

Bill No. CS for SB 498

Barcode 024784

CHAMBER ACTION

Senate

House

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Comm: RCS
04/20/2006 09:52 AM

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The Committee on Judiciary (Aronberg) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 741.313, Florida Statutes, is created to read:

741.313 Unlawful action against employees seeking protection.--

(1) As used in this section, the term:

(a) "Domestic violence" means domestic violence, as defined in s. 741.28(2), or any crime the underlying factual basis of which has been found by a court to include an act of domestic violence.

(b) "Employer" has the same meaning as in s. 440.02(16)(a).

(c) "Family or household member" has the same meaning as in s. 741.28.

(d) "Victim" means an individual who has been

1 subjected to domestic violence.

2 (2)(a) An employer shall permit an employee to request
3 or take up to 3 working days of leave from work in any 90-day
4 period if the employee or a family or household member of an
5 employee is the victim of domestic violence. This leave may be
6 with or without pay, at the discretion of the employer.

7 (b) This section applies if an employee uses the leave
8 from work to:

9 1. Seek an injunction for protection against domestic
10 violence or an injunction for protection in cases of repeat
11 violence, dating violence, or sexual violence;

12 2. Obtain medical care or mental health counseling, or
13 both, for the employee or a family or household member to
14 address physical or psychological injuries resulting from the
15 act of domestic violence;

16 3. Obtain services from a victim-services
17 organization, including, but not limited to, a domestic
18 violence shelter, program, or a rape crisis center as a result
19 of the act of domestic violence;

20 4. Make the employee's home secure from the
21 perpetrator of the domestic violence or to seek new housing to
22 escape the perpetrator; or

23 5. Seek legal assistance to address issues arising
24 from the act of domestic violence and to attend and prepare
25 for court-related proceedings arising from the act of domestic
26 violence.

27 (3) This section applies to an employer who employs 50
28 or more employees and to an employee who has been employed by
29 the employer for 12 or more months.

30 (4)(a) Except in cases of imminent danger to the
31 health or safety of the employee, or to the health or safety

Barcode 024784

1 of a family or household member, an employee seeking leave
 2 from work under this section must provide his or her employer
 3 with appropriate advance notice of the leave as may be
 4 required by the employer's policy and with sufficient
 5 documentation of the act of domestic violence as may be
 6 required by the employer.

7 (b) An employee seeking leave under this section must,
 8 before receiving the leave, exhaust all annual or vacation
 9 leave, personal leave, and sick leave, if applicable, which is
 10 available to the employee, unless the employer waives this
 11 requirement.

12 (c)1. A private employer must keep all information
 13 relating to the employee's leave under this section
 14 confidential.

15 2. An agency, as defined in s. 119.011, must keep all
 16 information relating to the employee's leave under this
 17 section confidential and exempt pursuant to this section.

18 (5)(a) An employer may not interfere with, restrain,
 19 or deny the exercise of or any attempt by an employee to
 20 exercise any right provided under this section.

21 (b) An employer may not discharge, demote, suspend,
 22 retaliate, or in any other manner discriminate against an
 23 employee for exercising his or her rights under this section.

24 (c) An employee has no greater rights to continued
 25 employment or to other benefits and conditions of employment
 26 than if the employee was not entitled to leave under this
 27 section. This section does not limit the employer's right to
 28 discipline or terminate any employee for any reason,
 29 including, but not limited to, reductions in work force or
 30 termination for cause or for no reason at all, other than
 31 exercising his or her rights under this section.

Bill No. CS for SB 498

Barcode 024784

1 (6) Notwithstanding any other law to the contrary, the
2 sole remedy for any person claiming to be aggrieved by a
3 violation of this section is to bring a civil suit for damages
4 or equitable relief, or both, in circuit court. The person may
5 claim as damages all wages and benefits that would have been
6 due the person up to and including the date of the judgment
7 had the act violating this section not occurred, but the
8 person may not claim wages or benefits for a period of leave
9 granted without pay as provided in paragraph (2)(a). However,
10 this section does not relieve the person from the obligation
11 to mitigate his or her damages.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to domestic violence; creating
s. 741.313, F.S.; defining the terms "domestic
violence," "employer," "family or household
member," and "victim"; requiring that an
employer permit an employee to take leave from
work to undertake activities resulting from an
act of domestic violence; specifying the
activities for which the employee may take
leave; requiring the employee to notify the
employer of the leave; providing exceptions;
requiring that an employer keep information

Bill No. CS for SB 498

Barcode 024784

1 relating to the employee's leave confidential;
2 prohibiting an employer from taking certain
3 actions against the employee for exercising
4 rights specified in the act; providing a
5 recourse for violation of the act; providing an
6 effective date.

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