

By the Committees on Judiciary; Children, Families, and Elder Affairs; and Senators Aronberg, Lynn and Crist

590-2224-07

1    A bill to be entitled

2                    An act relating to domestic violence; creating

3                    s. 741.313, F.S.; defining the terms "domestic

4                    violence," "employee," "employer," "family or

5                    household member," and "victim"; requiring that

6                    certain employers permit an employee to take

7                    leave from work to undertake activities

8                    resulting from an act of domestic violence;

9                    specifying the activities for which the

10                  employee may take leave; requiring the employee

11                  to notify the employer of the leave; providing

12                  exceptions; requiring a private employer to

13                  keep information relating to the employee's

14                  leave confidential; requiring a governmental

15                  agency to keep such information confidential

16                  and exempt to the extent authorized by statute;

17                  prohibiting an employer from taking certain

18                  actions against the employee for exercising

19                  rights specified in the act; providing a

20                  recourse for violation of the act; providing an

21                  effective date.

22

23 Be It Enacted by the Legislature of the State of Florida:

24

25                  Section 1. Section 741.313, Florida Statutes, is

26 created to read:

27                  741.313 Unlawful action against employees seeking

28 protection.--

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

30                  (a) "Domestic violence" means domestic violence, as

31 defined in s. 741.28, or any crime the underlying factual

1 basis of which has been found by a court to include an act of  
2 domestic violence.

3 (b) "Employee" has the same meaning as in s.  
4 440.02(15).

5 (c) "Employer" has the same meaning as in s.  
6 440.02(16).

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

9 (e) "Victim" means an individual who has been  
10 subjected to domestic violence.

11 (2)(a) An employer shall permit an employee to request  
12 and take up to 3 working days of leave from work in any  
13 12-month period if the employee or a family or household  
14 member of an employee is the victim of domestic violence. This  
15 leave may be with or without pay, at the discretion of the  
16 employer.

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

19 1. Seek an injunction for protection against domestic  
20 violence or an injunction for protection in cases of repeat  
21 violence, dating violence, or sexual violence;

22 2. Obtain medical care or mental health counseling, or  
23 both, for the employee or a family or household member to  
24 address physical or psychological injuries resulting from the  
25 act of domestic violence;

26 3. Obtain services from a victim-services  
27 organization, including, but not limited to, a domestic  
28 violence shelter or program or a rape crisis center as a  
29 result of the act of domestic violence;

30  
31

1           4. Make the employee's home secure from the  
2 perpetrator of the domestic violence or to seek new housing to  
3 escape the perpetrator; or

4           5. Seek legal assistance in addressing issues arising  
5 from the act of domestic violence or to attend and prepare for  
6 court-related proceedings arising from the act of domestic  
7 violence.

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

11           (4)(a) Except in cases of imminent danger to the  
12 health or safety of the employee, or to the health or safety  
13 of a family or household member, an employee seeking leave  
14 from work under this section must provide to his or her  
15 employer appropriate advance notice of the leave as required  
16 by the employer's policy along with sufficient documentation  
17 of the act of domestic violence as required by the employer.

18           (b) An employee seeking leave under this section must,  
19 before receiving the leave, exhaust all annual or vacation  
20 leave, personal leave, and sick leave, if applicable, which is  
21 available to the employee, unless the employer waives this  
22 requirement.

23           (c)1. A private employer must keep all information  
24 relating to the employee's leave under this section  
25 confidential.

26           2. An agency, as defined in s. 119.011, must keep  
27 information relating to the employee's leave under this  
28 section confidential and exempt from disclosure to the extent  
29 authorized by subsection (7).

30  
31

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

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

7           (c) An employee has no greater rights to continued  
8 employment or to other benefits and conditions of employment  
9 than if the employee was not entitled to leave under this  
10 section. This section does not limit the employer's right to  
11 discipline or terminate any employee for any reason,  
12 including, but not limited to, reductions in work force or  
13 termination for cause or for no reason at all, other than  
14 exercising his or her rights under this section.

15           (6) Notwithstanding any other law to the contrary, the  
16 sole remedy for any person claiming to be aggrieved by a  
17 violation of this section is to bring a civil suit for damages  
18 or equitable relief, or both, in circuit court. The person may  
19 claim as damages all wages and benefits that would have been  
20 due the person up to and including the date of the judgment  
21 had the act violating this section not occurred, but the  
22 person may not claim wages or benefits for a period of leave  
23 granted without pay as provided in paragraph (2)(a). However,  
24 this section does not relieve the person from the obligation  
25 to mitigate his or her damages.

26           Section 2. This act shall take effect July 1, 2007.  
27  
28  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS for SB 188

Adds definition of "employee" as currently defined in s.  
440.02(15), F.S.

Clarifies that the requirement for an agency to keep  
information relating to the employee's leave confidential and  
exempt is as authorized by statute.