

A bill for an act

relating to employment; establishing minimum standards of sick leave for certain workers; providing civil penalties; proposing coding for new law in Minnesota Statutes, chapter 181.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **PURPOSE.**

The purpose of the Healthy Families, Healthy Workplaces Act is: (1) to ensure that all working Minnesotans can address their health needs and the health needs of their families; (2) to permit victims of sexual assault and domestic abuse to address needs directly related to the violence or abuse; and (3) to enable workers to seek early and routine medical care for themselves and their family members.

Sec. 2. **[181.9395] SICK LEAVE.**

Subdivision 1. **Citation; Healthy Families, Healthy Workplaces Act.** This section may be cited as the "Healthy Families, Healthy Workplaces Act."

Subd. 2. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Child" means biological child, adopted or foster child, stepchild or legal ward, or a child to whom the employee stands in loco parentis who is under the age of 18 years or who is 18 years of age or older but incapable of self care or earning a living due to a physical or mental disability or incapacity.

(c) "Commissioner" means the commissioner of labor and industry or an authorized designee or representative.

(d) "Department" means the Department of Labor and Industry.

(e) "Domestic abuse" is as defined in the Domestic Abuse Act, section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

(f) "Employ" is as defined in the Fair Labor Standards Act, section 177.23, subdivision 5.

(g) "Employee" is as defined in the Fair Labor Standards Act, section 177.23, subdivision 7, and includes recipients of public benefits who are engaged in work activity as a condition of receiving public assistance.

(h) "Employer" is as defined in the Fair Labor Standards Act, section 177.23, subdivision 6.

(i) "Extended family member" means any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(j) "Grandparent" means a parent of a parent.

(k) "Paid sick leave" means leave that is compensated at the same hourly rate as the employee earns from employment and is provided by an employer to an employee for the purposes described in subdivision 4.

(l) "Parent" means a biological parent, foster parent, stepparent or adoptive parent, or legal guardian of an employee or an employee's spouse, or a person who stood in loco parentis when the employee was a minor child.

(m) "Retaliatory personnel action" means the discharge, suspension, or demotion by an employer of an employee or any other adverse employment action taken by an employer against an employee in the terms and conditions of employment.

(n) "Sexual assault" includes criminal sexual conduct in the first, second, third, fourth, and fifth degrees as defined in sections 609.342 to 609.3451 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

(o) "Spouse" means a person to whom the employee is legally married under the laws of Minnesota.

(p) "Stalking" means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

Subd. 3. Accrual of paid sick leave. (a) An employee who works at least 56 hours in the state has the right to paid sick leave as provided in this section.

(b) An employer that employs ten or more employees must provide a minimum of one hour of paid sick leave for every 30 hours worked by an employee, except that the

employer is not required to provide more than 72 hours of paid sick leave to an employee in a calendar year.

(c) An employer that employs fewer than ten employees must provide a minimum of one hour of paid sick leave for every 30 hours worked by an employee, except that the employer is not required to provide more than 40 hours of paid sick leave to an employee in a calendar year.

(d) An employee who is exempt from overtime requirements under United States Code, title 29, section 213(a)(1) of the Federal Fair Labor Standards Act is assumed to work 40 hours in each work week for purposes of paid sick leave accrual under this subdivision, unless the employee's normal work week is less than 40 hours, in which case paid sick leave accrues based upon that normal work week.

(e) Paid sick leave must accrue in hour-unit or smaller increments.

(f) Paid sick leave must begin to accrue at the commencement of employment.

(g) An employee is entitled to use accrued paid sick leave beginning on the 90th day following commencement of employment. After the 90th day of employment, an employee may use sick leave as it is accrued.

(h) An employee may carry forward unused paid sick leave from one calendar year to the next.

(i) An employer that employs ten or more employees may limit the amount of paid sick leave an employee may use in each calendar year to 72 hours.

(j) An employer that employs fewer than ten employees may limit the amount of paid sick leave an employee may use in each calendar year to 40 hours.

(k) An employer complies with this section if it has a paid leave policy that makes available an amount of paid leave that may be used for the same purposes and under the same conditions as paid sick leave under this section.

(l) An employer may adopt or retain leave policies that are more generous to an employee than the policies required under this section.

(m) When an employee separates from employment and is rehired within 12 months of separation by the same employer, previously accrued paid sick leave that has not been used must be reinstated. The employee is entitled to use accrued paid sick leave and to accrue additional sick leave at the recommencement of employment.

(n) At its discretion, an employer may loan paid sick leave to an employee in advance of accrual by the employee.

Subd. 4. Use of paid sick leave. (a) Subject to subdivision 3, an employer must allow an employee to use accrued paid sick leave for:

(1) an employee's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or preventive medical care;

(2) care of a spouse, child, parent, grandparent, or extended family member with a mental or physical illness, injury, or health condition who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, or who needs preventive medical care; and

(3) any absence necessary due to domestic abuse, provided the leave is to:

(i) seek medical attention for the employee or employee's child, spouse, parent, grandparent, or extended family member to recover from physical or psychological injury or disability caused by domestic abuse or sexual assault;

(ii) obtain services from a victim services organization;

(iii) obtain psychological or other counseling;

(iv) seek relocation due to domestic abuse, sexual assault, or stalking; or

(v) take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic abuse or sexual assault.

(b) An employer may require reasonable notice of the need for paid sick leave. If the need for the leave is foreseeable, an employer may require no more than seven days' advance notice of the intention to take the leave. If the need is not foreseeable, an employer may require an employee to give notice of the need for leave as soon as practicable.

(c) An employer may not require as a condition of providing paid sick leave under this section that an employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

Subd. 5. **Retaliation prohibited.** An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has requested paid sick leave under this section, taken paid sick leave guaranteed by this section, or made a complaint or filed an action to enforce a right to paid sick leave under this section.

Subd. 6. **Notice and posting.** (a) An employer must provide to each employee notice of the following:

(1) an employee's entitlement to and amount of paid sick leave and the terms of its use guaranteed under this section;

(2) that retaliation against an employee who requests or uses paid sick leave is prohibited; and

(3) that each employee has the right to file a complaint or bring a civil action if an employer denies sick leave as required by this section or retaliates against the employee for requesting or taking paid sick leave.

5.1 (b) An employer may comply with this section by supplying each employee with a
5.2 notice in English and Spanish that contains the information required in paragraph (a).

5.3 (c) An employer may comply with this section by displaying a poster in a
5.4 conspicuous and accessible place in each establishment where an employee is employed
5.5 that contains in English and Spanish the information required under paragraph (a).

5.6 (d) The commissioner shall create and make available to employers for their use
5.7 in complying with this subdivision posters that contain the information required under
5.8 paragraph (a).

5.9 Subd. 7. **Regulations; investigations.** (a) The commissioner shall issue regulations
5.10 for implementing this section including, but not limited to, requirements for employers to
5.11 maintain documentation of compliance with the terms of this section.

5.12 (b) The commissioner has authority under the enforcement powers provided in
5.13 section 175.20 to ensure compliance with this section.

5.14 Subd. 8. **Enforcement.** (a) Any person aggrieved by a failure to provide paid sick
5.15 leave as required by this section may bring a civil action in a state district court against an
5.16 employer violating this section.

5.17 (b) Upon prevailing in an action brought pursuant to this section, an aggrieved person
5.18 shall recover the full amount of any unpaid sick leave, any actual damages suffered as the
5.19 result of the employer's failure to provide paid sick leave, and reasonable attorney fees.

5.20 (c) Upon prevailing in an action brought pursuant to this section, an aggrieved
5.21 person is entitled to such legal or equitable relief as may be appropriate to remedy the
5.22 violation, including, without limitation, reinstatement in employment and injunctive relief.

5.23 (d) An employee subjected to retaliatory personnel action in violation of this
5.24 section may institute a civil action in a state district court and is entitled upon prevailing
5.25 to recover damages, reasonable attorney fees, and any other legal or equitable relief as
5.26 may be appropriate.

5.27 (e) Any person aggrieved by either a retaliatory personnel action in violation of this
5.28 section or by an employer's failure to provide paid sick leave as required by this section
5.29 may file a complaint with the attorney general. The filing of a complaint with the attorney
5.30 general does not preclude the filing of a civil action pursuant to this subdivision.

5.31 (f) The attorney general may bring a civil action to enforce this section. The attorney
5.32 general may seek injunctive relief. In addition to injunctive relief, or in lieu thereof, for
5.33 any employer or other person found to have willfully violated this section, the attorney
5.34 general may seek to impose a fine of \$1,000 per violation, payable to the state.

5.35 (g) The statute of limitations for a civil action brought pursuant to this section shall
5.36 be five years from the date the alleged violation occurred.

6.1 (h) An action brought pursuant to this section may be brought as a class action
6.2 as permitted by Minnesota law.

6.3 Subd. 9. **Confidentiality and nondisclosure.** If an employer possesses health
6.4 information or information pertaining to domestic abuse about an employee or employee's
6.5 child, parent, spouse, extended family member, or other individual described in subdivision
6.6 4, paragraph (a), clause (2), the information shall be treated as confidential and not
6.7 disclosed except to the affected employee or with the permission of the affected employee.

6.8 Subd. 10. **Encouragement of more generous leave policies.** (a) Nothing in this
6.9 section shall be construed to discourage or prohibit an employer from the adoption or
6.10 retention of a paid leave policy more generous than the one required by this section.

6.11 (b) Nothing in this section shall be construed as diminishing the obligation of an
6.12 employer to comply with any contract, collective bargaining agreement, employment
6.13 benefit plan, or other agreement providing more generous leave to an employee than
6.14 required by this section.

6.15 (c) Nothing in this section shall be construed as diminishing the rights of public
6.16 employees regarding paid sick leave or use of sick leave as provided in section 43A.1815.

6.17 **Sec. 3. SEVERABILITY.**

6.18 If any provision of section 2 or application thereof to any person or circumstance is
6.19 judged invalid, the invalidity shall not affect other provisions or applications of section 2
6.20 which can be given effect without the invalid provision or application, and to this end the
6.21 provisions of section 2 are declared severable.

6.22 **Sec. 4. EFFECTIVE DATE.**

6.23 Sections 1 to 3 are effective 180 days following final enactment.