

Senate File 2337

S-5160

1 Amend Senate File 2337 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. NEW SECTION. 91F.1 Title.

5 This chapter shall be known as the "*Healthy and Safe*  
6 *Families and Workplaces Act*".

7 Sec. 2. NEW SECTION. 91F.2 Definitions.

8 1. "*Commissioner*" means the labor commissioner,  
9 appointed pursuant to section 91.2.

10 2. "*Domestic abuse assault*" means as defined in  
11 section 708.2A.

12 3. "*Employee*" means as defined in section 91A.2.

13 4. "*Employer*" means as defined in section 91A.2.

14 5. "*Family member*" means any of the following:

15 a. An employee's spouse or domestic partner.

16 b. A child or foster child; stepchild; legal ward;  
17 a child of a domestic partner; or a child to whom the  
18 employee stands in loco parentis.

19 c. A parent or foster parent; stepparent; legal  
20 guardian; or a person who stood in loco parentis to the  
21 employee when the employee was a minor child.

22 d. A grandparent or spouse or domestic partner of a  
23 grandparent.

24 e. A grandchild.

25 f. A sibling or foster sibling; stepsibling;  
26 or spouse or domestic partner of a sibling, foster  
27 sibling, or stepsibling.

28 g. Any other individual related to the employee  
29 by blood or affinity whose close association with the  
30 employee is the equivalent of a familial relationship.

31 6. "*Health care professional*" means as defined in  
32 section 135.157.

33 7. "*Paid sick and safe time*" means time that is  
34 compensated at the same hourly rate and with the  
35 same benefits, including health care benefits, as the  
36 employee normally earns during hours worked and is  
37 provided by an employer to an employee for the purposes  
38 described in section 91F.4, but in no instance shall  
39 the hourly wage be less than that provided in section  
40 91D.1.

41 8. "*Retaliatory personnel action*" means the  
42 discharge, suspension, or demotion of, or any other  
43 adverse action taken by an employer against, an  
44 employee.

45 9. "*Sexual abuse*" means as defined in section  
46 709.1.

47 10. "*Stalking*" means as defined in section 708.11.

48 Sec. 3. NEW SECTION. 91F.3 Accrual — paid sick  
49 and safe time.

50 1. An employee who works for compensation for an

1 employer shall have the right to accrue and use paid  
2 sick and safe time for each hour the employee works for  
3 the employer as provided in this chapter.

4 2. a. An employee shall accrue a minimum of one  
5 hundred sixteen ten-thousandths of an hour of paid sick  
6 and safe time for each hour worked for the employer.  
7 An employee who works two thousand eighty hours in a  
8 calendar year shall accrue approximately twenty-four  
9 hours of paid sick and safe time. An employer may set  
10 a higher accrual rate for paid sick and safe time.

11 b. (1) An employee may accrue up to twenty-four  
12 hours of paid sick and safe time in a calendar year,  
13 unless the employer selects a higher limit.

14 (2) An employee shall not carry over more than  
15 eight hours of accrued paid sick and safe time to the  
16 following calendar year, unless the employer selects  
17 a higher limit.

18 3. Employees who are exempt from overtime  
19 requirements under 29 U.S.C. § 213(a)(1) of the federal  
20 Fair Labor Standards Act of 1938 are deemed to work  
21 forty hours in each work week for purposes of paid sick  
22 and safe time accrual unless their normal work week is  
23 less than forty hours, in which case paid sick and safe  
24 time accrues based upon that normal work week.

25 4. Paid sick and safe time as provided in this  
26 section shall begin to accrue upon the commencement of  
27 employment for new employees and for existing employees  
28 beginning July 1, 2010.

29 5. a. A new employee may use accrued paid sick  
30 and safe time beginning on the sixtieth calendar day  
31 following commencement of the employee's employment.  
32 On and after the sixtieth calendar day of employment,  
33 an employee may use accrued paid sick and safe time and  
34 accruing paid sick and safe time as it accrues.

35 b. Existing employees may use paid sick and safe  
36 time as it accrues pursuant to this chapter.

37 6. An employer with a paid leave policy who makes  
38 available an amount of paid leave sufficient to meet  
39 the accrual requirements of this section that may  
40 be used for the same purposes and under the same  
41 conditions as paid sick and safe time under this  
42 chapter is not required to provide additional paid sick  
43 and safe time.

44 7. Nothing in this section shall be construed  
45 as requiring financial or other reimbursement to  
46 an employee from an employer upon the employee's  
47 termination, resignation, retirement, or other  
48 separation from employment for accrued paid sick and  
49 safe time that has not been used.

50 8. a. If an employee is transferred to a separate

1 division, entity, or location, but remains employed by  
2 the same employer, the employee is entitled to all paid  
3 sick and safe time previously accrued; is entitled to  
4 immediately use all accrued paid sick and safe time as  
5 provided in this chapter; and shall continue to accrue  
6 paid sick and safe time at the same rate or higher as  
7 before the transfer.

8     *b.* When there is a separation from employment and  
9 the employee is rehired within three months of the  
10 separation by the same employer, previously accrued  
11 paid sick and safe time that had not been used prior to  
12 the separation shall be reinstated. The employee may  
13 use such accrued paid sick and safe time immediately  
14 upon rehire, and paid sick and safe time shall begin to  
15 accrue immediately upon rehire.

16     9. At the employer's discretion, the employer may  
17 advance paid sick and safe time to an employee ahead of  
18 accrual of such time by the employee.

19     Sec. 4. NEW SECTION. 91F.4 Use — paid sick and  
20 safe time.

21     1. Paid sick and safe time shall be provided to an  
22 employee by an employer for the following purposes:

23     *a.* An employee's mental or physical illness,  
24 injury, or health condition; an employee's need for  
25 medical diagnosis, care, or treatment of a mental or  
26 physical illness, injury, or health condition; an  
27 employee's need for preventive medical care.

28     *b.* An employee's need to care for a family member  
29 with a mental or physical illness, injury, or health  
30 condition; an employee's need to care for a family  
31 member who needs medical diagnosis, care, or treatment  
32 of a mental or physical illness, injury, or health  
33 condition; an employee's need to care for a family  
34 member who needs preventive medical care.

35     *c.* (1) Closure of the employee's place of work  
36 by order of a public official due to a public health  
37 emergency unless such time off shall be made up as  
38 agreed to in a contract or collective bargaining  
39 agreement between the employer and employee, or is  
40 otherwise required by law.

41     (2) An employee's need to care for a family member  
42 whose school or place of care has been closed by order  
43 of a public official due to a public health emergency.

44     (3) An employee's need to care for a family member  
45 when public health authorities or a health care  
46 professional has determined that the family member's  
47 presence in the community jeopardizes the health of  
48 others because of the family member's exposure to  
49 communicable disease, whether or not the family member  
50 has actually contracted the communicable disease.

1 d. An employee's need to be absent from work due  
2 to domestic abuse assault, sexual abuse, or stalking,  
3 provided the leave from work is to do one or more of  
4 the following:

- 5 (1) Seek medical attention for the employee or  
6 family member to recover from physical or psychological  
7 injury or disability caused by domestic abuse assault  
8 or sexual abuse.
- 9 (2) Obtain services from a victim services  
10 organization.
- 11 (3) Obtain psychological or other counseling.
- 12 (4) Seek relocation due to the domestic abuse  
13 assault, sexual abuse, or stalking.
- 14 (5) Take legal action, including preparing for or  
15 participating in any civil or criminal legal proceeding  
16 related to or resulting from the domestic abuse  
17 assault, sexual abuse, or stalking.

18 2. Paid sick and safe time shall be allowed upon  
19 the oral request of an employee. When possible, the  
20 employee shall include the expected duration of the  
21 employee's absence.

22 3. When the use of paid sick and safe time is  
23 foreseeable, the employee shall make a good faith  
24 effort to provide notice of the need for such time to  
25 the employer in advance of the use of the paid sick and  
26 safe time, and the employee shall make a reasonable  
27 effort to schedule the use of paid sick and safe time  
28 in a manner that does not unduly disrupt the operations  
29 of the employer.

30 4. Accrued paid sick and safe time may be used  
31 in the smaller of hourly increments or the smallest  
32 increment that the employer's payroll system uses to  
33 account for absences or use of other time.

34 5. a. An employer may require reasonable  
35 documentation that paid sick and safe time is for the  
36 purposes described in subsection 1.

- 37 (1) Documentation signed by a health care  
38 professional indicating that sick time is necessary  
39 shall be considered reasonable documentation.
- 40 (2) A police report indicating that the employee  
41 was a victim of domestic abuse assault, sexual abuse,  
42 or stalking; a court order; or a signed statement  
43 from a victim and witness advocate affirming that  
44 the employee is involved in legal action related to  
45 domestic abuse assault, sexual abuse, or stalking shall  
46 be considered reasonable documentation.

47 b. An employer may not require that the  
48 documentation explain the nature of the medical reason  
49 or the details of the domestic abuse, sexual abuse, or  
50 stalking.

1 c. (1) If an employer chooses to require  
2 documentation for use of paid sick time and the  
3 employee does not have health insurance, the employer  
4 is responsible for paying all out-of-pocket expenses  
5 the employee incurs in obtaining the documentation.  
6 (2) If the employee does have health insurance, the  
7 employer is responsible for paying any costs charged to  
8 the employee by the health care provider for providing  
9 the specific documentation required by the employer.  
10 6. An employer shall not require as a condition of  
11 allowing paid sick and safe time under this chapter  
12 that the employee search for or find a replacement  
13 worker to cover the hours during which the employee  
14 will be using paid sick and safe time.  
15 Sec. 5. NEW SECTION. 91F.5 Exercise of rights —  
16 **retaliation prohibited.**  
17 1. An employer or any other person shall not  
18 interfere with, restrain, or deny the exercise of, or  
19 the attempt to exercise, any right protected under this  
20 chapter.  
21 2. An employer shall not take retaliatory personnel  
22 action or discriminate against an employee because the  
23 employee has exercised rights protected under this  
24 chapter. Such rights include but are not limited to  
25 the following:  
26 a. The right to use paid sick and safe time  
27 pursuant to this chapter.  
28 b. The right to file a complaint or inform any  
29 person about any employer's alleged violation of this  
30 chapter.  
31 c. The right to cooperate with the commissioner  
32 in any investigation of alleged violations of this  
33 chapter.  
34 d. The right to inform any person of the person's  
35 potential rights under this chapter.  
36 3. An employer's absence control policy shall not  
37 count paid sick and safe time taken pursuant to this  
38 chapter as an absence that may lead to or result in  
39 discipline, discharge, demotion, suspension, or any  
40 other adverse action.  
41 4. The protections of this section shall apply to  
42 any person who mistakenly but in good faith alleges  
43 violations of this section.  
44 5. There is a rebuttable presumption of retaliation  
45 under this section whenever an employer takes adverse  
46 action against an employee within ninety days of when  
47 that employee has done any of the following:  
48 a. Filed a complaint with the commissioner or a  
49 court alleging a violation of any provision of this  
50 chapter.

- 1     *b.* Informed any person about an employer's alleged  
2 violation of this chapter.
- 3     *c.* Cooperated with the commissioner or others in an  
4 investigation or prosecution of any alleged violation  
5 of this chapter.
- 6     *d.* Opposed any policy, practice, or act that is  
7 unlawful under this chapter.
- 8     *e.* Informed any person of the person's potential  
9 rights under this chapter.

10     Sec. 6. NEW SECTION. 91F.6 Notice and posting.

11     1. An employer shall give notice to employees of  
12 the following:

13     *a.* Employees are entitled to paid sick and safe  
14 time.

15     *b.* The accrual amounts of paid sick and safe time.

16     *c.* The terms of use of paid sick and safe time  
17 guaranteed under this chapter.

18     *d.* The prohibition against retaliation against  
19 employees who request or use paid sick and safe time.

20     *e.* Each employee has the right to file a complaint  
21 or bring a civil action if paid sick and safe time as  
22 required by this chapter is denied by the employer, or  
23 the employee is retaliated against for requesting or  
24 taking paid sick and safe time.

25     2. *a.* An employer may comply with this section by  
26 supplying each employee with a notice in English, and  
27 in any language that is the first language spoken by at  
28 least five percent of the employer's workforce, that  
29 contains the information described in subsection 1.

30     *b.* (1) An employer may comply with this section  
31 by displaying a poster in a conspicuous and accessible  
32 place in each establishment where such employees  
33 are employed which contains in English, and in any  
34 language that is the first language spoken by at least  
35 five percent of the employer's workforce, all the  
36 information required in subsection 1.

37     (2) The commissioner shall create and make  
38 available to employers posters that contain the  
39 information required in subsection 1 in English and in  
40 any language that the employer informs the commissioner  
41 that more than five percent of the employer's workforce  
42 speaks as a first language.

43     3. An employer who willfully violates the notice  
44 and posting requirements of this section shall be  
45 subject to a civil fine in an amount not to exceed one  
46 hundred dollars for each separate offense.

47     Sec. 7. NEW SECTION. 91F.7 Damages recoverable by  
48 an employee.

49     In an action by an employee against the employee's  
50 employer or former employer for an alleged violation of

1 this chapter, when it has been shown that the employer  
2 has intentionally failed to provide paid sick and safe  
3 time to the employee in violation of this chapter or  
4 failed to allow the employee to use accrued paid sick  
5 and safe time as provided by this chapter, the employer  
6 shall be liable to the employee for the monetary value  
7 of the owed paid sick and safe time, plus liquidated  
8 damages for failure to allow the employee to use  
9 accrued paid sick and safe time, court costs, and any  
10 attorney fees incurred in the civil action.

11 **Sec. 8. NEW SECTION. 91F.8 Employer records.**

12 1. An employer shall retain records documenting  
13 hours worked by employees and paid sick and safe time  
14 taken by employees, for a period of five years.

15 2. An employer shall allow the commissioner  
16 access to such records, with notice and at a mutually  
17 agreeable time, to monitor compliance with the  
18 requirements of this chapter.

19 3. If an issue arises as to an employee's  
20 entitlement to paid sick and safe time under this  
21 chapter and the employer does not maintain or retain  
22 adequate records according to this section or does not  
23 allow the commissioner access to such records, the  
24 commissioner or other investigating authority shall  
25 presume that the employer has violated this chapter,  
26 absent clear and convincing evidence otherwise.

27 **Sec. 9. NEW SECTION. 91F.9 Enforcement.**

28 1. Upon the written complaint of the employee  
29 involved, the commissioner may determine whether  
30 to investigate if an employer has violated any  
31 provision of this chapter. The commissioner shall keep  
32 confidential, to the extent permitted by applicable  
33 law, the name of and other indentifying information  
34 about the employee reporting the alleged violation.  
35 However, the commissioner, with the authorization of  
36 the complaining employee, may disclose the employee's  
37 name and other information as necessary to enforce this  
38 chapter or for other appropriate purposes.

39 2. If for any reason the commissioner makes a  
40 determination not to investigate, the commissioner  
41 shall notify the complaining employee within  
42 fourteen days of receipt of the complaint. The  
43 commissioner shall otherwise notify the employee of  
44 the determination to investigate within a reasonable  
45 time. If it is determined that there is an enforceable  
46 claim, the commissioner, with the consent of the  
47 complaining employee and with the assistance of the  
48 office of the attorney general if the commissioner  
49 requests such assistance, shall, unless a settlement  
50 is reached, commence a civil action in any court of

1 competent jurisdiction to recover for the benefit of  
2 any employee any paid sick and safe time claims that  
3 have been assigned to the commissioner for recovery.  
4 The commissioner may also request reasonable and  
5 necessary attorney fees. With the consent of the  
6 assigning employee, the commissioner may also settle a  
7 claim on behalf of the assigning employee.

8 3. Proceedings under this section that precede  
9 commencement of a civil action shall be conducted  
10 informally without any party having a right to be heard  
11 before the commissioner. The commissioner may join  
12 various assignments in one claim for the purpose of  
13 settling or litigating their claims.

14 4. The provisions of subsections 1 and 2 shall  
15 not be construed to prevent an employee from settling  
16 or bringing an action for damages under section 91F.7  
17 if the employee has not assigned the claim under  
18 subsection 1.

19 5. Any recovery of attorney fees, in the case of  
20 actions brought under this section by the commissioner,  
21 shall be remitted by the commissioner to the treasurer  
22 of state for deposit in the general fund of the state.  
23 The commissioner shall not be required to pay any  
24 filing fee or other court costs.

25 Sec. 10. NEW SECTION. 91F.10 Confidentiality and  
26 nondisclosure.

27 1. An employer may not require disclosure of  
28 details relating to domestic abuse assault, sexual  
29 abuse, or stalking, or the details of an employee's  
30 medical condition or that of a family member as a  
31 condition of allowing paid sick and safe time under  
32 this chapter.

33 2. If an employer possesses health information  
34 or information pertaining to domestic abuse assault,  
35 sexual abuse, or stalking about an employee or an  
36 employee's family member, such information shall be  
37 treated as confidential and not disclosed except to the  
38 affected employee or with the written permission of the  
39 affected employee.

40 Sec. 11. NEW SECTION. 91F.11 Other sick and safe  
41 time policies — legal requirements.

42 1. Nothing in this chapter shall be construed to  
43 discourage or prohibit an employer from the adoption or  
44 retention of a paid sick and safe time policy that is  
45 more generous than that provided in this chapter.

46 2. Nothing in this chapter shall be construed as  
47 diminishing the obligation of an employer to comply  
48 with any contract, collective bargaining agreement,  
49 employment benefit plan, or other agreement that  
50 provides more generous paid sick and safe time to an



1 employee than required in this chapter.  
2 3. Nothing in this chapter shall be construed as  
3 diminishing the rights of public employees regarding  
4 paid sick and safe time or the use of paid sick and  
5 safe time as provided by state law.  
6 4. This chapter provides minimum requirements  
7 pertaining to paid sick and safe time and shall not  
8 be construed to preempt, limit, or otherwise affect  
9 the applicability of any other law, regulation,  
10 requirement, policy, or standard that provides for  
11 greater accrual or use by employees of sick and safe  
12 time, whether paid or unpaid, or that extends other  
13 protections to employees.  
14 Sec. 12. Section 91.4, subsection 5, Code 2009, is  
15 amended to read as follows:  
16 5. The director of the department of workforce  
17 development, in consultation with the labor  
18 commissioner, shall, at the time provided by law,  
19 make an annual report to the governor setting forth  
20 in appropriate form the business and expense of the  
21 division of labor services for the preceding year,  
22 the number of disputes or violations processed by  
23 the division and the disposition of the disputes  
24 or violations, and other matters pertaining to the  
25 division which are of public interest, together with  
26 recommendations for change or amendment of the laws  
27 in this chapter and chapters 88, 88A, 88B, 89, 89A,  
28 89B, 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and  
29 section 85.68, and the recommendations, if any, shall  
30 be transmitted by the governor to the first general  
31 assembly in session after the report is filed.  
32 Sec. 13. APPLICABILITY. Notwithstanding section 14  
33 of this Act relating to applicability of this Act on  
34 or after the effective date of this Act, this Act does  
35 not apply to employees under a contract or collective  
36 bargaining agreement that was in effect on or before  
37 the effective date of this Act.  
38 Sec. 14. APPLICABILITY. This Act applies to all  
39 existing employees on and after the effective date of  
40 this Act and to all new employees hired on or after  
41 that date.>  
42 2. By renumbering as necessary.

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THOMAS G. COURTNEY