

By Senator Jones

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1 A bill to be entitled
2 An act relating to employee protections; amending s.
3 443.101, F.S.; providing that individuals who
4 voluntarily leave work for specified reasons are not
5 disqualified from reemployment benefits; revising and
6 providing requirements for such individuals; defining
7 the terms "witness" and "immediate family member";
8 specifying that the employment record of an employing
9 unit may not be charged for the payment of benefits to
10 such individuals; amending s. 443.131, F.S.;
11 prohibiting the employment record of an employer from
12 being charged for benefits paid to individuals who
13 voluntarily leave work as a result of specified
14 circumstances related to a homicide or individuals who
15 are a witness, or have an immediate family member who
16 is a witness, to certain crimes; amending s. 741.313,
17 F.S.; increasing the amount of leave an employer must
18 allow an employee to take if the employee or a family
19 or household member of the employee is the victim of
20 domestic violence or sexual violence; revising the
21 specified reasons for which an employee may take such
22 leave; revising applicability; creating s. 741.314,
23 F.S.; defining terms; requiring employers to allow
24 employees who are witnesses, who have an immediate
25 family member who is a witness, or who have an
26 immediate family member who is a homicide victim to
27 take leave from work for specified reasons; providing
28 applicability; requiring the employee to notify the
29 employer of the leave and provide the employer with

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30 certain documentation; providing requirements relating
31 to annual and vacation leave, personal leave, and sick
32 leave; requiring an employer to keep information
33 relating to an employee's request for such leave
34 confidential to the extent provided by law; requiring
35 an employer to provide reasonable work accommodations
36 for certain employees; providing an exception;
37 providing requirements for determining reasonable work
38 accommodations; providing requirements for employees
39 requesting reasonable work accommodations; prohibiting
40 employers from taking certain actions against
41 employees who request reasonable work accommodations;
42 providing construction; prohibiting an employer from
43 taking certain actions against an employee for
44 exercising certain rights; providing construction;
45 providing a remedy for violations; providing an
46 effective date.

47

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

49

50 Section 1. Paragraph (a) of subsection (1) of section
51 443.101, Florida Statutes, is amended to read:

52 443.101 Disqualification for benefits.—An individual shall
53 be disqualified for benefits:

54 (1) (a) For the week in which he or she has voluntarily left
55 work without good cause attributable to his or her employing
56 unit or for the week in which he or she has been discharged by
57 the employing unit for misconduct connected with his or her
58 work, based on a finding by the Department of Economic

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59 Opportunity. As used in this paragraph, the term "work" means
60 any work, whether full-time, part-time, or temporary.

61 1. Disqualification for voluntarily quitting continues for
62 the full period of unemployment next ensuing after the
63 individual has left his or her full-time, part-time, or
64 temporary work voluntarily without good cause and until the
65 individual has earned income equal to or greater than 17 times
66 his or her weekly benefit amount. As used in this subsection,
67 the term "good cause" includes only that cause attributable to
68 the employing unit which would compel a reasonable employee to
69 cease working or attributable to the individual's illness or
70 disability requiring separation from his or her work. Any other
71 disqualification may not be imposed.

72 2. An individual is not disqualified under this subsection
73 for:

74 a. Voluntarily leaving temporary work to return immediately
75 when called to work by the permanent employing unit that
76 temporarily terminated his or her work within the previous 6
77 calendar months;

78 b. Voluntarily leaving work to relocate as a result of his
79 or her military-connected spouse's permanent change of station
80 orders, activation orders, or unit deployment orders; ~~or~~

81 c. Voluntarily leaving work if he or she proves that his or
82 her discontinued employment is a direct result of circumstances
83 related to domestic violence as defined in s. 741.28, sexual
84 violence as defined in s. 741.313(1), or stalking under s.
85 784.048. An individual who voluntarily leaves work under this
86 sub-subparagraph must:

87 (I) Make reasonable efforts to preserve employment, unless

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88 the individual establishes that such remedies are likely to be
89 futile or to increase the risk of future incidents of domestic
90 violence. Such efforts may include seeking a protective
91 injunction, relocating to a secure place, or seeking reasonable
92 accommodation from the employing unit, such as a transfer or
93 change of assignment;

94 (II) Provide evidence, such as an injunction, a protective
95 order, medical records, mental health records, a law enforcement
96 report, or other documentation authorized by ~~state~~ law, which
97 reasonably proves that domestic violence has occurred; and

98 (III) Reasonably believe that he or she is likely to be the
99 victim of a future act of domestic violence at, in transit to,
100 or departing from his or her place of employment. An individual
101 who is otherwise eligible for benefits under this sub-
102 subparagraph is ineligible for each week that he or she no
103 longer meets such criteria or refuses a reasonable accommodation
104 offered in good faith by his or her employing unit; or

105 d. If sub-subparagraph c. does not apply, voluntarily
106 leaving work if he or she is a witness, if his or her immediate
107 family member is a witness, or if his or her immediate family
108 member was a victim of homicide and his or her discontinued
109 employment is a direct result of circumstances relating to such
110 crime. For the purposes of this sub-subparagraph, the terms
111 "witness" and "immediate family member" have the same meanings
112 as in s. 741.314(1). An individual who voluntarily leaves work
113 under this sub-subparagraph must:

114 (I) Make reasonable efforts to preserve employment, unless
115 the individual establishes that such remedies are likely to be
116 futile or to increase the risk of future victimization. Such

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117 efforts may include seeking a protective injunction, relocating
118 to a secure place, or seeking reasonable accommodations from the
119 employing unit, such as a transfer or change of assignment;

120 (II) Provide evidence, such as an injunction, a protective
121 order, medical records, mental health records, a law enforcement
122 report, or other documentation authorized by law or acceptable
123 to the employer, which reasonably verifies that a crime has
124 occurred; and

125 (III) Reasonably believe that he or she is likely to be the
126 victim of a future crime at, in transit to, or departing from
127 his or her place of employment. An individual who is otherwise
128 eligible for benefits under this sub-subparagraph is ineligible
129 for each week that he or she no longer meets such criteria or
130 refuses a reasonable accommodation offered in good faith by his
131 or her employing unit.

132 3. The employment record of an employing unit may not be
133 charged for the payment of benefits to an individual who has
134 voluntarily left work under sub-subparagraph 2.c. or sub-
135 subparagraph 2.d.

136 4. Disqualification for being discharged for misconduct
137 connected with his or her work continues for the full period of
138 unemployment next ensuing after having been discharged and until
139 the individual is reemployed and has earned income of at least
140 17 times his or her weekly benefit amount and for not more than
141 52 weeks immediately following that week, as determined by the
142 department in each case according to the circumstances or the
143 seriousness of the misconduct, under the department's rules for
144 determining disqualification for benefits for misconduct.

145 5. If an individual has provided notification to the

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146 employing unit of his or her intent to voluntarily leave work
147 and the employing unit discharges the individual for reasons
148 other than misconduct before the date the voluntary quit was to
149 take effect, the individual, if otherwise entitled, shall
150 receive benefits from the date of the employer's discharge until
151 the effective date of his or her voluntary quit.

152 6. If an individual is notified by the employing unit of
153 the employer's intent to discharge the individual for reasons
154 other than misconduct and the individual quits without good
155 cause before the date the discharge was to take effect, the
156 claimant is ineligible for benefits pursuant to s. 443.091(1)(d)
157 for failing to be available for work for the week or weeks of
158 unemployment occurring before the effective date of the
159 discharge.

160 Section 2. Paragraph (a) of subsection (3) of section
161 443.131, Florida Statutes, is amended to read:

162 443.131 Contributions.—

163 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
164 EXPERIENCE.—

165 (a) *Employment records.*—The regular and short-time
166 compensation benefits paid to an eligible individual shall be
167 charged to the employment record of each employer who paid the
168 individual wages of at least \$100 during the individual's base
169 period in proportion to the total wages paid by all employers
170 who paid the individual wages during the individual's base
171 period. Benefits may not be charged to the employment record of
172 an employer who furnishes part-time work to an individual who,
173 because of loss of employment with one or more other employers,
174 is eligible for partial benefits while being furnished part-time

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175 work by the employer on substantially the same basis and in
176 substantially the same amount as the individual's employment
177 during his or her base period, regardless of whether this part-
178 time work is simultaneous or successive to the individual's lost
179 employment. Further, as provided in s. 443.151(3), benefits may
180 not be charged to the employment record of an employer who
181 furnishes the Department of Economic Opportunity with notice, as
182 prescribed in rules of the department, that any of the following
183 apply:

184 1. If an individual leaves his or her work without good
185 cause attributable to the employer or is discharged by the
186 employer for misconduct connected with his or her work, benefits
187 subsequently paid to the individual based on wages paid by the
188 employer before the separation may not be charged to the
189 employment record of the employer.

190 2. If an individual is discharged by the employer for
191 unsatisfactory performance during an initial employment
192 probationary period, benefits subsequently paid to the
193 individual based on wages paid during the probationary period by
194 the employer before the separation may not be charged to the
195 employer's employment record. As used in this subparagraph, the
196 term "initial employment probationary period" means an
197 established probationary plan that applies to all employees or a
198 specific group of employees and that does not exceed 90 calendar
199 days following the first day a new employee begins work. The
200 employee must be informed of the probationary period within the
201 first 7 days of work. The employer must demonstrate by
202 conclusive evidence that the individual was separated because of
203 unsatisfactory work performance and not because of lack of work

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204 due to temporary, seasonal, casual, or other similar employment
205 that is not of a regular, permanent, and year-round nature.

206 3. Benefits subsequently paid to an individual after his or
207 her refusal without good cause to accept suitable work from an
208 employer may not be charged to the employment record of the
209 employer if any part of those benefits are based on wages paid
210 by the employer before the individual's refusal to accept
211 suitable work. As used in this subparagraph, the term "good
212 cause" does not include distance to employment caused by a
213 change of residence by the individual. The department shall
214 adopt rules prescribing for the payment of all benefits whether
215 this subparagraph applies regardless of whether a
216 disqualification under s. 443.101 applies to the claim.

217 4. If an individual is separated from work as a direct
218 result of a natural disaster declared under the Robert T.
219 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.
220 ss. 5121 et seq., benefits subsequently paid to the individual
221 based on wages paid by the employer before the separation may
222 not be charged to the employment record of the employer.

223 5. If an individual is separated from work as a direct
224 result of an oil spill, terrorist attack, or other similar
225 disaster of national significance not subject to a declaration
226 under the Robert T. Stafford Disaster Relief and Emergency
227 Assistance Act, benefits subsequently paid to the individual
228 based on wages paid by the employer before the separation may
229 not be charged to the employment record of the employer.

230 6. If an individual is separated from work as a direct
231 result of domestic violence, or a direct result of an immediate
232 family member of the individual being a victim of homicide or

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233 the individual or his or her immediate family member being a
234 witness, and meets all requirements in s. 443.101(1)(a)2.c. or
235 d., respectively, benefits subsequently paid to the individual
236 based on wages paid by the employer before separation may not be
237 charged to the employment record of the employer.

238 Section 3. Subsections (2) and (3) of section 741.313,
239 Florida Statutes, are amended to read:

240 741.313 Unlawful action against employees seeking
241 protection.—

242 (2) (a) An employer must allow ~~shall permit~~ an employee to
243 request and take up to 30 ~~3~~ working days of leave from work in
244 any 12-month period if the employee or a family or household
245 member of an employee is the victim of domestic violence or
246 sexual violence. Such ~~This~~ leave may be with or without pay, at
247 the discretion of the employer.

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

250 1. Seek an injunction for protection against domestic
251 violence or an injunction for protection in cases of repeat
252 violence, dating violence, or sexual violence;

253 2. Obtain medical care or mental health counseling, or
254 both, for the employee or a family or household member to
255 address physical or psychological injuries resulting from the
256 act of domestic violence or sexual violence;

257 3. Obtain services from a victim services organization,
258 including, but not limited to, a domestic violence shelter or
259 program or a rape crisis center as a result of the act of
260 domestic violence or sexual violence;

261 4. Make the employee's home secure ~~from the perpetrator of~~

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262 ~~the domestic violence or sexual violence or to seek new housing~~
263 ~~to escape the perpetrator; or~~

264 5. Seek legal assistance in addressing issues arising from
265 the act of domestic violence or sexual violence or to attend and
266 prepare for court or court-related proceedings arising from the
267 act of domestic violence or sexual violence;

268 6. Seek a temporary restraining order, protective order, or
269 other injunction for protection; or

270 7. Make any other arrangements necessary to provide for the
271 safety or psychological well-being of the employee or his or her
272 family or household member following the act of domestic
273 violence or sexual violence.

274 (3) This section applies to an employer who employs 25 ~~50~~
275 or more employees and to an employee who has been employed by
276 the employer for 3 or more months.

277 Section 4. Section 741.314, Florida Statutes, is created to
278 read:

279 741.314 Unlawful action against employees and immediate
280 family members who are witnesses and against immediate family
281 members of homicide victims.-

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

283 (a) "Domestic violence" includes domestic violence as
284 defined in s. 741.28, stalking under s. 784.048, or any crime
285 the underlying factual basis of which has been found by a court
286 to include an act of domestic violence or stalking.

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

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

289 (d) "Immediate family member" means any of the following:

290 1. A parent, child, or sibling of the employee, whether by

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291 blood, adoption, or marriage, regardless of the age of the
292 family member or employee;

293 2. A legal guardian of the employee, a person who stands in
294 loco parentis to the employee, or a person who was a legal
295 guardian to the employee or who stood in loco parentis to the
296 employee when the employee was a minor;

297 3. A person to whom the employee is a legal guardian, to
298 whom the employee stands in loco parentis, or to whom the
299 employee was a legal guardian or stood in loco parentis when the
300 person was a minor;

301 4. A spouse of the employee or an individual who is engaged
302 to be married to the employee;

303 5. A cohabitant of the employee who has a relationship with
304 the employee of a romantic or intimate nature; or

305 6. A person who lives in the same dwelling unit as the
306 employee who is otherwise related by blood, adoption, or
307 marriage, or a person who has at any time resided in the same
308 dwelling unit as the employee and whose close association is
309 similar to that of a parent, child, sibling, or spouse.

310 (e) "Sexual violence" has the same meaning as in s.
311 741.313(1).

312 (f) "Witness" means a person, including, but not limited
313 to, the victim, who witnesses any part of the commission of a
314 crime that constitutes sexual violence or domestic violence or
315 that causes physical injury, psychological injury with the
316 threat of physical injury, or death to the victim. The term does
317 not include a person who was the perpetrator of the crime or an
318 accomplice to the crime.

319 (2) (a) An employer must allow an employee who is not

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320 otherwise already eligible for leave under s. 741.313 to request
321 and take up to 30 working days of leave from work in any 12-
322 month period if the employee or an immediate family member of
323 the employee becomes a witness in that period or if an immediate
324 family member of the employee becomes a homicide victim in that
325 period. Such leave may be with or without pay, at the discretion
326 of the employer.

327 (b) This section applies if an employee uses the leave from
328 work as a result of the crime to:

329 1. Seek an injunction for protection against domestic
330 violence or an injunction for protection in cases of repeat
331 violence, dating violence, or sexual violence;

332 2. Seek a temporary restraining order, protective order, or
333 other injunction for protection;

334 3. Obtain medical care or mental health counseling, or
335 both, for the employee or an immediate family member of the
336 employee to address physical or psychological injuries resulting
337 from the crime;

338 4. Obtain services from a victim services organization,
339 including, but not limited to, a domestic violence shelter or
340 program or a rape crisis center as a result of the crime;

341 5. Make the employee's home secure or seek new housing to
342 improve the employee's or the employee's immediate family
343 member's safety or psychological well-being;

344 6. Seek legal assistance in addressing issues arising from
345 the crime or to attend and prepare for court or court-related
346 proceedings arising from the crime;

347 7. Make arrangements necessitated by the death of an
348 employee's immediate family member who is deceased as a result

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349 of the crime;

350 8. Grieve the death of an employee's immediate family
351 member who is deceased as a result of the crime; or

352 9. Make any other arrangements necessary to provide for the
353 safety or psychological well-being of the employee or his or her
354 immediate family member as a result of the crime.

355 (3) This section applies to an employer who employs 25 or
356 more employees and to an employee who has been employed by the
357 employer for 3 or more months.

358 (4) (a) Except in cases of imminent danger to the health or
359 safety of the employee, or to the health or safety of an
360 immediate family member of the employee, an employee seeking
361 leave from work under this section must provide to his or her
362 employer appropriate advance notice of the leave as required by
363 the employer's policy, along with sufficient documentation of
364 the crime as required by the employer. The employer must accept
365 the following as sufficient documentation of the crime:

366 1. A copy of an injunction for protection issued to the
367 employee or the employee's immediate family member;

368 2. A copy of an order of no contact entered by the court in
369 a criminal case in which the defendant was charged with
370 committing a crime against the employee or the employee's
371 immediate family member, or to which the employee or employee's
372 immediate family member was otherwise a witness;

373 3. A written certification from a domestic violence center
374 certified under chapter 39 or a rape crisis center as defined in
375 s. 794.055(2) which states that the employee or the employee's
376 immediate family member was a witness or that the employee's
377 immediate family member was a victim of homicide;

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378 4. A written certification from a government or nonprofit
379 agency or program that receives moneys administered by the
380 Office of the Attorney General to provide services to victims of
381 or witnesses to crime which states that the employee or
382 employee's immediate family member was a witness or that the
383 employee's immediate family member was a victim of homicide;

384 5. A copy of a law enforcement report documenting the crime
385 and identifying the employee or the employee's immediate family
386 member as a witness or identifying the employee's immediate
387 family member as a victim of homicide;

388 6. A written statement from a marriage and family therapist
389 as defined in s. 394.455, a mental health counselor as defined
390 in 394.455, a physician as defined in s. 458.305(4), a physician
391 assistant as defined in s. 394.455, a psychiatric nurse as
392 defined in s. 394.455, a psychiatrist as defined in s. 394.455,
393 or any other health care practitioner as defined in s. 456.001
394 certifying that the employee or the employee's immediate family
395 member is receiving or has received treatment as a result of
396 being a witness or as a result of the employee's immediate
397 family member being a witness, or as a result of the employee's
398 immediate family member being a victim of homicide; or

399 7. Any other documentation authorized by law, other
400 documentation that is sufficient to reasonably verify that the
401 crime occurred, or documentation that is otherwise acceptable to
402 the employer.

403 (b) An employee seeking leave under this section must,
404 before receiving the leave, exhaust all annual or vacation
405 leave, personal leave, and sick leave, if applicable, that is
406 available to the employee, unless the employer waives this

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407 requirement.

408 (c) An employer may require the employee to take leave
409 allowable under this section concurrently with any annual or
410 vacation leave, personal leave, and sick leave, if applicable,
411 that is available to the employee.

412 (d) To the extent allowed by law, employers must maintain
413 the confidentiality of any information relating to a request for
414 leave made by an employee under this section.

415 (5) (a) An employer must provide reasonable work
416 accommodations if requested by an employee who:

- 417 1. Is a witness;
418 2. Has an immediate family member who is a witness; or
419 3. Has an immediate family member who was a victim of
420 homicide.

421 (b) For the purposes of this subsection, reasonable
422 accommodations may include, but are not limited to, the
423 implementation of safety measures, including a transfer, a
424 reassignment, a modified schedule, a new work telephone number,
425 a new work station, an installed lock, assistance in documenting
426 crime that occurs in the workplace, an implemented safety
427 procedure, or another reasonable adjustment to a job structure,
428 workplace facility, or work requirement.

429 (c) An employer is not required to provide a reasonable
430 accommodation to an employee who has not disclosed his or her
431 status as a witness, as a person with an immediate family member
432 who is a witness, or as a person who has an immediate family
433 member who is a victim of homicide.

434 (d) The employer must engage in a timely, good faith, and
435 interactive process with the employee to determine effective

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436 reasonable accommodations.

437 (e) In determining whether the accommodation is reasonable,
438 the employer shall consider any exigent circumstance or danger
439 facing the employee.

440 (f) An employee seeking reasonable accommodations under
441 this subsection must provide to his or her employer sufficient
442 documentation of the crime if requested by the employer. The
443 employer must accept any of the items listed in paragraph (4) (a)
444 as sufficient documentation.

445 (g)1. If circumstances change and an employee needs a new
446 accommodation, the employee must request a new accommodation
447 from the employer.

448 2. Upon receiving such request, the employer shall engage
449 in a timely, good faith, and interactive process with the
450 employee to determine effective reasonable accommodations.

451 (h) If an employee no longer needs such accommodation, the
452 employee must notify the employer that it is no longer needed.

453 (i) An employer may not discharge, demote, suspend,
454 retaliate against, or in any other manner discriminate against
455 an employee for requesting a reasonable accommodation under this
456 subsection, regardless of whether the request is granted.

457 (j) This subsection does not require the employer to
458 undertake an action that constitutes an undue hardship on the
459 employer's business operations.

460 (k) To the extent allowed by law, an employer must maintain
461 the confidentiality of all information relating to the
462 employee's request for reasonable accommodations under this
463 subsection.

464 (6) (a) An employer may not interfere with, restrain, or

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465 deny the exercise of or any attempt by an employee to exercise
466 any right provided under this section.

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

470 (c) An employee has no greater rights to continued
471 employment or to other benefits and conditions of employment
472 than if the employee was not entitled to leave or reasonable
473 accommodations under this section. This section does not limit
474 an employer's right to discipline or terminate any employee for
475 any reason, including, but not limited to, reductions in
476 workforce or termination for cause or for no reason at all,
477 other than exercising his or her rights under this section.

478 (7) Notwithstanding any other law to the contrary, the sole
479 remedy for any person claiming to be aggrieved by a violation of
480 this section is to bring a civil suit for damages or equitable
481 relief, or both, in circuit court. The person may claim as
482 damages all wages and benefits that would have been due the
483 person up to and including the date of the judgment had the act
484 violating this section not occurred, but the person may not
485 claim wages or benefits for a period of leave granted without
486 pay as provided in paragraph (2) (a). However, this section does
487 not relieve the person from the obligation to mitigate his or
488 her damages.

489 Section 5. This act shall take effect July 1, 2021.