

1                   A bill to be entitled  
2           An act relating to mandatory employee paid sick leave;  
3           amending s. 448.101, F.S.; applying definitions to s.  
4           448.111, F.S.; creating s. 448.111, F.S., the "Florida  
5           Paid Sick Leave Act"; providing a short title; providing  
6           definitions; requiring a minimum level of sick leave  
7           accrual for an employee; providing direction to an  
8           employer on the methodology for sick leave accrual  
9           determination; delineating guaranteed uses of sick leave  
10          and reasonable determination of such leave; requiring the  
11          employer to provide notice to employees of sick leave  
12          accrual and guaranteed uses and employee rights; providing  
13          methods for such notice; requiring the Agency for  
14          Workforce Innovation to make posters available to any  
15          employer; prohibiting retaliatory personnel action or  
16          discrimination against an employee regarding paid sick  
17          leave requests, guaranteed use, or filing of an action or  
18          complaint to enforce sick leave rights; providing remedies  
19          for failure to provide paid sick leave and for retaliatory  
20          personnel actions; providing for civil penalties and other  
21          relief; providing for action by the Attorney General under  
22          certain circumstances; providing for limitation of civil  
23          action; providing for class action suits; requiring  
24          confidentiality and nondisclosure of certain information  
25          by an employer; encouraging more generous leave policies;  
26          providing for severability; providing an effective date.  
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28 WHEREAS, almost all workers in the State of Florida will at  
29 some time during the year need short-term time off from work to  
30 take care of their own health needs or the health needs of  
31 members of their families or to deal with safety issues arising  
32 from domestic or sexual violence, and

33 WHEREAS, there are many workers in Florida who are not  
34 entitled to any paid sick leave to care for their own health  
35 needs or the health needs of members of their families, and

36 WHEREAS, low-income workers are significantly less likely  
37 to have paid sick leave than other members of the workforce, and

38 WHEREAS, providing workers time off to attend to their own  
39 health care and the health care of family members will ensure a  
40 healthier and more productive workforce in the State of Florida,  
41 and

42 WHEREAS, paid sick leave will have positive effects on the  
43 health of Florida workers by helping to ensure that workers will  
44 take advantage of preventive and routine medical care that, in  
45 turn, will prevent illnesses and, through early detection,  
46 shorten the duration of illnesses, and

47 WHEREAS, paid sick leave will have a positive effect on  
48 public health in Florida by allowing sick workers to stay at  
49 home to care for themselves when ill, thus lessening their  
50 recovery time and reducing the likelihood of spreading illness  
51 to other members of the workforce, and

52 WHEREAS, paid sick leave will allow parents to provide  
53 personal care for their sick children, which will lessen their  
54 recovery time, prevent more serious illnesses, and improve the  
55 children's overall mental and physical health, and

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56 WHEREAS, parents who cannot afford to miss work must often  
57 send their sick children to child care or school, increasing the  
58 likelihood of spreading contagious diseases to other children,  
59 child care workers, and teachers, and

60 WHEREAS, providing paid sick leave will encourage routine  
61 medical care, which will improve early detection and treatment  
62 of illness, decreasing the need for emergency and long-term care  
63 and thus resulting in savings for both private and public payers  
64 of health insurance, including private businesses, and

65 WHEREAS, the majority of care of older members of the  
66 family is performed by working family members, and

67 WHEREAS, providing minimal paid sick leave is affordable  
68 for employers and is good for business, and

69 WHEREAS, employers who provide paid sick leave have greater  
70 retention of their employees and avoid the problem of workers  
71 coming to work sick, and studies have shown that costs from on-  
72 the-job productivity losses resulting from sick workers on the  
73 job exceed the cost of absenteeism among employees, and

74 WHEREAS, nearly one in three American women report physical  
75 or sexual abuse by a husband or boyfriend at some point in their  
76 lives, and

77 WHEREAS, employment security is essential for women who are  
78 victims of domestic and sexual violence, and

79 WHEREAS, the need to take time off to attend to the  
80 physical, psychological, and legal ramifications of violence  
81 against women can interfere with the ability to retain  
82 employment if paid leave is not available, NOW, THEREFORE,

83

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

85  
86 Section 1. Section 448.101, Florida Statutes, is amended  
87 to read:

88 448.101 Definitions.--As used in ss. 448.101-448.105 and  
89 448.111, the term:

90 (1) "Appropriate governmental agency" means any agency of  
91 government charged with the enforcement of laws, rules, or  
92 regulations governing an activity, policy, or practice of an  
93 employer.

94 (2) "Employee" means a person who performs services for  
95 and under the control and direction of an employer for wages or  
96 other remuneration. The term does not include an independent  
97 contractor.

98 (3) "Employer" means any private individual, firm,  
99 partnership, institution, corporation, or association that  
100 employs ten or more persons.

101 (4) "Law, rule, or regulation" includes any statute or  
102 ordinance or any rule or regulation adopted pursuant to any  
103 federal, state, or local statute or ordinance applicable to the  
104 employer and pertaining to the business.

105 (5) "Retaliatory personnel action" means the discharge,  
106 suspension, or demotion by an employer of an employee or any  
107 other adverse employment action taken by an employer against an  
108 employee in the terms and conditions of employment.

109 (6) "Supervisor" means any individual within an employer's  
110 organization who has the authority to direct and control the  
111 work performance of the affected employee or who has managerial

112 authority to take corrective action regarding the violation of  
 113 law, rule, or regulation of which the employee complains.

114 Section 2. Section 448.111, Florida Statutes, is created  
 115 to read:

116 448.111 Mandatory employee paid sick leave; short title;  
 117 definitions; accrual and use of paid sick leave; notice and  
 118 posting; retaliation prohibited; remedies for aggrieved person;  
 119 confidentiality and nondisclosure; encouragement of generous  
 120 leave policies; severability.--

121 (1) SHORT TITLE.--This section may be cited as the  
 122 "Florida Paid Sick Leave Act."

123 (2) DEFINITIONS.--For purposes of this section:

124 (a) "Child" means a biological child, adopted or foster  
 125 child, stepchild or legal ward, or extended family member of the  
 126 employee or a child to whom the employee stands in loco parentis  
 127 who is under the age of 18 years or who is 18 years of age or  
 128 older but incapable of self care or earning a living due to a  
 129 physical or mental disability or incapacity.

130 (b) "Domestic violence" is as defined in s. 741.28.

131 (c) "Extended family member" is as defined in s. 751.011.

132 (d) "Grandparent" is as defined in s. 752.001.

133 (e) "Health care professional" means any person licensed  
 134 under Florida law to provide medical or emergency services,  
 135 including, but not limited to, doctors, nurses, emergency room  
 136 personnel, and persons licensed under chapter 456.

137 (f) "Paid sick leave" means leave that is compensated at  
 138 the same rate the employee earns from his or her employment and

139 is paid by an employer or small employer to an employee for use  
 140 as provided in subsection (4).

141 (g) "Parent" means a biological parent, foster parent,  
 142 stepparent or adoptive parent, or legal guardian of an employee  
 143 or an employee's spouse or a person who stood in loco parentis  
 144 when the employee was a minor child.

145 (h) "Small employer" means any private individual, firm,  
 146 partnership, institution, corporation, or association that  
 147 employs fewer than 10 persons.

148 (i) "Spouse" means a person to whom the employee is  
 149 legally married under the laws of this state.

150 (3) ACCRUAL OF PAID SICK LEAVE.--

151 (a) All employees have the right to paid sick leave as  
 152 provided in this section.

153 (b) An employer, other than a small employer, shall  
 154 provide 1 hour of paid sick leave for every 40 hours worked by  
 155 an employee. A small employer shall provide 1 hour of paid sick  
 156 leave for every 80 hours worked by an employee. Paid sick leave  
 157 shall accrue in hourly increments.

158 (c) Paid sick leave as provided in this section shall  
 159 begin to accrue at the commencement of employment.

160 (d) An employee shall be entitled to use accrued paid sick  
 161 leave beginning on the 90th day following commencement of his or  
 162 her employment.

163 (e) An employee shall be entitled to carry forward a  
 164 maximum of 72 hours of paid sick leave from one calendar year to  
 165 the next.

166 (f) Any employer with a paid leave policy that makes

167 available an amount of paid leave that may be used for the same  
 168 purposes and under the same conditions as paid sick leave under  
 169 this section shall be deemed to be in compliance with this  
 170 section.

171 (g) Nothing in this section shall be construed to prevent  
 172 employers from adopting or retaining leave policies that are  
 173 more generous than the policies required under this section.

174 (4) USE OF PAID SICK LEAVE.--

175 (a) Paid sick leave shall be provided to an employee by an  
 176 employer or small employer for:

177 1. An employee's mental or physical illness, injury, or  
 178 health condition; need for medical diagnosis, care, or treatment  
 179 of a mental or physical illness, injury, or health condition; or  
 180 need for preventive medical care;

181 2. Care of a spouse, child, parent, grandparent, extended  
 182 family member, or any other individual related by blood or  
 183 affinity whose close relationship with the employee is the  
 184 equivalent of a family relationship and who has a mental or  
 185 physical illness, injury, or health condition; who needs medical  
 186 diagnosis, care, or treatment of a mental or physical illness,  
 187 injury, or health condition; or who needs preventive medical  
 188 care; and

189 3. Absence necessary due to domestic violence, provided  
 190 the leave is to:

191 a. Seek medical attention for the employee or employee's  
 192 child, spouse, parent, grandparent, or extended family member to  
 193 recover from physical or psychological injury or disability  
 194 caused by domestic violence;

195 b. Obtain services from a victim services organization;  
 196 c. Obtain psychological or other counseling;  
 197 d. Seek relocation due to the domestic violence; or  
 198 e. Take legal action, including preparing for or  
 199 participating in any civil or criminal legal proceeding related  
 200 to or resulting from the domestic violence.

201 (b) An employer or small employer may require reasonable  
 202 notice of the need for paid sick leave. Where the need for the  
 203 leave is foreseeable, an employer may require advance notice of  
 204 the intention to take such leave but in no case shall require  
 205 more than 7 days' advance notice. Where the need is not  
 206 foreseeable, an employer may require an employee to give notice  
 207 of the need for leave as soon as is practicable.

208 (c) For leave of more than 3 consecutive days, an employer  
 209 may require reasonable documentation that the paid leave is  
 210 covered by this subsection. Under subparagraph (a)1. or  
 211 subparagraph (a)2., documentation signed by a health care  
 212 professional indicating the need for the number of paid sick  
 213 leave days shall be considered reasonable documentation. Under  
 214 subparagraph (a)3., a court record or documentation signed by an  
 215 employee or volunteer working for a victim services  
 216 organization, an attorney, a police officer, or any other anti-  
 217 violence counselor shall be considered reasonable documentation.

218 (5) NOTICE AND POSTING.--

219 (a) An employer shall give notice that an employee is  
 220 entitled to paid sick leave, the amount of paid sick leave, and  
 221 the terms of its use guaranteed under this section; that  
 222 retaliation against an employee who requests or uses paid sick

223 leave is prohibited; and that an employee has the right to file  
 224 a complaint or bring a civil action if sick leave as required by  
 225 this section is denied by the employer or the employee is  
 226 retaliated against for requesting or taking paid sick leave.

227 (b) An employer may comply with the requirements of  
 228 paragraph (a) by:

229 1. Supplying each of his or her employees with a notice in  
 230 English and Spanish that contains the required information; or

231 2. Displaying a poster in a conspicuous and accessible  
 232 place in each establishment where his or her employees are  
 233 employed that contains in English and Spanish the required  
 234 information.

235  
 236 The Agency for Workforce Innovation shall make available posters  
 237 containing the information required by this subsection to an  
 238 employer for his or her use in complying with the notice and  
 239 posting requirements of this subsection.

240 (6) RETALIATION PROHIBITED.--An employer may not take  
 241 retaliatory personnel action or discriminate against an employee  
 242 because the employee has requested paid sick leave, taken  
 243 guaranteed paid sick leave, or made a complaint or filed an  
 244 action to enforce his or her right to paid sick leave under this  
 245 section.

246 (7) REMEDIES FOR FAILURE TO PROVIDE PAID SICK LEAVE AND  
 247 FOR RETALIATION.--

248 (a) An employee subjected to retaliatory personnel action  
 249 in violation of subsection (6) may institute a civil action in a  
 250 court of competent jurisdiction under the terms set out in s.

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251 448.103(1)(b) and shall be entitled to relief as provided in s.  
252 448.103(2) and attorney's fees as provided in s. 448.104.

253 (b)1. Any person aggrieved by failure to provide paid sick  
254 leave as required by this section may bring a civil action in a  
255 court of competent jurisdiction against an employer violating  
256 this section.

257 2. Upon prevailing in an action brought pursuant to this  
258 section, an aggrieved person shall recover the full amount of  
259 any unpaid sick leave plus any actual damages suffered as the  
260 result of the employer's failure to provide paid sick leave.

261 3. Upon prevailing in an action brought pursuant to this  
262 section, an aggrieved person shall be entitled to such legal or  
263 equitable relief as may be appropriate to remedy the violation,  
264 including, without limitation, reinstatement in employment and  
265 injunctive relief.

266 4. Upon prevailing in an action brought pursuant to this  
267 section, aggrieved persons shall be entitled to reasonable  
268 attorney's fees.

269 5. Any civil action brought under this section shall be  
270 subject to s. 768.79.

271 (c) Any person aggrieved by either a retaliatory personnel  
272 action in violation of subsection (6) or by an employer's  
273 failure to provide paid sick leave as required by this section  
274 may file a complaint with the Attorney General.

275 (d) The Attorney General may bring a civil action to  
276 enforce this section. The Attorney General may seek injunctive  
277 relief. In addition to injunctive relief, or in lieu thereof,  
278 for any employer or other person found to have willfully

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279 violated this section, the Attorney General may seek to impose a  
280 fine of \$1,000 per violation, payable to the state.

281 (e) The statute of limitations for a civil action brought  
282 pursuant to this section shall be for the period of time  
283 specified in s. 95.11, beginning on the date the alleged  
284 violation occurred.

285 (f) Actions brought pursuant to this section may be  
286 brought as a class action pursuant to Rule 1.220, Florida Rules  
287 of Civil Procedure. In any class action brought pursuant to this  
288 section, the plaintiffs shall prove, by a preponderance of the  
289 evidence, the individual identity of each class member and the  
290 individual damages of each class member.

291 (8) CONFIDENTIALITY AND NONDISCLOSURE.--If an employer  
292 possesses health information or information pertaining to  
293 domestic violence about an employee or an employee's child,  
294 parent, spouse, grandparent, or extended family member, such  
295 information shall be treated as confidential and not disclosed  
296 except to the affected employee or with the permission of the  
297 affected employee.

298 (9) ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES; NO  
299 EFFECT ON MORE GENEROUS POLICIES.--

300 (a) Nothing in this section shall be construed to  
301 discourage or prohibit an employer from the adoption or  
302 retention of a paid leave policy more generous than the one  
303 required under this section.

304 (b) Nothing in this section shall be construed as  
305 diminishing the obligation of an employer to comply with any  
306 contract, collective bargaining agreement, employment benefit

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307 plan, or other agreement providing more generous leave to an  
308 employee than that required under this section.

309 (c) Nothing in this section shall be construed as  
310 diminishing the rights of a public employee regarding paid sick  
311 leave or use of sick leave as provided in chapters 110-112 and  
312 rules adopted thereunder.

313 (10) SEVERABILITY.--If any provision of this section or  
314 application thereof to any person or circumstance is judged  
315 invalid, the invalidity shall not affect other provisions or  
316 applications of the section which can be given effect without  
317 the invalid provision or application, and to this end the  
318 provisions of this section are declared severable.

319 Section 3. This act shall take effect upon becoming a law.