any other position that is the nearest approximation to the escalator position and then to the pre-service position.

- While an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other similarly-situated individuals on non-military leaves of absence.

- Servicemember is able (but not required) to use accrued vacation while performing military duty.

- Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months (at the employee's full expense under COBRA – i.e., they may be required to pay up to 102 percent of the full premium). For military service of less than 31 days, health care coverage is provided as if the servicemember had remained employed.

- For purposes of defined benefit plans, defined contribution plans as well as plans provided under federal or state laws governing pension benefits for government employees, USERRA treats military service as continuous service with the employer for participation, vesting and accrual of benefits.

- An employer cannot discharge any employee who is reinstated after return from military duty during first year of reemployment unless there is cause.

- USERRA prohibits employment discrimination against a person on the basis of past military service, current military obligations, or an intent to serve.

- Conn. Gen. Stat. 27-33a requires employers to provide employees, who serve in the state armed forces or in the reserve corps of any branch of the U.S. armed forces, with military leave (including for meetings and drills) during regular working hours. Such employees may not be subject, directly or indirectly, to any loss or reduction of vacation or holiday privileges or be subject to discrimination in promotion or continuation of, or reappointment to, employment as a result of their service.

## VI. FAMILY AND MEDICAL LEAVE ("FMLA")

Federal FMLA

- Applies to employers with 50 or more employees.
- Eligibility requirements include working for employer for 12 months and 1,250 hours.
- Provides eligible employees with up to 12 weeks of unpaid family and medical leave annually for reasons including the employee's own serious health condition; caring for the serious health condition of an employee's child, spouse or parent; family bonding for the birth, adoption or foster care placement of the employee's child; or due to a qualified exigency when an employee's spouse, child or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces (including a member of the National Guard or Reserves).
- Provides eligible employees with up to 26 weeks of leave to care for a serious injury or illness of a covered service member.
- Requires employers to continue health insurance benefits in effect during FMLA leave, subject to the same terms and conditions under which coverage would have been provided if the employee had continued in employment for the period of the leave.
- Requires reinstatement to original job or equivalent job at end of leave.

Connecticut FMLA

- Applies only to private sector employers with 75 or more employees.
- Eligibility requirements include working for employer for 12 months and 1,000 hours.
- Provides eligible employees with up to 16 weeks of unpaid family and medical leave within any two-year period.
- Provides eligible employees with up to 26 weeks of leave to care for a serious injury or illness of a covered service member.
- In addition to allowing the same types of leave for the reasons afforded under Federal FMLA, Connecticut FMLA allows leave to care for parent-in-law and to serve as organ or bone marrow donor (neither allowed under Federal FMLA)

- Requires employers to continue health insurance benefits in effect during FMLA leave, subject to the same terms and conditions under which coverage would have been provided if the employee had continued in employment for the period of the leave.

- Requires reinstatement to original job at end of leave (or to equivalent job but only if none of the duties or original job are still being performed).

## VII. WITNESS AND CRIME VICTIM LEAVE

- Employees who are crime victims or witnesses must be permitted reasonable time off to attend a court proceeding or participate in a police investigation relating to their criminal cases.

- Crime victim and witness leave can be unpaid, unless the employee chooses to use any available paid time off for such leave or the law otherwise requires payment for any such leave taken.

- A crime victim is defined as an employee who: (a) suffers direct or threatened physical, emotional or financial harm as a result of a crime; or (b) is an immediate family member or guardian of a homicide victim or a minor, physically disabled or incompetent person who suffers such harm.

- An employer may not take adverse actions against any employee for having a restraining order issued on the employee's behalf in a domestic violence case or having a protective order issued on the employee's behalf by a court of any state.

- An employer cannot take any adverse action against any employee because he/she obeys a legal subpoena to appear in court as a witness in any criminal proceeding, or because such employee is a crime victim, provided that the employee gives the employer reasonable notice of the need to appear in court.

- Any leave time allotted under this policy can run concurrently with any leave time afforded under any of the employer's other policies for which the employee may be eligible.

## VIII. FAMILY VIOLENCE VICTIM LEAVE

- Employees who are victims of family violence must be permitted to take up to twelve (12) days of leave during any calendar year in which the leave is reasonably needed for one or more of the following reasons: (1) to seek medical care or counseling for physical or psychological injury or disability; (2) to obtain services from a victim services organization; (3) to

relocate due to the family violence; or (4) to participate in any civil or criminal proceeding related to or resulting from such family violence.

- Such leave can be unpaid, unless the employee chooses to use any available paid time off for such leave or the law otherwise requires payment for any such leave taken.

- Employees who seek such leave need to provide at least seven (7) days' notice of the need for such leave if foreseeable, or notice as soon as practicable if the need for such leave is not foreseeable. The employer may require certification from the employee, and/or an agent of a victim services organization, and/or the Judicial Branch's Office of Victim Services or the Office of the Victim Advocate, and/or a licensed medical professional or other licensed professional form whom the employee has sought assistance with respect to the family violence certifying that the employee is a victim of family violence. Any such certification provided must be maintained in a confidential manner and can only be disclosed as required by law or to protect the employee's safety in the workplace, provided that the employee is given notice prior to any such disclosure.

- The employer cannot discriminate or take adverse actions against any employee for being a victim of family violence or for having to attend or participate in a court proceeding related to a civil case in which the employee is a family violence victim.

- Any leave time allotted under this policy is in addition to any leave time afforded under any of the employer's other policies for which the employee may be eligible.

## IX. PREGNANCY DISABILITY LEAVE

- The employer must provide any pregnant employee with a reasonable leave of absence during any period of time when she has been certified by her health care provider as being disabled from the pregnancy (regardless of whether or not the employee is eligible for FMLA).

- While the length of any such pregnancy disability leave may vary depending on individual circumstances, it is generally expected to be no longer than six (6) weeks.

- Employees can be expected to provide the employer with as much advance notice as possible if they intend not to return to work following their pregnancy so that appropriate staffing decisions can be made.

- Pregnancy disability leaves of absence can be without pay except that employees may be required to use any accrued paid time off during a leave.

- While on a leave of absence, employees do not need to accrue additional paid time off. The employer needs to continue to provide health insurance benefits coverage (if applicable) during a pregnancy disability leave of absence as long as the employee continues to pay her share of the applicable premiums.

- Any leave time allotted under this policy can run concurrently with any leave time afforded under any of the employer's other policies for which the employee may be eligible (such as FMLA).

## X. EMERGENCY SERVICES PERSONNEL LEAVE

- An employer may not discharge, or cause to be discharged, or in any manner discriminate against any employee who is an active volunteer firefighter or member of a volunteer ambulance service or company because such employee is late arriving to work or absent from work as a result of responding to a fire or ambulance call prior to or during the employee's regular hours of employment.

- Employees are required to: (a) submit to the employer a written statement signed by the chief of the volunteer fire department or the medical director or chief administrator of the ambulance service or company, as the case may be, notifying the employer of the employee's status as a volunteer firefighter or member of a volunteer ambulance service or company; (b) make every effort to notify the employer that the employee may report to work late or be absent from work in order to respond to an emergency fire or ambulance call prior to or during the employee's regular hours of employment; (c) If unable to provide prior notification to the employer of a late arrival to work or an absence from work in order to respond to an emergency fire or ambulance call, submit to the employer a written statement signed by the chief of the volunteer fire department or the medical director or chief administrator of the volunteer ambulance service or company, explaining why the employee was unable to provide such prior notification; and (d) at the employer's request, submit a written statement from the chief of the volunteer fire department or the medical director or chief administrator of the volunteer ambulance service or company verifying that such employee responded to a fire or ambulance call and specifying the date, time and duration of such response.

## XI. PROPER HANDLING OF EMPLOYEE MEDICAL ISSUES AND LEAVE

- If employee is absent for more than 3 days, manager should determine if reason for absence is medically-related.

- If medically related, need to evaluate basis for any medical leave and determine which policies and/or law(s) may apply (ADA, FMLA, Workers' Compensation, CT Paid Sick Leave/sick leave policy, Short-Term/Long-Term Disability) and whether the employee has met eligibility requirements (period of employment, need for leave, qualifying condition, etc.).

- Manager must not promise or allow employees to decide that leave is/is not governed by FMLA, short-term disability (if applicable), workers' compensation or that leave will/will not be covered by paid benefits (sick time, vacation time).

- Manager (in conjunction with Human Resources) needs to determine notice obligations and medical certification requirements for employee leave issues.

- Combining all applicable laws and policies, employee needs to be provided with the most generous benefits in terms of amount of leave, pay and benefit status during leave, and alternatives to leave (such as transfer or light duty work).

- During approved medical leaves, employee's position must be kept open (absent limited special circumstances) but may be temporarily filled.

- Manager must coordinate with Human Resources to monitor employee leave and determine any reinstatement rights and obligations.

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