

Senate File 2097 - Introduced

SENATE FILE 2097

BY PETERSEN

A BILL FOR

1 An Act providing for employment leave for prenatal appointments
2 and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 4, Code 2016, is
2 amended to read as follows:

3 4. The division of labor services is responsible for the
4 administration of the laws of this state under [chapters 88,](#)
5 [88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,](#)
6 [and 94A,](#) and [section 85.68.](#) The executive head of the division
7 is the labor commissioner, appointed pursuant to [section 91.2.](#)

8 Sec. 2. Section 91.4, subsection 2, Code 2016, is amended
9 to read as follows:

10 2. The director of the department of workforce development,
11 in consultation with the labor commissioner, shall, at the
12 time provided by law, make an annual report to the governor
13 setting forth in appropriate form the business and expense of
14 the division of labor services for the preceding year, the
15 number of remedial actions taken under [chapter 89A,](#) the number
16 of disputes or violations processed by the division and the
17 disposition of the disputes or violations, and other matters
18 pertaining to the division which are of public interest,
19 together with recommendations for change or amendment of the
20 laws in [this chapter](#) and [chapters 88, 88A, 88B, 89, 89A, 89B,](#)
21 [90A, 91A, 91C, 91D, 91E, 91F, 92,](#) and [94A,](#) and [section 85.68,](#)
22 and the recommendations, if any, shall be transmitted by the
23 governor to the first general assembly in session after the
24 report is filed.

25 Sec. 3. NEW SECTION. 91F.1 Public policy.

26 It is the public policy of this state to promote healthy
27 pregnancies by ensuring that pregnant workers are able to
28 obtain necessary prenatal care without loss of income.

29 Sec. 4. NEW SECTION. 91F.2 Definitions.

30 1. "Employee" means a natural person who is employed in this
31 state for wages by an employer.

32 2. "Employer" means a person, as defined in section 4.1, who
33 employs for wages fifty or more natural persons in this state.

34 3. "Prenatal appointment" means an appointment with a
35 licensed health care professional to receive medical advice,

1 diagnosis, care, or treatment relating to an employee's
2 pregnancy before the employee gives birth.

3 **Sec. 5. NEW SECTION. 91F.3 Leave for prenatal appointments.**

4 1. An employee shall be entitled to take at least forty
5 hours of leave to attend prenatal appointments during a
6 calendar year.

7 2. An employer shall compensate an employee for leave taken
8 pursuant to this section at the same rate and with the same
9 benefits as the employee normally earns working regular hours.

10 3. An employee shall become eligible for leave pursuant to
11 this section on the first day the employee begins employment.

12 4. An employer may require that an employee provide
13 documentation from a licensed health care professional that
14 leave taken pursuant to this section was taken for the purpose
15 of attending a prenatal appointment.

16 5. Leave to which an employee is entitled pursuant to this
17 section shall be in addition to any other paid sick leave
18 offered by an employer, whether or not such paid sick leave is
19 required by law. An employer shall not require an employee to
20 take any other leave to which the employee is entitled before
21 the employee takes leave pursuant to this section or as a
22 substitute for leave taken pursuant to this section.

23 **Sec. 6. NEW SECTION. 91F.4 Prohibition against discharge**
24 **and discrimination.**

25 An employer shall not discharge or in any other manner
26 discriminate against an employee because the employee has
27 filed a complaint alleging a violation of this chapter or
28 has cooperated in filing or responding to such a complaint.
29 An employee may also file a complaint with the commissioner
30 alleging discharge or discrimination within thirty days after
31 such violation occurs. Upon receipt of the complaint, the
32 commissioner shall cause an investigation to be made to the
33 extent deemed appropriate. If the commissioner determines from
34 the investigation that the provisions of this section have
35 been violated, the commissioner shall bring an action in the

1 appropriate district court against such person. The district
2 court shall have jurisdiction, for cause shown, to restrain
3 violations of this section and order all appropriate relief
4 including rehiring or reinstatement of the employee to the
5 former position with back pay.

6 Sec. 7. NEW SECTION. 91F.5 **General powers and duties of the**
7 **commissioner.**

8 1. The commissioner shall administer and enforce the
9 provisions of this chapter. The commissioner may hold hearings
10 and investigate charges of violations of this chapter.

11 2. The commissioner shall establish a process for receiving
12 and responding to complaints of violations of this chapter,
13 including determination of the validity of complaints.

14 3. The commissioner may, consistent with due process of
15 law, enter any place of employment to question the employer and
16 employees and to investigate such facts, conditions, or matters
17 as are deemed appropriate in determining whether any person has
18 violated the provisions of this chapter. However, such entry
19 by the commissioner shall only be in response to a written
20 complaint.

21 4. The commissioner may employ such qualified personnel
22 as are necessary for the enforcement of this chapter. Such
23 personnel shall be employed pursuant to chapter 8A, subchapter
24 IV.

25 5. The commissioner shall adopt rules pursuant to chapter
26 17A to administer this chapter.

27 Sec. 8. NEW SECTION. 91F.6 **Civil penalties.**

28 1. An employer who violates the provisions of this chapter
29 shall be subject to a civil penalty of not more than five
30 hundred dollars for each violation. The commissioner may
31 recover such civil penalty according to the provisions of
32 subsections 2 to 5. Any civil penalty recovered shall be
33 deposited in the general fund of the state.

34 2. The commissioner may propose that an employer be assessed
35 a civil penalty by serving the employer with notice of such

1 proposal in the same manner as an original notice is served
2 under the rules of civil procedure. Upon service of such
3 notice, the proposed assessment shall be treated as a contested
4 case under chapter 17A, if the employer requests a hearing
5 within thirty days of being served.

6 3. If an employer does not request a hearing pursuant
7 to subsection 2 or if the commissioner determines, after an
8 appropriate hearing, that an employer is in violation of this
9 chapter, the commissioner shall assess a civil penalty which
10 is consistent with the provisions of subsection 1 and which is
11 made with due consideration for the penalty amount in terms
12 of the size of the employer's business, the gravity of the
13 violation, the good faith of the employer, and the history of
14 previous violations.

15 4. An employer may seek judicial review of an assessment
16 made under subsection 3 by instituting proceedings for judicial
17 review pursuant to chapter 17A. However, such proceedings must
18 be instituted in the district court of the county in which the
19 violation or one of the violations occurred and within thirty
20 days of the day on which the employer was notified that an
21 assessment was made. Also, an employer may be required, at
22 the discretion of the district court and upon instituting such
23 proceedings, to deposit the amount assessed with the clerk of
24 the district court. Any moneys so deposited shall either be
25 returned to the employer or be forwarded to the commissioner
26 for deposit in the general fund of the state, depending on the
27 outcome of the judicial review, including any appeal to the
28 supreme court.

29 5. After the time for seeking judicial review has expired
30 or after all judicial review has been exhausted and the
31 commissioner's assessment has been upheld, the commissioner
32 shall request the attorney general to recover the assessed
33 penalties in a civil action.

34

EXPLANATION

35

The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill provides that an employee is entitled to take at
3 least 40 hours of leave to attend prenatal appointments during
4 a calendar year. The bill requires an employer to compensate
5 an employee for such leave at the same rate and with the same
6 benefits as the employee normally earns working regular hours.
7 An employee becomes eligible for such leave on the first day
8 the employee begins employment.

9 The bill permits an employer to require that an employee
10 provide documentation from a licensed health care professional
11 that such leave was taken for the purpose of attending a
12 prenatal appointment.

13 The bill defines "prenatal appointment" as an appointment
14 with a licensed health care professional to receive medical
15 advice, diagnosis, care, or treatment relating to an employee's
16 pregnancy before the employee gives birth. The bill defines
17 "employer" as a person who employs for wages 50 or more natural
18 persons in this state. The bill defines "employee" as a
19 natural person who is employed in this state for wages by an
20 employer.

21 The bill provides that leave to which an employee is entitled
22 pursuant to the bill shall be in addition to any other paid
23 sick leave offered by an employer, whether or not such paid
24 sick leave is required by law. The bill prohibits an employer
25 from requiring an employee to take any other leave to which the
26 employee is entitled before the employee takes leave pursuant
27 to the bill or as a substitute for leave taken pursuant to the
28 bill.

29 The bill prohibits an employer from discharging or in any
30 other manner discriminating against any employee because the
31 employee has filed a complaint alleging a violation of the bill
32 or has cooperated in filing or responding to such a complaint.
33 The bill permits an employer to file a complaint with the
34 labor commissioner alleging discharge or discrimination within
35 30 days after such violation occurs. The bill provides the

1 commissioner with investigative and remedial powers to respond
2 to such complaints.

3 The bill provides powers and duties for the commissioner
4 relating to the administration and enforcement of the bill,
5 including holding hearings, establishing a complaint process,
6 conducting investigations, employing qualified personnel, and
7 adopting rules.

8 An employer who violates the bill is subject to a civil
9 penalty of not more than \$500 for each violation. The bill
10 provides administrative and judicial processes for imposing and
11 recovering such penalties.