

Senate File 105 - Introduced

SENATE FILE 105
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 2017, 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 2017, 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
31 this state for wages by an employer for at least twelve hours
32 a week.

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

35 3. "Prenatal appointment" means an appointment with a

1 licensed health care professional to receive medical advice,
2 diagnosis, care, or treatment relating to an employee's
3 pregnancy before the employee gives birth.

4 4. "*Primary care provider*" means a physician who provides
5 primary care and who is a family or general practitioner, a
6 pediatrician, an internist, an obstetrician, or a gynecologist,
7 or a midwife.

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

9 1. An employee shall be entitled to take leave to attend
10 prenatal appointments as recommended by an employee's primary
11 care provider in order to promote a healthy pregnancy.

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

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

17 4. Each time an employee takes leave pursuant to
18 this section, the employee shall provide to the employer
19 documentation from a licensed health care professional that
20 leave taken pursuant to this section was taken for the purpose
21 of attending a prenatal appointment.

22 5. Leave to which an employee is entitled pursuant to this
23 section shall be in addition to any other paid sick leave
24 offered by an employer, whether or not such paid sick leave is
25 required by law. An employer shall not require an employee to
26 take any other leave to which the employee is entitled before
27 the employee takes leave pursuant to this section or as a
28 substitute for leave taken pursuant to this section.

29 Sec. 6. NEW SECTION. **91F.4 Prohibition against discharge
30 and discrimination.**

31 An employer shall not discharge or in any other manner
32 discriminate against an employee because the employee has
33 filed a complaint alleging a violation of this chapter or
34 has cooperated in filing or responding to such a complaint.
35 An employee may also file a complaint with the commissioner

1 alleging discharge or discrimination within thirty days after
2 such violation occurs. Upon receipt of the complaint, the
3 commissioner shall cause an investigation to be made to the
4 extent deemed appropriate. If the commissioner determines from
5 the investigation that the provisions of this chapter have
6 been violated, the commissioner shall bring an action in the
7 appropriate district court against such person. The district
8 court shall have jurisdiction, for cause shown, to restrain
9 violations of this chapter and order all appropriate relief
10 including rehiring or reinstatement of the employee to the
11 former position with back pay.

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

14 1. The commissioner shall administer and enforce the
15 provisions of this chapter. The commissioner may hold hearings
16 and investigate charges of violations of this chapter.

17 2. The commissioner shall establish a process for receiving
18 and responding to complaints of violations of this chapter,
19 including determination of the validity of complaints.

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

27 4. The commissioner may employ such qualified personnel
28 as are necessary for the enforcement of this chapter. Such
29 personnel shall be employed pursuant to chapter 8A, subchapter
30 IV.

31 5. The commissioner shall adopt rules pursuant to chapter
32 17A to administer this chapter.

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

34 1. An employer who violates the provisions of this chapter
35 shall be subject to a civil penalty of not more than five

1 hundred dollars for each violation. The commissioner may
2 recover such civil penalty according to the provisions of
3 subsections 2 to 5. Any civil penalty recovered shall be
4 deposited in the general fund of the state.

5 2. The commissioner may propose that an employer be assessed
6 a civil penalty by serving the employer with notice of such
7 proposal in the same manner as an original notice is served
8 under the rules of civil procedure. Upon service of such
9 notice, the proposed assessment shall be treated as a contested
10 case under chapter 17A, if the employer requests a hearing
11 within thirty days of being served.

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

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

35 5. After the time for seeking judicial review has expired

1 or after all judicial review has been exhausted and the
2 commissioner's assessment has been upheld, the commissioner
3 shall request the attorney general to recover the assessed
4 penalties in a civil action.

5

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

7

8 This bill provides that an employee is entitled to take leave
9 to attend prenatal appointments as recommended by an employee's
10 primary care provider to promote a healthy pregnancy. The bill
11 requires an employer to compensate an employee for such leave
12 at the same rate and with the same benefits as the employee
13 normally earns working regular hours. An employee becomes
14 eligible for such leave on the first day the employee begins
15 employment.

16 The bill requires an employee to provide documentation
17 to an employer from a licensed health care professional that
18 such leave was taken for the purpose of attending a prenatal
19 appointment.

20 The bill defines "prenatal appointment" as an appointment
21 with a licensed health care professional to receive medical
22 advice, diagnosis, care, or treatment relating to an employee's
23 pregnancy before the employee gives birth. The bill defines
24 "employer" as a person who employs for wages 50 or more natural
25 persons in this state. The bill defines "employee" as a
26 natural person who is employed in this state for wages by
27 an employer for at least 12 hours a week. The bill defines
28 "primary care provider" as a physician who provides primary
29 care who is a family or general practitioner, a pediatrician,
30 an internist, an obstetrician, a gynecologist, or a midwife.

31 The bill provides that leave to which an employee is entitled
32 pursuant to the bill shall be in addition to any other paid
33 sick leave offered by an employer, whether or not such paid
34 sick leave is required by law. The bill prohibits an employer
35 from requiring an employee to take any other leave to which the

1 employee is entitled before the employee takes leave pursuant
2 to the bill or as a substitute for leave taken pursuant to the
3 bill.

4 The bill prohibits an employer from discharging or in any
5 other manner discriminating against any employee because the
6 employee has filed a complaint alleging a violation of the bill
7 or has cooperated in filing or responding to such a complaint.
8 The bill permits an employee to file a complaint with the
9 labor commissioner alleging discharge or discrimination within
10 30 days after such violation occurs. The bill provides the
11 commissioner with investigative and remedial powers to respond
12 to such complaints.

13 The bill provides powers and duties for the commissioner
14 relating to the administration and enforcement of the bill,
15 including holding hearings, establishing a complaint process,
16 conducting investigations, employing qualified personnel, and
17 adopting rules.

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