

By Senator Wilson

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1 A bill to be entitled

2 An act relating to mandatory employee paid sick leave;  
3 amending s. 448.101, F.S.; applying definitions to s.  
4 448.111, F.S.; creating s. 448.111, F.S., the "Healthy  
5 Workers, Healthy Families Act"; providing definitions;  
6 requiring a minimum level of sick leave accrual for an  
7 employee; providing direction to an employer on the  
8 methodology for sick leave accrual determination;  
9 delineating guaranteed uses of sick leave and reasonable  
10 determination of such leave; requiring the employer to  
11 provide notice to employees of sick leave accrual and  
12 guaranteed uses and employee rights; providing methods for  
13 such notice; requiring the Agency for Workforce Innovation  
14 to make posters available to any employer; prohibiting  
15 retaliatory personnel action or discrimination against an  
16 employee regarding paid sick leave requests, guaranteed  
17 use, or filing of an action or complaint to enforce sick  
18 leave rights; providing remedies for failure to provide  
19 paid sick leave and for retaliatory personnel actions;  
20 providing for civil penalties and other relief; providing  
21 for action by the Attorney General under certain  
22 circumstances; providing a statute of limitations for  
23 civil actions; providing for class action suits; requiring  
24 confidentiality and nondisclosure of certain information  
25 by an employer; encouraging more generous leave policies;  
26 providing for severability; providing an effective date.

27  
28 WHEREAS, almost all workers in the State of Florida will at  
29 some time during the year need short-term time off from work to

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30 take care of their own health needs or the health needs of  
31 members of their families or to deal with safety issues arising  
32 from domestic or sexual violence, and

33 WHEREAS, there are many workers in Florida who are not  
34 entitled to any paid sick leave to care for their own health  
35 needs or the health needs of members of their families, and

36 WHEREAS, low-income workers are significantly less likely to  
37 have paid sick leave than other members of the workforce, and

38 WHEREAS, providing workers time off to attend to their own  
39 health care and the health care of family members will ensure a  
40 healthier and more productive workforce in the State of Florida,  
41 and

42 WHEREAS, paid sick leave will have positive effects on the  
43 health of Florida workers by helping to ensure that workers will  
44 take advantage of preventive and routine medical care that, in  
45 turn, will prevent illnesses and, through early detection,  
46 shorten the duration of illnesses, and

47 WHEREAS, paid sick leave will have a positive effect on  
48 public health in Florida by allowing sick workers to stay at home  
49 to care for themselves when ill, thus lessening their recovery  
50 time and reducing the likelihood of spreading illness to other  
51 members of the workforce, and

52 WHEREAS, paid sick leave will allow parents to provide  
53 personal care for their sick children, which will lessen their  
54 recovery time, prevent more serious illnesses, and improve the  
55 children's overall mental and physical health, and

56 WHEREAS, parents who cannot afford to miss work must often  
57 send their sick children to child care or school, increasing the  
58 likelihood of spreading contagious diseases to other children,

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59 | child care workers, and teachers, and

60 |       WHEREAS, providing paid sick leave will encourage routine  
61 | medical care, which will improve early detection and treatment of  
62 | illness, decreasing the need for emergency and long-term care and  
63 | thus resulting in savings for both private and public payers of  
64 | health insurance, including private businesses, and

65 |       WHEREAS, the majority of care of older members of the family  
66 | is performed by working family members, and

67 |       WHEREAS, providing minimal paid sick leave is affordable for  
68 | employers and is good for business, and

69 |       WHEREAS, employers who provide paid sick leave have greater  
70 | retention of their employees and avoid the problem of workers  
71 | coming to work sick, and studies have shown that costs from on-  
72 | the-job productivity losses resulting from sick workers on the  
73 | job exceed the cost of absenteeism among employees, and

74 |       WHEREAS, nearly one in three American women report physical  
75 | or sexual abuse by a husband or boyfriend at some point in their  
76 | lives, and

77 |       WHEREAS, employment security is essential for women who are  
78 | victims of domestic and sexual violence, and

79 |       WHEREAS, the need to take time off to attend to the  
80 | physical, psychological, and legal ramifications of violence  
81 | against women can interfere with the ability to retain employment  
82 | if paid leave is not available, NOW, THEREFORE,

83 |

84 | Be It Enacted by the Legislature of the State of Florida:

85 |

86 |       Section 1. Section 448.101, Florida Statutes, is amended to  
87 | read:

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88 448.101 Definitions.--As used in ss. 448.101-448.105 and  
89 448.111, the term:

90 (1) "Appropriate governmental agency" means any agency of  
91 government charged with the enforcement of laws, rules, or  
92 regulations governing an activity, policy, or practice of an  
93 employer.

94 (2) "Employee" means a person who performs services for and  
95 under the control and direction of an employer for wages or other  
96 remuneration. The term does not include an independent  
97 contractor.

98 (3) "Employer" means any private individual, firm,  
99 partnership, institution, corporation, or association that  
100 employs ten or more persons.

101 (4) "Law, rule, or regulation" includes any statute or  
102 ordinance or any rule or regulation adopted pursuant to any  
103 federal, state, or local statute or ordinance applicable to the  
104 employer and pertaining to the business.

105 (5) "Retaliatory personnel action" means the discharge,  
106 suspension, or demotion by an employer of an employee or any  
107 other adverse employment action taken by an employer against an  
108 employee in the terms and conditions of employment.

109 (6) "Supervisor" means any individual within an employer's  
110 organization who has the authority to direct and control the work  
111 performance of the affected employee or who has managerial  
112 authority to take corrective action regarding the violation of  
113 law, rule, or regulation of which the employee complains.

114 Section 2. Section 448.111, Florida Statutes, is created to  
115 read:

116 448.111 Mandatory employee paid sick leave; short title;

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117 definitions; accrual and use of paid sick leave; notice and  
118 posting; retaliation prohibited; remedies for aggrieved person;  
119 confidentiality and nondisclosure; encouragement of generous  
120 leave policies; severability.--

121 (1) SHORT TITLE.--This section may be cited as the "Healthy  
122 Workers, Healthy Families Act."

123 (2) DEFINITIONS.--For purposes of this section, the term:

124 (a) "Child" means a biological child, adopted or foster  
125 child, stepchild or legal ward, or extended family member of the  
126 employee or a child to whom the employee stands in loco parentis  
127 who is under the age of 18 years or who is 18 years of age or  
128 older but incapable of self care or earning a living due to a  
129 physical or mental disability or incapacity.

130 (b) "Domestic violence" has the same meaning as in s.  
131 741.28.

132 (c) "Extended family member" has the same meaning as in s.  
133 751.011.

134 (d) "Grandparent" has the same meaning as in s. 752.001.

135 (e) "Health care professional" means any person licensed  
136 under Florida law to provide medical or emergency services,  
137 including, but not limited to, doctors, nurses, emergency room  
138 personnel, and persons licensed under chapter 456.

139 (f) "Paid sick leave" means leave that is compensated at  
140 the same rate the employee earns from his or her employment and  
141 is paid by an employer or small employer to an employee for use  
142 as provided in subsection (4).

143 (g) "Parent" means a biological parent, foster parent,  
144 stepparent or adoptive parent, or legal guardian of an employee  
145 or an employee's spouse or a person who stood in loco parentis

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146 when the employee was a minor child.

147 (h) "Small employer" means any private individual, firm,  
148 partnership, institution, corporation, or association that  
149 employs fewer than 10 persons.

150 (i) "Spouse" means a person to whom the employee is legally  
151 married under the laws of this state.

152 (3) ACCRUAL OF PAID SICK LEAVE.--

153 (a) All employees have the right to paid sick leave as  
154 provided in this section.

155 (b) An employer, other than a small employer, shall provide  
156 1 hour of paid sick leave for every 40 hours worked by an  
157 employee. A small employer shall provide 1 hour of paid sick  
158 leave for every 80 hours worked by an employee. Paid sick leave  
159 shall accrue in hourly increments.

160 (c) Paid sick leave as provided in this section begins to  
161 accrue at the commencement of employment.

162 (d) An employee is entitled to use accrued paid sick leave  
163 beginning on the 90th day following commencement of his or her  
164 employment.

165 (e) An employee is entitled to carry forward a maximum of  
166 72 hours of paid sick leave from one calendar year to the next.

167 (f) Any employer having a paid leave policy that makes  
168 available an amount of paid leave that may be used for the same  
169 purposes and under the same conditions as paid sick leave under  
170 this section shall be deemed to be in compliance with this  
171 section.

172 (g) This section does not prevent employers from adopting  
173 or retaining leave policies that are more generous than the  
174 policies required under this section.

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- 175       (4) USE OF PAID SICK LEAVE.--
- 176       (a) Paid sick leave shall be provided to an employee by an
- 177 employer or small employer for:
- 178       1. An employee's mental or physical illness, injury, or
- 179 health condition; need for medical diagnosis, care, or treatment
- 180 of a mental or physical illness, injury, or health condition; or
- 181 need for preventive medical care;
- 182       2. Care of a spouse, child, parent, grandparent, extended
- 183 family member, or any other individual related by blood or
- 184 affinity whose close relationship with the employee is the
- 185 equivalent of a family relationship and who has a mental or
- 186 physical illness, injury, or health condition; who needs medical
- 187 diagnosis, care, or treatment of a mental or physical illness,
- 188 injury, or health condition; or who needs preventive medical
- 189 care; and
- 190       3. Absence necessary due to domestic violence if the leave
- 191 is to:
- 192       a. Seek medical attention for the employee or employee's
- 193 child, spouse, parent, grandparent, or extended family member to
- 194 recover from physical or psychological injury or disability
- 195 caused by domestic violence;
- 196       b. Obtain services from a victim services organization;
- 197       c. Obtain psychological or other counseling;
- 198       d. Seek relocation due to the domestic violence; or
- 199       e. Take legal action, including preparing for or
- 200 participating in any civil or criminal legal proceeding related
- 201 to or resulting from the domestic violence.
- 202       (b) An employer or small employer may require reasonable
- 203 notice of the need for paid sick leave. When the need for the

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204 leave is foreseeable, an employer may require advance notice of  
205 the intention to take such leave, but may not require more than 7  
206 days' advance notice. When the need is not foreseeable, an  
207 employer may require an employee to give notice of the need for  
208 leave as soon as is practicable.

209 (c) For leave of more than 3 consecutive days, an employer  
210 may require reasonable documentation that the paid leave is  
211 covered by this subsection. Under subparagraph (a)1. or  
212 subparagraph (a)2., documentation signed by a health care  
213 professional indicating the need for the number of paid sick  
214 leave days shall be considered reasonable documentation. Under  
215 subparagraph (a)3., a court record or documentation signed by an  
216 employee or volunteer working for a victim services organization,  
217 an attorney, a police officer, or any other anti-violence  
218 counselor shall be considered reasonable documentation.

219 (5) NOTICE AND POSTING.--

220 (a) An employer shall give notice that an employee is  
221 entitled to paid sick leave, the amount of paid sick leave, and  
222 the terms of its use guaranteed under this section; that  
223 retaliation against an employee who requests or uses paid sick  
224 leave is prohibited; and that an employee has the right to file a  
225 complaint or bring a civil action if sick leave as required by  
226 this section is denied by the employer or the employee is  
227 retaliated against for requesting or taking paid sick leave.

228 (b) An employer may comply with the requirements of  
229 paragraph (a) by:

- 230 1. Supplying each of his or her employees with a notice in  
231 English and Spanish which contains the required information; or  
232 2. Displaying a poster in a conspicuous and accessible



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233 place in each establishment where his or her employees are  
234 employed which contains in English and Spanish the required  
235 information.

236  
237 The Agency for Workforce Innovation shall make available posters  
238 containing the information required by this subsection to an  
239 employer for his or her use in complying with the notice and  
240 posting requirements of this subsection.

241 (6) RETALIATION PROHIBITED.--An employer may not take  
242 retaliatory personnel action or discriminate against an employee  
243 because the employee has requested paid sick leave, taken  
244 guaranteed paid sick leave, or made a complaint or filed an  
245 action to enforce his or her right to paid sick leave under this  
246 section.

247 (7) REMEDIES FOR FAILURE TO PROVIDE PAID SICK LEAVE AND FOR  
248 RETALIATION.--

249 (a) An employee subjected to retaliatory personnel action  
250 in violation of subsection (6) may institute a civil action in a  
251 court of competent jurisdiction under the terms set out in s.  
252 448.103(1)(b) and is entitled to relief as provided in s.  
253 448.103(2) and attorney's fees as provided in s. 448.104.

254 (b)1. Any person aggrieved by failure to provide paid sick  
255 leave as required by this section may bring a civil action in a  
256 court of competent jurisdiction against an employer violating  
257 this section.

258 2. Upon prevailing in an action brought pursuant to this  
259 section, an aggrieved person shall recover the full amount of any  
260 unpaid sick leave plus any actual damages suffered as the result  
261 of the employer's failure to provide paid sick leave.

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262 3. Upon prevailing in an action brought pursuant to this  
263 section, an aggrieved person is entitled to such legal or  
264 equitable relief as is appropriate to remedy the violation,  
265 including, without limitation, reinstatement in employment and  
266 injunctive relief.

267 4. Upon prevailing in an action brought pursuant to this  
268 section, aggrieved persons are entitled to reasonable attorney's  
269 fees.

270 5. Any civil action brought under this section is subject  
271 to s. 768.79.

272 (c) Any person aggrieved by a retaliatory personnel action  
273 in violation of subsection (6) or by an employer's failure to  
274 provide paid sick leave as required by this section may file a  
275 complaint with the Attorney General.

276 (d) The Attorney General may bring a civil action to  
277 enforce this section. The Attorney General may seek injunctive  
278 relief. In addition to injunctive relief, or in lieu thereof, for  
279 any employer or other person found to have willfully violated  
280 this section, the Attorney General may seek to impose a fine of  
281 \$1,000 per violation, payable to the state.

282 (e) The statute of limitations for a civil action brought  
283 pursuant to this section is the period specified in s. 95.11,  
284 beginning on the date the alleged violation occurred.

285 (f) Actions brought pursuant to this section may be brought  
286 as a class action pursuant to Rule 1.220, Florida Rules of Civil  
287 Procedure. In any class action brought pursuant to this section,  
288 the plaintiffs shall prove, by a preponderance of the evidence,  
289 the individual identity of each class member and the individual  
290 damages of each class member.

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291 (8) CONFIDENTIALITY AND NONDISCLOSURE.--If an employer  
292 possesses health information or information pertaining to  
293 domestic violence about an employee or an employee's child,  
294 parent, spouse, grandparent, or extended family member, such  
295 information shall be treated as confidential and not disclosed  
296 except to the affected employee or with the permission of the  
297 affected employee.

298 (9) ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES; NO  
299 EFFECT ON MORE GENEROUS POLICIES.--

300 (a) This section does not prohibit an employer from  
301 adopting or retaining a paid leave policy more generous than the  
302 one required under this section.

303 (b) This section does not diminish the obligation of an  
304 employer to comply with any contract, collective bargaining  
305 agreement, employment benefit plan, or other agreement providing  
306 more generous leave to an employee than that required under this  
307 section.

308 (c) This section does not diminish the rights of a public  
309 employee regarding paid sick leave or use of sick leave as  
310 provided in chapters 110-112 and rules adopted thereunder.

311 Section 3. If any provision of this act or its application  
312 to any person or circumstance is held invalid, the invalidity  
313 does not affect other provisions or applications of the act which  
314 can be given effect without the invalid provision or application,  
315 and to this end the provisions of this act are severable.

316 Section 4. This act shall take effect upon becoming a law.