

Bill No. SB 188

Barcode 101710

CHAMBER ACTION

Senate

House

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The Committee on Children, Families, and Elder Affairs
(Margolis) 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, 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).

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

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

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1 subjected to domestic violence.

2 (2)(a) An employer shall permit an employee to request
3 and take up to 3 working days of leave from work in any
4 12-month period if the employee or a family or household
5 member of an employee is the victim of domestic violence. This
6 leave may be with or without pay, at the discretion of the
7 employer.

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

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

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

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

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

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

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

31 (4)(a) Except in cases of imminent danger to the

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

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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.

12 Section 2. This act shall take effect July 1, 2007.

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

16 And the title is amended as follows:

17 Delete everything before the enacting clause

19 and insert:

20 A bill to be entitled

21 An act relating to domestic violence; creating
22 s. 741.313, F.S.; defining the terms "domestic
23 violence," "employer," "family or household
24 member," and "victim"; requiring that certain
25 employers permit an employee to take leave from
26 work to undertake activities resulting from an
27 act of domestic violence; specifying the
28 activities for which the employee may take
29 leave; requiring the employee to notify the
30 employer of the leave; providing exceptions;
31 requiring that a private employer or

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

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