



General Assembly

Substitute Bill No. 5357

February Session, 2022



AN ACT CONCERNING MANDATORY OVERTIME FOR NURSES IN HOSPITALS.

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

1 Section 1. Section 19a-490l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) As used in this section:

4 (1) "Nurse" means a registered nurse or a practical nurse licensed
5 pursuant to chapter 378, or a nurse's aide registered pursuant to chapter
6 378a; [and]

7 (2) "Hospital" has the same meaning as set forth in section 19a-490 [.]
8 and includes a home health care agency, as defined in section 19a-490;
9 and

10 (3) "Overtime" means working (A) in excess of a predetermined
11 scheduled work shift, regardless of the length of the shift, provided such
12 scheduled work shift is determined and communicated not less than
13 forty-eight hours prior to the commencement of such scheduled work
14 shift, (B) more than twelve hours in a twenty-four-hour period, (C)
15 during the ten-hour period immediately following the end of the
16 previous shift of eight hours or more, or (D) more than forty-eight hours

17 in any hospital-defined work week.

18 (b) [No] Except as provided in this section, no hospital may require a
19 nurse to work [in excess of a predetermined scheduled work shift,
20 provided such scheduled work shift is determined and promulgated not
21 less than forty-eight hours prior to the commencement of such
22 scheduled work shift] overtime. It shall be unlawful to discriminate,
23 discharge, discipline, threaten to discipline or discharge or otherwise
24 retaliate against a nurse for refusing to work overtime.

25 (c) Any nurse may volunteer or agree to work [hours in addition to
26 such scheduled work shift but the refusal by a nurse to accept such
27 additional hours shall not be grounds for discrimination, dismissal,
28 discharge or any other penalty or employment decision adverse to the
29 nurse] overtime. Notwithstanding the foregoing, a nurse shall not be
30 permitted to work in excess of sixteen consecutive hours in a twenty-
31 four-hour period. In the event a nurse works sixteen consecutive hours,
32 such nurse shall be given not less than ten consecutive hours of off-duty
33 time immediately following such sixteen-hour work period.

34 [(c) The] (d) Where the safety of a patient requires it, and when there
35 is no reasonable alternative, the provisions of subsection (b) of this
36 section shall not apply: (1) To any nurse participating in [a] an ongoing
37 surgical procedure until such procedure is completed; (2) to any nurse
38 working in a critical care unit, until such nurse is relieved by another
39 nurse who is commencing a scheduled work shift; (3) in the case of a
40 public health emergency; or (4) in the case of an institutional emergency,
41 including, but not limited to, adverse weather conditions, catastrophe
42 or widespread illness that, in the opinion of the hospital administrator,
43 will significantly reduce the number of nurses available for a scheduled
44 work shift, provided the hospital administrator has made a good faith
45 effort to mitigate the impact of such institutional emergency on the
46 availability of nurses. [; or (5) to any nurse who is covered by a collective
47 bargaining agreement that contains provisions addressing the issue of
48 mandatory overtime.]

49 (e) Before requiring a nurse to work overtime, in accordance with the
50 provisions of subsection (d) of this section, the hospital shall make a
51 good faith effort to have such overtime hours covered on a voluntary
52 basis. Mandatory overtime shall not be required as a regular practice for
53 providing appropriate staffing for the necessary level of patient care or
54 in any situation that is the result of routine staffing needs caused by
55 typical staffing patterns, expected levels of absenteeism or time off
56 typically approved by the hospital for vacation, holidays, sick leave and
57 personal leave.

58 (f) Each hospital shall report all occurrences of mandatory overtime
59 and the circumstances requiring its use to the Department of Public
60 Health. Such reports shall be public documents. A copy of the report
61 shall also be provided to the hospital's staffing committee. The report
62 shall include: (1) The date of occurrence, (2) an occurrence narrative that
63 includes the type of situation set forth in subsection (d) of this section
64 permitting the use of such mandatory overtime or certification that the
65 mandatory overtime was permitted under subsection (h) of this section,
66 (3) the number of hours of mandatory overtime the nurse was required
67 to work, and (4) a certification that the mandatory overtime was
68 required for patient safety, there was no reasonable alternative to
69 mandatory overtime and the hospital made a good faith effort to seek
70 volunteers.

71 (g) Any nurse or group of nurses may file a civil action against a
72 hospital that violates any provision of this section. Any nurse or group
73 of nurses that prevails in any such action shall be awarded actual
74 damages, removal of any discipline from the employee's personnel file,
75 attorney's fees and statutory damages not less than two hundred fifty
76 dollars or more than one thousand dollars for each violation of
77 subsections (b), (c) and (e) of this section and not less than one hundred
78 dollars or more than five hundred dollars for each violation of
79 subsection (f) of this section. Such nurse or group of nurses shall also be
80 awarded reinstatement to their job or jobs with backpay if no longer
81 employed by the hospital.

82 (h) (1) The provisions of this section shall not be construed to alter or
83 impair the terms of any bona fide collective bargaining agreement that
84 places additional restrictions or limitations on the use of mandatory
85 overtime.

86 (2) The provisions of subsection (b) of this section shall not prohibit
87 mandatory overtime with respect to any nurse who is covered by a bona
88 fide collective bargaining agreement in effect before July 1, 2022, that
89 contains provisions addressing the issue of mandatory overtime until
90 the expiration date of the collective bargaining agreement.

91 (3) The provisions of subsection (b) of this section shall not prohibit
92 mandatory overtime with respect to any nurse who is covered by a bona
93 fide collective bargaining agreement under chapter 68 to the extent such
94 collective bargaining agreement permits mandatory overtime, provided
95 mandatory overtime for reasons set forth in subsection (d) of this section
96 shall be a mandatory subject of bargaining, and mandatory overtime for
97 reasons other than those set forth in subsection (d) of this section shall
98 be a permissible subject of bargaining.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	19a-490l

LAB *Joint Favorable Subst.*

PH *Joint Favorable*