Florida Senate - 2007

CS for SB 188

 ${\bf By}$ the Committee on Children, Families, and Elder Affairs; and Senator Aronberg

586-1987-07

1A bill to be entitled2An act relating to domestic violence; creating3s. 741.313, F.S.; defining the terms "domestic4violence," "employer," "family or household5member," and "victim"; requiring that certain6employers permit an employee to take leave from7work to undertake activities resulting from an8act of domestic violence; specifying the9activities for which the employee may take	
3 s. 741.313, F.S.; defining the terms "domestic 4 violence," "employer," "family or household 5 member," and "victim"; requiring that certain 6 employers permit an employee to take leave from 7 work to undertake activities resulting from an 8 act of domestic violence; specifying the	
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<pre>7 work to undertake activities resulting from an 8 act of domestic violence; specifying the</pre>	
8 act of domestic violence; specifying the	
9 activities for which the employee may take	
10 leave; requiring the employee to notify the	
11 employer of the leave; providing exceptions;	
12 requiring that a private employer or	
13 governmental agency keep information relating	
14 to the employee's leave confidential;	
15 prohibiting an employer from taking certain	
16 actions against the employee for exercising	
17 rights specified in the act; providing a	
18 recourse for violation of the act; providing an	
19 effective date.	
20	
21 Be It Enacted by the Legislature of the State of Florida:	
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23 Section 1. Section 741.313, Florida Statutes, is	
24 created to read:	
25 <u>741.313</u> Unlawful action against employees seeking	
26 protection	
27 (1) As used in this section, the term:	
28 <u>(a) "Domestic violence" means domestic violence, as</u>	
29 defined in s. 741.28, or any crime the underlying factual	
30 basis of which has been found by a court to include an act of	f
31 domestic violence.	

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1	(b) "Employer" has the same meaning as in s.
2	440.02(16).
3	(c) "Family or household member" has the same meaning
4	<u>as in s. 741.28.</u>
5	(d) "Victim" means an individual who has been
б	subjected to domestic violence.
7	(2)(a) An employer shall permit an employee to request
8	and take up to 3 working days of leave from work in any
9	12-month period if the employee or a family or household
10	member of an employee is the victim of domestic violence. This
11	leave may be with or without pay, at the discretion of the
12	employer.
13	(b) This section applies if an employee uses the leave
14	from work to:
15	1. Seek an injunction for protection against domestic
16	violence or an injunction for protection in cases of repeat
17	violence, dating violence, or sexual violence;
18	2. Obtain medical care or mental health counseling, or
19	both, for the employee or a family or household member to
20	address physical or psychological injuries resulting from the
21	act of domestic violence;
22	3. Obtain services from a victim-services
23	organization, including, but not limited to, a domestic
24	violence shelter or program or a rape crisis center as a
25	result of the act of domestic violence;
26	4. Make the employee's home secure from the
27	perpetrator of the domestic violence or to seek new housing to
28	escape the perpetrator; or
29	5. Seek legal assistance in addressing issues arising
30	from the act of domestic violence or to attend and prepare for
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1 court-related proceedings arising from the act of domestic 2 violence. 3 (3) This section applies to an employer who employs 50 4 or more employees and to an employee who has been employed by 5 the employer for 3 or more months. б (4)(a) Except in cases of imminent danger to the 7 health or safety of the employee, or to the health or safety 8 of a family or household member, an employee seeking leave from work under this section must provide to his or her 9 10 employer appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation 11 12 of the act of domestic violence as required by the employer. 13 (b) An employee seeking leave under this section must, before receiving the leave, exhaust all annual or vacation 14 leave, personal leave, and sick leave, if applicable, which is 15 available to the employee, unless the employer waives this 16 17 requirement. 18 (c)1. A private employer must keep all information relating to the employee's leave under this section 19 confidential. 20 21 2. An agency, as defined in s. 119.011, must keep all 2.2 information relating to the employee's leave confidential and 23 exempt from disclosure under this section. (5)(a) An employer may not interfere with, restrain, 2.4 or deny the exercise of, or any attempt by an employee to 25 exercise, any right provided under this section. 26 27 (b) An employer may not discharge, demote, suspend, 2.8 retaliate, or in any other manner discriminate against an employee for exercising his or her rights under this section. 29 30 (c) An employee has no greater rights to continued employment or to other benefits and conditions of employment 31

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1 than if the employee was not entitled to leave under this 2 section. This section does not limit the employer's right to discipline or terminate any employee for any reason, 3 4 including, but not limited to, reductions in work force or termination for cause or for no reason at all, other than 5 6 exercising his or her rights under this section. 7 (6) Notwithstanding any other law to the contrary, the 8 sole remedy for any person claiming to be aggrieved by a 9 violation of this section is to bring a civil suit for damages 10 or equitable relief, or both, in circuit court. The person may claim as damages all wages and benefits that would have been 11 12 due the person up to and including the date of the judgment 13 had the act violating this section not occurred, but the person may not claim wages or benefits for a period of leave 14 granted without pay as provided in paragraph (2)(a). However, 15 this section does not relieve the person from the obligation 16 17 to mitigate his or her damages. 18 Section 2. This act shall take effect July 1, 2007. 19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN 2.0 COMMITTEE SUBSTITUTE FOR 21 Senate Bill 188 2.2 23 The Committee Substitute adds a definition of "employer"; distinguishes between a public and private employer, to 2.4 specify that the public employer must keep certain records confidential and exempt; and clarifies that the employer must 25 permit an employee to request and take up to 3 working days of leave. 26 27 2.8 29 30 31

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