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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 41

- 01/11/2021 Authored by Olson, L.; Frazier; Agbaje; Hollins; Thompson and others
The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy
- 03/15/2021 Adoption of Report: Amended and re-referred to the Committee on State Government Finance and Elections
- 03/17/2021 Adoption of Report: Amended and re-referred to the Committee on Transportation Finance and Policy
- 03/22/2021 Adoption of Report: Re-referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy
- 03/25/2021 Adoption of Report: Re-referred to the Committee on Human Services Finance and Policy
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
Adoption of Report: Re-referred to the Committee on Human Services Finance and Policy
Joint Rule 2.03 has been waived for any subsequent committee action on this bill
- 04/06/2021 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- 03/17/2022 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
- 03/28/2022 Calendar for the Day
Read for the Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to employment; providing for earned sick and safe time; requiring a report;

1.3 authorizing rulemaking; appropriating money; amending Minnesota Statutes 2020,

1.4 sections 177.27, subdivisions 2, 4, 7; 181.942, subdivision 1; proposing coding

1.5 for new law in Minnesota Statutes, chapters 177; 181; repealing Minnesota Statutes

1.6 2020, section 181.9413.

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

1.8 **ARTICLE 1**

1.9 **EARNED SICK AND SAFE TIME**

1.10 Section 1. Minnesota Statutes 2020, section 181.942, subdivision 1, is amended to read:

1.11 Subdivision 1. **Comparable position.** (a) An employee returning from a leave of absence

1.12 under section 181.941 is entitled to return to employment in the employee's former position

1.13 or in a position of comparable duties, number of hours, and pay. An employee returning

1.14 from a leave of absence longer than one month must notify a supervisor at least two weeks

1.15 prior to return from leave. An employee returning from a leave under section 181.9412 or

1.16 ~~181.9413~~ sections 181.9445 to 181.9448 is entitled to return to employment in the employee's

1.17 former position.

1.18 (b) If, during a leave under sections 181.940 to 181.944, the employer experiences a

1.19 layoff and the employee would have lost a position had the employee not been on leave,

1.20 pursuant to the good faith operation of a bona fide layoff and recall system, including a

1.21 system under a collective bargaining agreement, the employee is not entitled to reinstatement

1.22 in the former or comparable position. In such circumstances, the employee retains all rights

1.23 under the layoff and recall system, including a system under a collective bargaining

1.24 agreement, as if the employee had not taken the leave.

2.1 Sec. 2. [181.9445] DEFINITIONS.

2.2 Subdivision 1. Definitions. For the purposes of section 177.50 and sections 181.9445
2.3 to 181.9447, the terms defined in this section have the meanings given them.

2.4 Subd. 2. Commissioner. "Commissioner" means the commissioner of labor and industry
2.5 or authorized designee or representative.

2.6 Subd. 3. Domestic abuse. "Domestic abuse" has the meaning given in section 518B.01.

2.7 Subd. 4. Earned sick and safe time. "Earned sick and safe time" means leave, including
2.8 paid time off and other paid leave systems, that is paid at the same hourly rate as an employee
2.9 earns from employment that may be used for the same purposes and under the same
2.10 conditions as provided under section 181.9447.

2.11 Subd. 5. Employee. "Employee" means any person who is employed by an employer,
2.12 including temporary and part-time employees, who performs work for at least 80 hours in
2.13 a year for that employer in Minnesota. Employee does not include:

2.14 (1) an independent contractor; or

2.15 (2) an individual employed by an air carrier as a flight deck or cabin crew member who
2.16 is subject to United States Code, title 45, sections 181 to 188, and who is provided with
2.17 paid leave equal to or exceeding the amounts in section 181.9446.

2.18 Subd. 6. Employer. "Employer" means a person who has one or more employees.
2.19 Employer includes an individual, a corporation, a partnership, an association, a business
2.20 trust, a nonprofit organization, a group of persons, a state, county, town, city, school district,
2.21 or other governmental subdivision. In the event that a temporary employee is supplied by
2.22 a staffing agency, absent a contractual agreement stating otherwise, that individual shall be
2.23 an employee of the staffing agency for all purposes of section 177.50 and sections 181.9445
2.24 to 181.9448.

2.25 Subd. 7. Family member. "Family member" means:

2.26 (1) an employee's:

2.27 (i) child, foster child, adult child, legal ward, or child for whom the employee is legal
2.28 guardian;

2.29 (ii) spouse or registered domestic partner;

2.30 (iii) sibling, stepsibling, or foster sibling;

2.31 (iv) parent or stepparent;

3.1 (v) grandchild, foster grandchild, or stepgrandchild; or

3.2 (vi) grandparent or stepgrandparent;

3.3 (2) any of the family members listed in clause (1) of a spouse or registered domestic
3.4 partner;

3.5 (3) any individual related by blood or affinity whose close association with the employee
3.6 is the equivalent of a family relationship; and

3.7 (4) up to one individual annually designated by the employee.

3.8 Subd. 8. **Health care professional.** "Health care professional" means any person licensed
3.9 under federal or state law to provide medical or emergency services, including doctors,
3.10 physician assistants, nurses, and emergency room personnel.

3.11 Subd. 9. **Prevailing wage rate.** "Prevailing wage rate" has the meaning given in section
3.12 177.42 and as calculated by the Department of Labor and Industry.

3.13 Subd. 10. **Retaliatory personnel action.** "Retaliatory personnel action" means:

3.14 (1) any form of intimidation, threat, reprisal, harassment, discrimination, or adverse
3.15 employment action, including discipline, discharge, suspension, transfer, or reassignment
3.16 to a lesser position in terms of job classification, job security, or other condition of
3.17 employment; reduction in pay or hours or denial of additional hours; the accumulation of
3.18 points under an attendance point system; informing another employer that the person has
3.19 engaged in activities protected by this chapter; or reporting or threatening to report the actual
3.20 or suspected citizenship or immigration status of an employee, former employee, or family
3.21 member of an employee to a federal, state, or local agency; and

3.22 (2) interference with or punishment for participating in any manner in an investigation,
3.23 proceeding, or hearing under this chapter.

3.24 Subd. 11. **Sexual assault.** "Sexual assault" means an act that constitutes a violation
3.25 under sections 609.342 to 609.3453 or 609.352.

3.26 Subd. 12. **Stalking.** "Stalking" has the meaning given in section 609.749.

3.27 Subd. 13. **Year.** "Year" means a regular and consecutive 12-month period, as determined
3.28 by an employer and clearly communicated to each employee of that employer.

3.29 Sec. 3. **[181.9446] ACCRUAL OF EARNED SICK AND SAFE TIME.**

3.30 (a) An employee accrues a minimum of one hour of earned sick and safe time for every
3.31 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year.

4.1 Employees may not accrue more than 48 hours of earned sick and safe time in a year unless
4.2 the employer agrees to a higher amount.

4.3 (b) Employers must permit an employee to carry over accrued but unused sick and safe
4.4 time into the following year. The total amount of accrued but unused earned sick and safe
4.5 time for an employee must not exceed 80 hours at any time, unless an employer agrees to
4.6 a higher amount.

4.7 (c) Employees who are exempt from overtime requirements under United States Code,
4.8 title 29, section 213(a)(1), as amended through the effective date of this section, are deemed
4.9 to work 40 hours in each workweek for purposes of accruing earned sick and safe time,
4.10 except that an employee whose normal workweek is less than 40 hours will accrue earned
4.11 sick and safe time based on the normal workweek.

4.12 (d) Earned sick and safe time under this section begins to accrue at the commencement
4.13 of employment of the employee.

4.14 (e) Employees may use accrued earned sick and safe time beginning 90 calendar days
4.15 after the day their employment commenced. After 90 days from the day employment
4.16 commenced, employees may use earned sick and safe time as it is accrued. The
4.17 90-calendar-day period under this paragraph includes both days worked and days not worked.

4.18 **Sec. 4. [181.9447] USE OF EARNED SICK AND SAFE TIME.**

4.19 Subdivision 1. **Eligible use.** An employee may use accrued earned sick and safe time
4.20 for:

4.21 (1) an employee's:

4.22 (i) mental or physical illness, injury, or other health condition;

4.23 (ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury,
4.24 or health condition; or

4.25 (iii) need for preventive medical or health care;

4.26 (2) care of a family member:

4.27 (i) with a mental or physical illness, injury, or other health condition;

4.28 (ii) who needs medical diagnosis, care, or treatment of a mental or physical illness,
4.29 injury, or other health condition; or

4.30 (iii) who needs preventive medical or health care;

5.1 (3) absence due to domestic abuse, sexual assault, or stalking of the employee or
5.2 employee's family member, provided the absence is to:

5.3 (i) seek medical attention related to physical or psychological injury or disability caused
5.4 by domestic abuse, sexual assault, or stalking;

5.5 (ii) obtain services from a victim services organization;

5.6 (iii) obtain psychological or other counseling;

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

5.8 (v) seek legal advice or take legal action, including preparing for or participating in any
5.9 civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault,
5.10 or stalking;

5.11 (4) closure of the employee's place of business due to weather or other public emergency
5.12 or an employee's need to care for a family member whose school or place of care has been
5.13 closed due to weather or other public emergency; and

5.14 (5) when it has been determined by the health authorities having jurisdiction or by a
5.15 health care professional that the presence of the employee or family member of the employee
5.16 in the community would jeopardize the health of others because of the exposure of the
5.17 employee or family member of the employee to a communicable disease, whether or not
5.18 the employee or family member has actually contracted the communicable disease.

5.19 Subd. 2. **Notice.** An employer may require notice of the need for use of earned sick and
5.20 safe time as provided in this paragraph. If the need for use is foreseeable, an employer may
5.21 require advance notice of the intention to use earned sick and safe time but must not require
5.22 more than seven days' advance notice. If the need is unforeseeable, an employer may require
5.23 an employee to give notice of the need for earned sick and safe time as soon as practicable.

5.24 Subd. 3. **Documentation.** When an employee uses earned sick and safe time for more
5.25 than three consecutive days, an employer may require reasonable documentation that the
5.26 earned sick and safe time is covered by subdivision 1. For earned sick and safe time under
5.27 subdivision 1, clauses (1) and (2), reasonable documentation may include a signed statement
5.28 by a health care professional indicating the need for use of earned sick and safe time. For
5.29 earned sick and safe time under subdivision 1, clause (3), an employer must accept a court
5.30 record or documentation signed by a volunteer or employee of a victims services organization,
5.31 an attorney, a police officer, or an antiviolence counselor as reasonable documentation. An
5.32 employer must not require disclosure of details relating to domestic abuse, sexual assault,
5.33 or stalking or the details of an employee's or an employee's family member's medical

6.1 condition as related to an employee's request to use earned sick and safe time under this
6.2 section.

6.3 Subd. 4. **Replacement worker.** An employer may not require, as a condition of an
6.4 employee using earned sick and safe time, that the employee seek or find a replacement
6.5 worker to cover the hours the employee uses as earned sick and safe time.

6.6 Subd. 5. **Increment of time used.** Earned sick and safe time may be used in the smallest
6.7 increment of time tracked by the employer's payroll system, provided such increment is not
6.8 more than four hours.

6.9 Subd. 6. **Retaliation prohibited.** An employer shall not take retaliatory personnel action
6.10 against an employee because the employee has requested earned sick and safe time, used
6.11 earned sick and safe time, requested a statement of accrued sick and safe time, or made a
6.12 complaint or filed an action to enforce a right to earned sick and safe time under this section.

6.13 Subd. 7. **Reinstatement to comparable position after leave.** An employee returning
6.14 from a leave under this section is entitled to return to employment in a comparable position.
6.15 If, during a leave under this section, the employer experiences a layoff and the employee
6.16 would have lost a position had the employee not been on leave, pursuant to the good faith
6.17 operation of a bona fide layoff and recall system, including a system under a collective
6.18 bargaining agreement, the employee is not entitled to reinstatement in the former or
6.19 comparable position. In such circumstances, the employee retains all rights under the layoff
6.20 and recall system, including a system under a collective bargaining agreement, as if the
6.21 employee had not taken the leave.

6.22 Subd. 8. **Pay and benefits after leave.** An employee returning from a leave under this
6.23 section is entitled to return to employment at the same rate of pay the employee had been
6.24 receiving when the leave commenced, plus any automatic adjustments in the employee's
6.25 pay scale that occurred during the leave period. The employee returning from a leave is
6.26 entitled to retain all accrued preleave benefits of employment and seniority as if there had
6.27 been no interruption in service, provided that nothing under this section prevents the accrual
6.28 of benefits or seniority during the leave pursuant to a collective bargaining or other agreement
6.29 between the employer and employees.

6.30 Subd. 9. **Part-time return from leave.** An employee, by agreement with the employer,
6.31 may return to work part time during the leave period without forfeiting the right to return
6.32 to employment at the end of the leave, as provided under this section.

6.33 Subd. 10. **Notice and posting by employer.** (a) Employers must give notice to all
6.34 employees that they are entitled to earned sick and safe time, including the amount of earned

7.1 sick and safe time, the accrual year for the employee, and the terms of its use under this
7.2 section; that retaliation against employees who request or use earned sick and safe time is
7.3 prohibited; and that each employee has the right to file a complaint or bring a civil action
7.4 if earned sick and safe time is denied by the employer or the employee is retaliated against
7.5 for requesting or using earned sick and safe time.

7.6 (b) Employers must supply employees with a notice in English and other appropriate
7.7 languages that contains the information required in paragraph (a) at commencement of
7.8 employment or the effective date of this section, whichever is later.

7.9 (c) The means used by the employer must be at least as effective as the following options
7.10 for providing notice:

7.11 (1) posting a copy of the notice at each location where employees perform work and
7.12 where the notice must be readily observed and easily reviewed by all employees performing
7.13 work; or

7.14 (2) providing a paper or electronic copy of the notice to employees.

7.15 The notice must contain all information required under paragraph (a). The commissioner
7.16 shall create and make available to employers a poster and a model notice that contains the
7.17 information required under paragraph (a) for their use in complying with this section.

7.18 (d) An employer that provides an employee handbook to its employees must include in
7.19 the handbook notice of employee rights and remedies under this section.

7.20 Subd. 11. **Required statement to employee.** (a) Upon request of the employee, the
7.21 employer must provide, in writing or electronically, current information stating the
7.22 employee's amount of:

7.23 (1) earned sick and safe time available to the employee; and

7.24 (2) used earned sick and safe time.

7.25 (b) Employers may choose a reasonable system for providing the information in paragraph
7.26 (a), including but not limited to listing information on each pay stub or developing an online
7.27 system where employees can access their own information.

7.28 Subd. 12. **Employer records.** (a) Employers shall retain accurate records documenting
7.29 hours worked by employees and earned sick and safe time taken and comply with all
7.30 requirements under section 177.30.

7.31 (b) An employer must allow an employee to inspect records required by this section and
7.32 relating to that employee at a reasonable time and place.

8.1 Subd. 13. Confidentiality and nondisclosure. (a) If, in conjunction with this section,
8.2 an employer possesses:

8.3 (1) health or medical information regarding an employee or an employee's family
8.4 member;

8.5 (2) information pertaining to domestic abuse, sexual assault, or stalking;

8.6 (3) information that the employee has requested or obtained leave under this section; or

8.7 (4) any written or oral statement, documentation, record, or corroborating evidence
8.8 provided by the employee or an employee's family member, the employer must treat such
8.9 information as confidential.

8.10 Information given by an employee may only be disclosed by an employer if the disclosure
8.11 is requested or consented to by the employee, when ordered by a court or administrative
8.12 agency, or when otherwise required by federal or state law.

8.13 (b) Records and documents relating to medical certifications, recertifications, or medical
8.14 histories of employees or family members of employees created for purposes of section
8.15 177.50 or sections 181.9445 to 181.9448 must be maintained as confidential medical records
8.16 separate from the usual personnel files. At the request of the employee, the employer must
8.17 destroy or return the records required by sections 181.9445 to 181.9448 that are older than
8.18 three years prior to the current calendar year.

8.19 (c) Employers may not discriminate against any employee based on records created for
8.20 the purposes of section 177.50 or sections 181.9445 to 181.9448.

8.21 **Sec. 5. [181.9448] EFFECT ON OTHER LAW OR POLICY.**

8.22 Subdivision 1. No effect on more generous sick and safe time policies. (a) Nothing
8.23 in sections 181.9445 to 181.9448 shall be construed to discourage employers from adopting
8.24 or retaining earned sick and safe time policies that meet or exceed, and do not otherwise
8.25 conflict with, the minimum standards and requirements provided in sections 181.9445 to
8.26 181.9447.

8.27 (b) Nothing in sections 181.9445 to 181.9447 shall be construed to limit the right of
8.28 parties to a collective bargaining agreement to bargain and agree with respect to earned sick
8.29 and safe time policies or to diminish the obligation of an employer to comply with any
8.30 contract, collective bargaining agreement, or any employment benefit program or plan that
8.31 meets or exceeds, and does not otherwise conflict with, the minimum standards and
8.32 requirements provided in this section.

9.1 (c) Employers who provide earned sick and safe time to their employees under a paid
9.2 time off policy or other paid leave policy that meets or exceeds, and does not otherwise
9.3 conflict with, the minimum standards and requirements provided in sections 181.9445 to
9.4 181.9448 are not required to provide additional earned sick and safe time.

9.5 (d) An employer may opt to satisfy the requirements of sections 181.9445 to 181.9448
9.6 for construction industry employees by:

9.7 (1) paying at least the prevailing wage rate as defined by section 177.42 and as calculated
9.8 by the Department of Labor and Industry; or

9.9 (2) paying at least the required rate established in a registered apprenticeship agreement
9.10 for apprentices registered with the Department of Labor and Industry.

9.11 An employer electing this option is deemed to be in compliance with sections 181.9445 to
9.12 181.9448 for construction industry employees who receive either at least the prevailing
9.13 wage rate or the rate required in the applicable apprenticeship agreement regardless of
9.14 whether the employees are working on private or public projects.

9.15 (e) Sections 181.9445 to 181.9448 do not prohibit an employer from establishing a policy
9.16 whereby employees may donate unused accrued sick and safe time to another employee.

9.17 (f) Sections 181.9445 to 181.9448 do not prohibit an employer from advancing sick and
9.18 safe time to an employee before accrual by the employee.

9.19 Subd. 2. **Termination; separation; transfer.** Sections 181.9445 to 181.9448 do not
9.20 require financial or other reimbursement to an employee from an employer upon the
9.21 employee's termination, resignation, retirement, or other separation from employment for
9.22 accrued earned sick and safe time that has not been used. If an employee is transferred to
9.23 a separate division, entity, or location, but remains employed by the same employer, the
9.24 employee is entitled to all earned sick and safe time accrued at the prior division, entity, or
9.25 location and is entitled to use all earned sick and safe time as provided in sections 181.9445
9.26 to 181.9448. When there is a separation from employment and the employee is rehired
9.27 within 180 days of separation by the same employer, previously accrued earned sick and
9.28 safe time that had not been used must be reinstated. An employee is entitled to use accrued
9.29 earned sick and safe time and accrue additional earned sick and safe time at the
9.30 commencement of reemployment.

9.31 Subd. 3. **Employer succession.** (a) When a different employer succeeds or takes the
9.32 place of an existing employer, all employees of the original employer who remain employed
9.33 by the successor employer are entitled to all earned sick and safe time accrued but not used

10.1 when employed by the original employer, and are entitled to use all earned sick and safe
10.2 time previously accrued but not used.

10.3 (b) If, at the time of transfer of the business, employees are terminated by the original
10.4 employer and hired within 30 days by the successor employer following the transfer, those
10.5 employees are entitled to all earned sick and safe time accrued but not used when employed
10.6 by the original employer, and are entitled to use all earned sick and safe time previously
10.7 accrued but not used.

10.8 Sec. 6. **REPEALER.**

10.9 Minnesota Statutes 2020, section 181.9413, is repealed.

10.10 Sec. 7. **EFFECTIVE DATE.**

10.11 This article is effective 180 days following final enactment.

10.12 **ARTICLE 2**

10.13 **EARNED SICK AND SAFE TIME ENFORCEMENT**

10.14 Section 1. Minnesota Statutes 2020, section 177.27, subdivision 2, is amended to read:

10.15 Subd. 2. **Submission of records; penalty.** The commissioner may require the employer
10.16 of employees working in the state to submit to the commissioner photocopies, certified
10.17 copies, or, if necessary, the originals of employment records which the commissioner deems
10.18 necessary or appropriate. The records which may be required include full and correct
10.19 statements in writing, including sworn statements by the employer, containing information
10.20 relating to wages, hours, names, addresses, and any other information pertaining to the
10.21 employer's employees and the conditions of their employment as the commissioner deems
10.22 necessary or appropriate.

10.23 The commissioner may require the records to be submitted by certified mail delivery
10.24 or, if necessary, by personal delivery by the employer or a representative of the employer,
10.25 as authorized by the employer in writing.

10.26 The commissioner may fine the employer up to ~~\$1,000~~ \$10,000 for each failure to submit
10.27 or deliver records as required by this section, ~~and up to \$5,000 for each repeated failure.~~
10.28 This penalty is in addition to any penalties provided under section 177.32, subdivision 1.
10.29 In determining the amount of a civil penalty under this subdivision, the appropriateness of
10.30 such penalty to the size of the employer's business and the gravity of the violation shall be
10.31 considered.

11.1 Sec. 2. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

11.2 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
11.3 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
11.4 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.275,
11.5 subdivision 2a, 181.722, 181.79, ~~and~~ 181.939 to 181.943, and 181.9445 to 181.9448, or
11.6 with any rule promulgated under section 177.28. The commissioner shall issue an order
11.7 requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated.
11.8 For purposes of this subdivision only, a violation is repeated if at any time during the two
11.9 years that preceded the date of violation, the commissioner issued an order to the employer
11.10 for violation of sections 177.41 to 177.435 and the order is final or the commissioner and
11.11 the employer have entered into a settlement agreement that required the employer to pay
11.12 back wages that were required by sections 177.41 to 177.435. The department shall serve
11.13 the order upon the employer or the employer's authorized representative in person or by
11.14 certified mail at the employer's place of business. An employer who wishes to contest the
11.15 order must file written notice of objection to the order with the commissioner within 15
11.16 calendar days after being served with the order. A contested case proceeding must then be
11.17 held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being
11.18 served with the order, the employer fails to file a written notice of objection with the
11.19 commissioner, the order becomes a final order of the commissioner.

11.20 Sec. 3. Minnesota Statutes 2020, section 177.27, subdivision 7, is amended to read:

11.21 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
11.22 violated a section identified in subdivision 4, or any rule adopted under section 177.28, and
11.23 the commissioner issues an order to comply, the commissioner shall order the employer to
11.24 cease and desist from engaging in the violative practice and to take such affirmative steps
11.25 that in the judgment of the commissioner will effectuate the purposes of the section or rule
11.26 violated. The commissioner shall order the employer to pay to the aggrieved parties back
11.27 pay, gratuities, and compensatory damages, less any amount actually paid to the employee
11.28 by the employer, and for an additional equal amount as liquidated damages. Any employer
11.29 who is found by the commissioner to have repeatedly or willfully violated a section or
11.30 sections identified in subdivision 4 shall be subject to a civil penalty of up to ~~\$1,000~~ \$10,000
11.31 for each violation for each employee. In determining the amount of a civil penalty under
11.32 this subdivision, the appropriateness of such penalty to the size of the employer's business
11.33 and the gravity of the violation shall be considered. In addition, the commissioner may order
11.34 the employer to reimburse the department and the attorney general for all appropriate
11.35 litigation and hearing costs expended in preparation for and in conducting the contested

12.1 case proceeding, unless payment of costs would impose extreme financial hardship on the
12.2 employer. If the employer is able to establish extreme financial hardship, then the
12.3 commissioner may order the employer to pay a percentage of the total costs that will not
12.4 cause extreme financial hardship. Costs include but are not limited to the costs of services
12.5 rendered by the attorney general, private attorneys if engaged by the department,
12.6 administrative law judges, court reporters, and expert witnesses as well as the cost of
12.7 transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's
12.8 order from the date the order is signed by the commissioner until it is paid, at an annual rate
12.9 provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish
12.10 escrow accounts for purposes of distributing damages.

12.11 **Sec. 4. [177.50] EARNED SICK AND SAFE TIME ENFORCEMENT.**

12.12 **Subdivision 1. Definitions.** The definitions in section 181.9445 apply to this section.

12.13 **Subd. 2. Rulemaking authority.** The commissioner may adopt rules to carry out the
12.14 purposes of this section and sections 181.9445 to 181.9448.

12.15 **Subd. 3. Individual remedies.** In addition to any other remedies provided by law, a
12.16 person injured by a violation of sections 181.9445 to 181.9448 may bring a civil action to
12.17 recover general and special damages, along with costs, fees, and reasonable attorney fees,
12.18 and may receive injunctive and other equitable relief as determined by a court. An action
12.19 to recover damages under this subdivision must be commenced within three years of the
12.20 violation of sections 181.9445 to 181.9448 that caused the injury to the employee.

12.21 **Subd. 4. Grants to community organizations.** The commissioner may make grants to
12.22 community organizations for the purpose of outreach to and education for employees
12.23 regarding their rights under sections 181.9445 to 181.9448. The community-based
12.24 organizations must be selected based on their experience, capacity, and relationships in
12.25 high-violation industries. The work under such a grant may include the creation and
12.26 administration of a statewide worker hotline.

12.27 **Subd. 5. Report to legislature.** (a) The commissioner must submit an annual report to
12.28 the legislature, including to the chairs and ranking minority members of any relevant
12.29 legislative committee. The report must include but is not limited to:

12.30 **(1) a list of all violations of sections 181.9445 to 181.9448, including the employer**
12.31 **involved, and the nature of any violations; and**

12.32 **(2) an analysis of noncompliance with sections 181.9445 to 181.9448, including any**
12.33 **patterns by employer, industry, or county.**

13.1 (b) A report under this section must not include an employee's name or other identifying
13.2 information, any health or medical information regarding an employee or an employee's
13.3 family member, or any information pertaining to domestic abuse, sexual assault, or stalking
13.4 of an employee or an employee's family member.

13.5 Subd. 6. **Contract for labor or services.** It is the responsibility of all employers to not
13.6 enter into any contract or agreement for labor or services where the employer has any actual
13.7 knowledge or knowledge arising from familiarity with the normal facts and circumstances
13.8 of the business activity engaged in, or has any additional facts or information that, taken
13.9 together, would make a reasonably prudent person undertake to inquire whether, taken
13.10 together, the contractor is not complying or has failed to comply with this section. For
13.11 purposes of this subdivision, "actual knowledge" means information obtained by the employer
13.12 that the contractor has violated this section within the past two years and has failed to present
13.13 the employer with credible evidence that such noncompliance has been cured going forward.

13.14 **EFFECTIVE DATE.** This section is effective 180 days after final enactment.

13.15 **ARTICLE 3**

13.16 **EARNED SICK AND SAFE TIME APPROPRIATIONS**

13.17 Section 1. **EARNED SICK AND SAFE TIME APPROPRIATIONS.**

13.18 (a) \$1,367,000 in fiscal year 2023 is appropriated from the general fund to the
13.19 commissioner of labor and industry for enforcement and other duties regarding earned sick
13.20 and safe time under Minnesota Statutes, sections 181.9445 to 181.9448, and chapter 177.
13.21 In fiscal year 2024, the base is \$2,018,000. In fiscal year 2025, the base is \$1,708,000.

13.22 (b) \$3,000 in fiscal year 2023 is appropriated from the general fund to the commissioner
13.23 of management and budget for printing costs associated with earned sick and safe time
13.24 under Minnesota Statutes, sections 181.9445 to 181.9448. This is a onetime appropriation.

13.25 (c) \$51,000 in fiscal year 2023 is appropriated from the general fund to the entities
13.26 specified in paragraph (d) to offset the cost of earned sick and safe time leave required under
13.27 this act of executive branch agencies, boards, and commissions. The base for fiscal year
13.28 2024 and beyond is \$102,000.

13.29 (d) The commissioner of management and budget must determine an allocation of the
13.30 amount appropriated in paragraph (c) for each executive branch state agency, board, and
13.31 commission. Each allocation is directly appropriated to each of these entities as specified
13.32 by the commissioner.

14.1 (e) \$300,000 in fiscal year 2023 is appropriated from the general fund to the commissioner
14.2 of labor and industry for grants to community organizations under Minnesota Statutes,
14.3 section 177.50, subdivision 4. In fiscal year 2024, the base is \$300,000. In fiscal year 2025,
14.4 the base is \$0.

14.5 (f) \$18,000 in fiscal year 2023 is appropriated from the general fund to the house of
14.6 representatives to modify timecard and human resources systems as necessary to comply
14.7 with this act. This is a onetime appropriation.

14.8 (g) \$1,000 in fiscal year 2023 is appropriated from the general fund to the supreme court
14.9 for purposes of this act. The base for this appropriation is \$492,000 in fiscal year 2024 and
14.10 \$459,000 in fiscal year 2025.

181.9413 SICK LEAVE BENEFITS; CARE OF RELATIVES.

(a) An employee may use personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's child, as defined in section 181.940, subdivision 4, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. This section applies only to personal sick leave benefits payable to the employee from the employer's general assets.

(b) An employee may use sick leave as allowed under this section for safety leave, whether or not the employee's employer allows use of sick leave for that purpose for such reasonable periods of time as may be necessary. Safety leave may be used for assistance to the employee or assistance to the relatives described in paragraph (a). For the purpose of this section, "safety leave" is leave for the purpose of providing or receiving assistance because of sexual assault, domestic abuse, or harassment or stalking. For the purpose of this paragraph:

(1) "domestic abuse" has the meaning given in section 518B.01;

(2) "sexual assault" means an act that constitutes a violation under sections 609.342 to 609.3453 or 609.352; and

(3) "harass" and "stalking" have the meanings given in section 609.749.

(c) An employer may limit the use of safety leave as described in paragraph (b) or personal sick leave benefits provided by the employer for absences due to an illness of or injury to the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent to no less than 160 hours in any 12-month period. This paragraph does not apply to absences due to the illness or injury of a child, as defined in section 181.940, subdivision 4.

(d) For purposes of this section, "personal sick leave benefits" means time accrued and available to an employee to be used as a result of absence from work due to personal illness or injury, but does not include short-term or long-term disability or other salary continuation benefits.

(e) For the purpose of this section, "child" includes a stepchild and a biological, adopted, and foster child.

(f) For the purpose of this section, "grandchild" includes a step-grandchild, and a biological, adopted, and foster grandchild.

(g) This section does not prevent an employer from providing greater sick leave benefits than are provided for under this section.

(h) An employer shall not retaliate against an employee for requesting or obtaining a leave of absence under this section.