

ENROLLED
CS/HB 55

2007 Legislature

1 A bill to be entitled
2 An act relating to domestic violence; creating s. 741.313,
3 F.S.; defining the terms "domestic violence," "employee,"
4 "employer," "family or household member," and "victim";
5 requiring that certain employers permit an employee to
6 take leave from work to undertake activities resulting
7 from an act of domestic violence; specifying the
8 activities for which the employee may take leave;
9 requiring the employee to notify the employer of the
10 leave; providing exceptions; requiring a private employer
11 to keep information relating to the employee's leave
12 confidential; requiring a governmental agency to keep such
13 information confidential and exempt to the extent
14 authorized by statute; prohibiting an employer from taking
15 certain actions against the employee for exercising rights
16 specified in the act; providing a recourse for violation
17 of the act; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

23 741.313 Unlawful action against employees seeking
24 protection.--

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

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

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29 violence.
 30 (b) "Employee" has the same meaning as in s. 440.02(15).
 31 (c) "Employer" has the same meaning as in s. 440.02(16).
 32 (d) "Family or household member" has the same meaning as
 33 in s. 741.28.
 34 (e) "Victim" means an individual who has been subjected to
 35 domestic violence.
 36 (2)(a) An employer shall permit an employee to request and
 37 take up to 3 working days of leave from work in any 12-month
 38 period if the employee or a family or household member of an
 39 employee is the victim of domestic violence. This leave may be
 40 with or without pay, at the discretion of the employer.
 41 (b) This section applies if an employee uses the leave
 42 from work to:
 43 1. Seek an injunction for protection against domestic
 44 violence or an injunction for protection in cases of repeat
 45 violence, dating violence, or sexual violence;
 46 2. Obtain medical care or mental health counseling, or
 47 both, for the employee or a family or household member to
 48 address physical or psychological injuries resulting from the
 49 act of domestic violence;
 50 3. Obtain services from a victim-services organization,
 51 including, but not limited to, a domestic violence shelter or
 52 program or a rape crisis center as a result of the act of
 53 domestic violence;
 54 4. Make the employee's home secure from the perpetrator of
 55 the domestic violence or to seek new housing to escape the
 56 perpetrator; or

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

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

63 (4) (a) Except in cases of imminent danger to the health or
64 safety of the employee, or to the health or safety of a family
65 or household member, an employee seeking leave from work under
66 this section must provide to his or her employer appropriate
67 advance notice of the leave as required by the employer's policy
68 along with sufficient documentation of the act of domestic
69 violence as required by the employer.

70 (b) An employee seeking leave under this section must,
71 before receiving the leave, exhaust all annual or vacation
72 leave, personal leave, and sick leave, if applicable, which is
73 available to the employee, unless the employer waives this
74 requirement.

75 (c)1. A private employer must keep all information
76 relating to the employee's leave under this section
77 confidential.

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

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

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

88 (c) An employee has no greater rights to continued
89 employment or to other benefits and conditions of employment
90 than if the employee was not entitled to leave under this
91 section. This section does not limit the employer's right to
92 discipline or terminate any employee for any reason, including,
93 but not limited to, reductions in work force or termination for
94 cause or for no reason at all, other than exercising his or her
95 rights under this section.

96 (6) Notwithstanding any other law to the contrary, the
97 sole remedy for any person claiming to be aggrieved by a
98 violation of this section is to bring a civil suit for damages
99 or equitable relief, or both, in circuit court. The person may
100 claim as damages all wages and benefits that would have been due
101 the person up to and including the date of the judgment had the
102 act violating this section not occurred, but the person may not
103 claim wages or benefits for a period of leave granted without
104 pay as provided in paragraph (2) (a). However, this section does
105 not relieve the person from the obligation to mitigate his or
106 her damages.

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