

CHAPTER 181

EMPLOYMENT; WAGES, CONDITIONS,
HOURS, RESTRICTIONS

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181.03 CERTAIN ACTS RELATING TO PAYMENT OF WAGES UNLAWFUL.

Subdivision 1. **Prohibited practices.** An employer may not, directly or indirectly and with intent to defraud:

(1) cause any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered;

(2) directly or indirectly demand or receive from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or

(3) in any manner make or attempt to make it appear that the wages paid to any employee were greater than the amount actually paid to the employee.

Subd. 2. **Commissions.** Except as otherwise provided in section 181.13, an employer or a person, firm, corporation, or association may not alter the method of payment, timing of payment, or procedures for payment of commissions earned through the last day of employment after the employee has resigned or been terminated if the result is to delay or reduce the amount of payment.

Subd. 3. **Civil action.** An employer who violates this section is liable in a civil action brought by the employee for twice the amount in dispute.

History: 2001 c 199 s 1

181.30 DUTY OF DEPARTMENT OF PUBLIC SERVICE.

Any officer of any railroad company in the state violating any of the provisions of section 181.29 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$100, and not more than \$700, for each offense, or by imprisonment in the county jail not more than 60 days, or both fine and imprisonment, at the discretion of the court. It shall be the duty of the state department of transportation, upon complaint properly filed with it alleging a violation of section 181.29, to make a full investigation in relation thereto, and for such purpose it shall have the power to administer oaths, interrogate witnesses, take testimony and require the production of books and papers, and if such report shall show a violation of the provisions of section 181.29, the department of transportation shall, through the attorney general, begin the prosecution of all parties against whom evidence of such violation is found; but section 181.29 shall not be construed to prevent any other person from beginning prosecution for the violation of the provisions thereof.

History: 1Sp2001 c 4 art 6 s 26

181.61 MEDICAL EXAMINATION; RECORDS, COSTS.

It is unlawful for any employer to require any employee or applicant for employment to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment, except certificates of attending physicians in connection with the administration of an employee's pension and disability benefit plan or citizenship papers or birth records.

History: 1Sp2001 c 9 art 15 s 32

181.933 NOTICE OF TERMINATION.

Subdivision 1. **Notice required.** An employee who has been involuntarily terminated may, within 15 working days following such termination, request in writing that the employer inform the employee of the reason for the termination. Within ten working days following receipt of such request, an employer shall inform the terminated employee in writing of the truthful reason for the termination.

[For text of subd 2, see M.S.2000]

History: 2001 c 95 s 1.

181.9455 LEAVE FOR ORGAN DONATION.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given to them in this subdivision.

(b) "Employee" means a person who performs services for hire for a public employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by a public employer. Employee does not include an independent contractor.

(c) "Employer" means a state, county, city, town, school district, or other governmental subdivision that employs 20 or more employees.

Subd. 2. **Leave.** An employer must grant paid leaves of absence to an employee who seeks to undergo a medical procedure to donate an organ or partial organ to another person. The combined length of the leaves shall be determined by the employee, but may not exceed 40 work hours for each donation, unless agreed to by the employer. The employer may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation. If there is a medical determination that the employee does not qualify as an organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

Subd. 3. **No employer sanctions.** An employer shall not retaliate against an employee for requesting or obtaining a leave of absence as provided by this section.

Subd. 4. **Relationship to other leave.** This section does not prevent an employer from providing leave for organ donations in addition to leave allowed under this section. This section does not affect an employee's rights with respect to any other employment benefit.

Subd. 5. **Report.** The commissioner of employee relations must report to the legislature on the use and costs of the leave under this section. The report must be made by February 15, 2003.

Subd. 6. **Sunset.** This section expires on June 30, 2004.

History: 1Sp2001 c 4 art 2 s 9

181.974 GENETIC TESTING IN EMPLOYMENT.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Genetic test" means a test of a person's genes, gene products, or chromosomes for abnormalities or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to disease, impairment, or other disorders, whether physical or mental, or that demonstrate genetic or chromosomal damage due to environmental factors.

(b) "Employer" means any person having one or more employees in Minnesota, and includes the state and any political subdivisions of the state.

(c) "Employee" means a person who performs services for hire in Minnesota for an employer, but does not include independent contractors.

(d) "Protected genetic information" means:

(1) information about a person's genetic test; or

(2) information about a genetic test of a blood relative of a person.

Subd. 2. **Use of protected genetic information prohibited.** (a) No employer or employment agency shall directly or indirectly:

(1) administer a genetic test or request, require, or collect protected genetic information regarding a person as a condition of employment; or

(2) affect the terms or conditions of employment or terminate the employment of any person based on protected genetic information.

(b) No person shall provide or interpret for any employer or employment agency protected genetic information on a current or prospective employee.

Subd. 3. **Penalties.** Any person aggrieved by a violation of this section may bring a civil action, in which the court may award:

(1) up to three times the actual damages suffered due to the violation;

(2) punitive damages;

(3) reasonable costs and attorney fees; and

(4) injunctive or other equitable relief as the court may deem appropriate.

History: 2001 c 154 s 1

181.980 ACCESS TO EMPLOYEE ASSISTANCE RECORDS.

Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms have the meanings given to them in this subdivision.

(b) "Employee assistance services" means services paid for or provided by an employer and offered to employees or their family members on a voluntary basis. The services are designed to assist in the identification and resolution of productivity problems associated with personal concerns. Services include, but are not limited to, assessment; assistance; counseling or referral assistance with medical or mental health problems; alcohol or drug use; or emotional, marital, familial, financial, legal, or other personal problems.

(c) "Employer" means a person or entity located or doing business in the state and having one or more employees, but does not include a government entity that is subject to chapter 13.

(d) "Employee assistance provider" means an employer, or a person acting on behalf of an employer, who is providing employee assistance services.

(e) "Employee assistance records" means the records created, collected, or maintained by an employee assistance provider that relate to participation by an employee or an employee's family member in employee assistance services.

Employee assistance records do not include:

(1) written or recorded comments or data of a personal nature about a person other than the employee, if disclosure of the information would constitute an intrusion upon that person's privacy;

(2) written or recorded comments or data kept by the employee's supervisor or an executive, administrative, or professional employee, provided the written comments or data are kept in the sole possession of the author of the record;

(3) information that is not discoverable in a worker's compensation, grievance arbitration, administrative, judicial, or quasijudicial proceeding; or

(4) any portion of a written, recorded, or transcribed statement by a third party about the recipient of employee assistance services that discloses the identity of the third party by name, inference, or otherwise.

Subd. 2. **Access.** Upon written request of a person who has received employee assistance services, or a parent or legal guardian of the person if the person is a minor, an employee assistance provider shall provide the requesting person with an opportunity to review and obtain copies of the person's employee assistance records or the pertinent portion of the records specified by the person. An employee assistance provider shall comply with a request under this subdivision no later than seven working days after receipt of the request if the records are located in this state, or 14 working

days after receipt of the request if the records are located outside this state. An employee assistance provider may not charge a fee for a copy of the record.

Subd. 3. **Relation to personnel file.** Employee assistance records must be maintained separate from personnel records and must not become part of an employee's personnel file.

Subd. 4. **Other rights preserved.** The rights and obligations created by this section are in addition to rights or obligations created under a contract or other law governing access to records.

Subd. 5. **Disclosure.** No portion of employee assistance records, or participation in employee assistance services, may be disclosed to a third person, including the employer or its representative, without the prior written authorization of the person receiving services, or the person's legal representative. This subdivision does not prohibit disclosure:

- (1) pursuant to state or federal law or judicial order;
- (2) required in the normal course of providing the requested services; or
- (3) if necessary to prevent physical harm or the commission of a crime.

Subd. 6. **Remedies.** In addition to other remedies provided by law, the recipient of employee assistance services may bring a civil action to compel compliance with this section and to recover actual damages, plus costs and reasonable attorney fees.

History: 2001 c 145 s 1