

Council Substitute for House Bill No. 55

An act relating to domestic violence; creating s. 741.313, F.S.; defining the terms “domestic violence,” “employee,” “employer,” “family or household member,” and “victim”; requiring that certain employers permit an employee to take leave from work to undertake activities resulting from an act of domestic violence; specifying the activities for which the employee may take leave; requiring the employee to notify the employer of the leave; providing exceptions; requiring a private employer to keep information relating to the employee’s leave confidential; requiring a governmental agency to keep such information confidential and exempt to the extent authorized by statute; prohibiting an employer from taking certain actions against the employee for exercising rights specified in the act; providing a recourse for violation of the act; providing an effective date.

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

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) “Employee” has the same meaning as in s. 440.02(15).

(c) “Employer” has the same meaning as in s. 440.02(16).

(d) “Family or household member” has the same meaning as in s. 741.28.

(e) “Victim” means an individual who has been subjected to domestic violence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Notwithstanding any other law to the contrary, the sole remedy for any person claiming to be aggrieved by a violation of this section is to bring a civil suit for damages or equitable relief, or both, in circuit court. The person may claim as damages all wages and benefits that would have been

due the person up to and including the date of the judgment had the act violating this section not occurred, but the person may not claim wages or benefits for a period of leave granted without pay as provided in paragraph (2)(a). However, this section does not relieve the person from the obligation to mitigate his or her damages.

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

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.