

SECOND REGULAR SESSION

HOUSE BILL NO. 2565

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRAME (Sponsor), HARRIS (110), NASHEED, MEADOWS,
LeVOTA, OXFORD AND HUGHES (Co-sponsors).

Read 1st time April 1, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5619L.01I

AN ACT

To amend chapter 285, RSMo, by adding thereto thirteen new sections relating to family medical leave, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto thirteen new sections, to
2 be known as sections 285.350, 285.352, 285.354, 285.356, 285.358, 285.360, 285.362, 285.364,
3 285.366, 285.368, 285.370, 285.372, and 285.375, to read as follows:

285.350. Sections 285.350 to 285.375 may be cited as the "**Healthy Families, Healthy**
2 **Communities Act**".

285.352. As used in sections 285.350 to 285.375, the following terms shall mean:

- 2 (1) "Child", a biological, foster, or adopted child, stepchild, legal ward, or child of
3 a person standing in loco parentis, who is under eighteen years of age or eighteen years of
4 age or older and incapable of self-care because of a mental or physical disability;
5 (2) "Department", the department of labor and industrial relations;
6 (3) "Employer", any person, partnership, association, corporation, the state, or any
7 political subdivision thereof that employs ten or more persons;
8 (4) "Employee", any person, as defined in section 290.500, RSMo, including
9 persons employed by a retail or service business whose annual gross volume sales made on
10 business done is less than five hundred thousand dollars, in the service of any employer;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 11 (5) "Extended family member", an individual related by blood or affinity whose
12 close association with the employee is the equivalent of a family relationship;
- 13 (6) "Grandparent", a parent of a parent;
- 14 (7) "Health care professional", any person licensed under state law to provide
15 health care services, including but not limited to nurses, doctors, and emergency room
16 personnel;
- 17 (8) "Parent", a biological, foster, or adoptive parent, stepparent, legal guardian,
18 parent-in-law, individual who stood in loco parentis when a person was a child, or an
19 individual of equivalent relationship;
- 20 (9) "Pro rata", the proportion of each of the benefits offered to full-time employees
21 that are offered to part-time employees that is equal to the ratio of part-time hours worked
22 to full-time hours worked;
- 23 (10) "Sick leave", an increment of compensated leave provided by employers and
24 small employers to an employee as a benefit of the employment for use by the employee
25 during an absence from the employment for personal or family illness as described in
26 section 285.356, compensated at a rate equal to the rate the employee earns from his or her
27 employment;
- 28 (11) "Small employer", any private individual, firm, partnership, institution,
29 corporation, or association that employs less than ten persons;
- 30 (12) "Spouse", a person to whom the employee is legally married under the laws
31 of this state.

285.354. 1. An employer shall provide each employee not less than one hour of paid
2 sick leave for every thirty-seven hours worked by an employee. Employers will not be
3 required under this section to provide more than forty hours of sick leave for an employee
4 in a calendar year.

5 2. Small employers shall provide a minimum of one hour of paid sick leave for
6 every eighty hours worked by an employee. Small employers will not be required under
7 this section to provide more than twenty-six hours of paid sick leave in a calendar year.

8 3. Paid sick leave shall accrue in hour unit increments.

9 4. Paid sick leave as provided in this section shall begin to accrue at the
10 commencement of employment.

11 5. Employees shall be entitled to use accrued paid sick leave beginning on the
12 ninetieth day following commencement of their employment. After the ninetieth day of
13 employment, employees may use sick leave as it is accrued.

14 6. There shall be a limit of forty hours on the amount of paid sick leave an
15 employee may carry forward from one calendar year to the next.

16 **7. For periods of sick leave that are shorter than a normal workday, that leave shall**
17 **be counted on an hourly basis or in the smallest increment that the employer's payroll**
18 **system uses to account for absences or use of other leave.**

19 **8. All employers covered under sections 285.350 to 285.375, at the discretion of the**
20 **employer, may loan the sick leave to the employee in advance of accrual by such employee.**

21 **9. Any employer with a paid leave policy who makes available an amount of paid**
22 **leave that may be used for the same purposes and under the same conditions as paid sick**
23 **leave under sections 285.350 to 285.375 shall be deemed to be in compliance with sections**
24 **285.350 to 285.375.**

25 **10. Nothing in sections 285.350 to 285.375 shall be construed to prevent employers**
26 **from adopting or retaining leave policies that are more generous than the policies required**
27 **under sections 285.350 to 285.375.**

28 **11. Nothing in sections 285.350 to 285.375 shall be construed as requiring financial**
29 **or other reimbursement to an employee from an employer upon the employee's**
30 **termination, resignation, retirement, or other separation from employment for accrued**
31 **paid sick leave that has not been used.**

285.356. 1. Sick leave accrued under sections 285.350 to 285.375 may be used by
2 **an employee for any of the following:**

3 **(1) An absence resulting from a physical or mental illness, injury, or medical**
4 **condition of the employee;**

5 **(2) An absence resulting from obtaining professional medical diagnosis or care, or**
6 **preventive medical care, for the employee;**

7 **(3) An absence for the purpose of caring for a child, parent, grandparent, spouse,**
8 **or any extended family member who has any of the conditions or needs for diagnosis or**
9 **care described in subdivisions (1) and (2) of this subsection.**

10 **2. An employee shall make a reasonable effort to schedule leave in a manner that**
11 **does not unduly disrupt the operations of the employer.**

12 **3. Paid sick leave shall be provided upon the oral or written request of an employee.**
13 **Such request shall:**

14 **(1) Include a reason for the absence involved and the expected duration of the**
15 **leave;**

16 **(2) Provide notice of the leave. Where the need for the leave is foreseeable, an**
17 **employer may require advance notice of the intention to take such leave as soon as the**
18 **employee is aware of the need for the leave. Where the need is not foreseeable, an**
19 **employer may require an employee to give notice of the need for leave as soon as**
20 **practicable.**

285.358. 1. An employer may require that a request for leave be supported by certification issued by the health care professional of the eligible employee or of an individual described in subdivision (3) of subsection 1 of section 285.356, as appropriate, if the leave period covers more than three consecutive workdays.

2. The employee shall provide a copy of such certification to the employer in a timely manner, not later than thirty days after the first day of the leave. The employer shall not delay the commencement of the leave on the basis that the employer has not yet received the certification.

285.360. If an employer possesses health information about an employee or an employee's child, parent, spouse, or extended family member, such information shall:

(1) Be maintained on a separate form and in a separate file from other personnel information;

(2) Be treated as a confidential medical record; and

(3) Not be disclosed except to the affected employee or with the permission of the affected employee.

285.362. An employer with a leave policy providing paid leave options shall not be required to modify such policy if such policy offers an employee the option, at the employee's discretion, to take paid sick leave that is at least equivalently beneficial to the employee as the sick leave described in sections 285.350 to 285.375.

285.364. 1. Each employer shall at all times retain a posted notice setting forth excerpts from, or summaries of, the pertinent provisions of sections 285.350 to 285.375, including:

(1) Information describing leave available to employees under sections 285.350 to 285.375;

(2) Information pertaining to the filing of an action under sections 285.350 to 285.375;

(3) The details of the notice requirement for foreseeable leave; and

(4) Information that describes the protections that an employee has in exercising rights under sections 285.350 to 285.375, and how the employee can contact the department if any of their rights are violated.

2. The notice described under subsection 1 of this section shall be posted:

(1) In conspicuous places on the premises of the employer where notices to employees are customarily posted; or

(2) In employee handbooks.

16 **3. Any employer who willfully violates the posting requirements of this section shall**
17 **be subject to a civil fine in an amount not to exceed one hundred dollars for each separate**
18 **offense.**

285.366. 1. It shall be unlawful for any employer to interfere with, restrain, or deny
2 **the exercise of, or the attempt to exercise, any right provided under sections 285.350 to**
3 **285.375.**

4 **2. It shall be unlawful for any employer to:**

5 **(1) Use the taking of sick leave under sections 285.350 to 285.375 as a negative**
6 **factor in an employment action, such as firing, promotion, or a disciplinary action; or**

7 **(2) Count the sick leave under a no-fault attendance policy.**

8 **3. It shall be unlawful for any person to discharge or in any other manner**
9 **discriminate against or retaliate against any individual because such individual:**

10 **(1) Exercised or attempted to exercise any right provided under sections 285.350**
11 **to 285.375;**

12 **(2) Has filed an action, or has instituted or caused to be instituted any proceeding**
13 **related to sections 285.350 to 285.375;**

14 **(3) Has given, or is about to give, any information in connection with any inquiry**
15 **or proceeding relating to any right provided under sections 285.350 to 285.375;**

16 **(4) Has testified, or is about to testify, in any inquiry or proceeding relating to any**
17 **right provided under sections 285.350 to 285.375.**

285.368. 1. The employee or the attorney general may enforce the provisions of
2 **sections 285.350 to 285.375 by bringing a civil action against an employer to enforce the**
3 **provisions of sections 285.350 to 285.375. The attorney general may conduct an**
4 **investigation to obtain voluntary conciliation of an alleged violation. Such an investigation**
5 **shall not be a prerequisite to bringing an action in court.**

6 **2. Any employer who violates sections 285.350 to 285.375 shall be liable to any**
7 **employee affected for damages equal to:**

8 **(1) The amount of any wages, salary, employment benefits, or other compensation**
9 **denied or lost to such employee by reason of the violation; or**

10 **(2) In a case in which wages, salary, employment benefits, or other compensation**
11 **have not been denied or lost to the employee, any actual monetary losses sustained by the**
12 **employee as a direct result of the violation up to a sum equal to ten days of wages or salary**
13 **for the employee;**

14 **(3) The interest on the amount described in subdivision (1) of this subsection**
15 **calculated at the average prime rate charged by banks in the calendar year rounded to the**
16 **nearest full percent;**

- 17 (4) An additional amount as liquidated damages; and
18 (5) Equitable relief as may be appropriate, including employment, reinstatement,
19 and promotion.

285.370. Nothing in sections 285.350 to 285.375 shall be construed to discourage an
2 employer from the adoption or retention of a paid leave policy more generous to the
3 employee than the one required by sections 285.350 to 285.375.

285.372. 1. The department shall develop and maintain a program of education
2 concerning the rights and benefits of sections 285.350 to 285.375.

3 2. The department shall provide to each employer a notice informing workers of
4 their sick day rights and benefits under sections 285.350 to 285.375. The notice shall be
5 given by every employer to each employee.

285.375. Nothing in sections 285.350 to 285.375 shall be construed to modify,
2 eliminate, or otherwise abrogate any existing family leave policies, employment benefits,
3 or protections that employees may have pursuant to any employment contracts or collective
4 bargaining agreements, to the extent that the contracts and agreements provide greater
5 protections than those afforded under sections 285.350 to 285.375.

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