

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB493

Hearing Date: Monday February 09, 2015
Committee On: Business and Labor
Introducer: Nordquist
One Liner: Adopt the Healthy and Safe Families and Workplaces Act

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

Aye:	6	Senators Bloomfield, Crawford, Ebke, Harr, Johnson, Howard
Nay:		
Absent:	1	Senator Chambers
Present Not Voting:		

Verbal Testimony:

Proponents:

Senator Jeremy Nordquist
Aubrey Mancuso
Robert Sanford

Rodney D. Vlcek
Mike Marvin
James Goddard
Teresa Larson

Opponents:

Ron Sedlacek
Bob Hallstrom
Ann Post
Kathy Siefken

Neutral:

Representing:

Introducer
Voices for Children in Nebraska
Nebraska Coalition to End Sexual and Domestic Violence
Nebraska State AFL-CIO
Nebraska Association of Public Employees
Nebraska Appleseed
Self

Representing:

Nebraska Chamber of Commerce
National Federation of Independent Business
Lincoln Independent Business Association
Nebraska Grocery Industry Association, Inc.

Representing:

Summary of purpose and/or changes:

Sec. 1. Creates the Healthy and Safe Families and Workplaces Act.

Sec. 2. Definitional section. Defines for purposes of the Act (1) Commissioner, (2) Department, (3) Domestic assault, (4) Employee, (5) Employer, (6) Family member, (7) Health care professional, (8) Paid sick and safe time, (9) Sexual assault, and (10) Stalking.

Sec. 3. Beginning on the first day of employment, employees will accrue a minimum of 1 hour of paid leave for every 30 hours worked. Employees who are exempt from overtime requirements under the FLSA will be assumed to work 40 hours a week. If their normal work week is less than 40 hours, leave will accrue based on that normal work week.

Unless the employer selects a higher cap, this leave is capped at 40 hours per calendar year. Unused leave will be

carried over to the next year so long as it does not exceed 40 hours.

An employer with a paid leave policy, such as PTO, that meets the Act's accrual requirements for paid sick and safe time leave and which can be used under the same circumstances, is not required to offer additional paid sick and safe time.

When an employee resigns, retires, is fired, or is otherwise separated from employment, the employer does not have to pay out for unused sick and safe time leave. If an employee is transferred within the company, the accrued leave will follow the employee. If there is a separation of employment and the employee is rehired by the same employer within 6 months, the employee is entitled to the unused leave he/she had accrued prior to separation.

Employees can begin using their accrued leave on the 16th calendar day following employment. Employees can only use this leave as it is accrued, unless the employer loans this leave in advance of accrual.

Sec. 4. Paid leave will be provided for an employee or for the employee to care for a family member for a mental or physical illness or injury, a diagnosis or treatment of an illness or injury, or the need for preventative medical care. Paid leave is also provided for absence necessary as the result of domestic assault, sexual assault or stalking of an employee or family member in order to obtain medical attention, services from a victim services organization, counseling, relocation, or legal services.

Paid leave must be provided upon the employee's oral request as soon as possible. If the leave is foreseeable, the employee must make a good faith effort to provide notice of the need for sick and safe time leave.

An employer cannot require the employee requesting leave to find a replacement to cover the hours he/she will be gone.

If the use of paid sick and safe time leave exceeds 3 consecutive workdays, the employer may require reasonable documentation as outlined in the section. The employee must provide such documentation no later than 30 days after the first day of the period of time in which the employee requested leave. Any information provided regarding this leave must be confidential.

Sec. 5. It is unlawful for any person to interfere with another's rights under this Act. An employer cannot retaliate or discriminate against an employee for using this leave, for filing a complaint against the employer for violation of the Act, or for informing another person of his/her rights under the Act.

It is unlawful for an employer to count an employee's use of this leave as absence under its absence control policy and then take any adverse action against the employee, such as discipline, discharge, or demotion.

This section applies to good faith alleged violations.

Sec. 6. Employers must give notice when the employee is hired that employees are entitled to paid leave under the Act, the amount of leave, the terms of use, and employee's rights against employer retaliation.

Sec. 7. An employee or another person may report a suspected violation to the Commissioner. The Commissioner will keep the name of the employee or person reporting a violation or other identifying information confidential so far as permitted by law. If the reporting individual authorizes disclosure, the Commissioner may disclose that information. The Department may conduct an investigation, to include witnesses and examination of employer's books, records and other documents.

The Commissioner must assess an administrative penalty against an employer who violated the Act no more than \$500 for the first violation and no more than \$5,000 for a second or subsequent violation. Once the Commissioner notifies the employer of the penalty, the employer has 15 working days to contest the penalty. The Commissioner will provide a hearing in accordance with the Administrative Procedures Act.

Any person aggrieved by a violation of the Act may bring a civil action in court. The person does not have to file an administrative complaint first. If the aggrieved party prevails, he/she will recover the full amount of any unpaid leave and attorney's fees.

Sec. 8. Employers are free to offer a more generous paid sick and safe time leave policy.

Sec. 9. The Department of Labor will administer and enforce the Act and may promulgate rules.

Sec. 10. Severability clause.

Burke Harr, Chairperson