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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 701 Session of  
2017

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INTRODUCED BY DONATUCCI, FRANKEL, YOUNGBLOOD, DEAN, O'BRIEN,  
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ROEBUCK, CALTAGIRONE, SOLOMON, D. MILLER, THOMAS AND  
PASHINSKI, MARCH 3, 2017

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 3, 2017

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AN ACT

1 Providing for paid sick leave for certain employees, for duties  
2 of the Department of Labor and Industry and for enforcement;  
3 and imposing a civil penalty.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Healthy  
8 Families, Healthy Workplaces Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

11 (1) Nearly every worker in this Commonwealth will at  
12 some time during the year need temporary time off from work  
13 to take care of the worker's own health needs or the health  
14 needs of family members or to deal with safety issues arising  
15 from domestic or sexual violence.

16 (2) There are many workers in this Commonwealth who are  
17 not entitled to any paid sick leave to care for their own

1 health needs or the health needs of family members.

2 (3) Low-income workers are significantly less likely to  
3 have paid sick leave than other members of the work force.

4 (4) Providing workers time off to attend to their own  
5 health care and the health care of family members will ensure  
6 a healthier and more productive work force in this  
7 Commonwealth.

8 (5) Paid sick leave will have a positive effect on  
9 public health in this Commonwealth by allowing sick workers  
10 the occasional option of staying home to care for themselves  
11 when ill, lessening their recovery time and reducing the  
12 likelihood of spreading illness to other members of the work  
13 force.

14 (6) Paid sick leave will allow parents to provide  
15 personal care for their sick children. Parental care makes  
16 children's recovery faster, prevents more serious illnesses  
17 and improves children's overall mental and physical health.

18 (7) Providing minimal paid sick leave is affordable for  
19 employers and good for business.

20 (8) Employers who provide paid sick leave have greater  
21 employee retention and avoid the problem of workers coming to  
22 work sick. Studies have shown that costs from on-the-job  
23 productivity losses resulting from sick workers exceed the  
24 cost of absenteeism among employees.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall  
27 have the meanings given to them in this section unless the  
28 context clearly indicates otherwise:

29 "Child." A biological, adopted or foster child, stepchild or  
30 legal ward or a child, to whom the employee stands in loco

1 parentis, who is under 18 years of age or 18 years of age or  
2 older and incapable of self-care or earning a living due to a  
3 disability or incapacity that is either physical or mental.

4 "Department." The Department of Labor and Industry of the  
5 Commonwealth.

6 "Domestic violence." As the term "abuse" is defined in 23  
7 Pa.C.S. § 6102 (relating to definitions).

8 "Employee." As the term "employee" is defined in section 3 of  
9 the act of January 17, 1968 (P.L.11, No.5), known as The Minimum  
10 Wage Act of 1968.

11 "Employer." As defined in section 3 of The Minimum Wage Act  
12 of 1968.

13 "Extended family member." A relative within the third degree  
14 by blood or marriage.

15 "Grandparent." A parent of a parent.

16 "Health care provider." As defined in section 109 of the act  
17 of June 2, 1915 (P.L.736, No.338), known as the Workers'  
18 Compensation Act.

19 "Paid sick leave." Leave that is compensated at the same  
20 hourly rate as the employee earns from the employee's employment  
21 and is provided by an employer to an employee for the purposes  
22 described in section 4.

23 "Parent." A biological or foster parent, stepparent or  
24 adoptive parent or legal guardian of an employee or an  
25 employer's spouse or a person who stood in loco parentis when  
26 the employee was a minor.

27 "Retaliatory personnel action." The discharge, suspension or  
28 demotion by an employer of an employee or any other adverse  
29 employment action taken by an employer against an employee in  
30 the terms and conditions of employment.

1 "Sexual assault." As the offense is defined in 18 Pa.C.S. §  
2 3124.1 (relating to sexual assault).

3 "Spouse." A person to whom the employee is legally married  
4 under the laws of this Commonwealth.

5 "Stalking." As the offense is defined in 18 Pa.C.S. § 2709.1  
6 (relating to stalking).

7 Section 4. Accrual of paid sick leave.

8 (a) General rule.--Except as provided for in subsection (b),  
9 employers shall provide a minimum of one hour of paid sick leave  
10 for every 40 hours worked by an employee. Employers are not  
11 required to provide more than 52 hours of sick leave for an  
12 employee in a calendar year.

13 (b) Exception.--Employers that employ fewer than 10  
14 individuals shall provide a minimum of one hour of paid sick  
15 leave for every 80 hours worked by an employee. Employers under  
16 this subsection are not required to provide more than 26 hours  
17 of paid sick leave in a calendar year.

18 (c) Accrual of leave.--Paid sick leave shall accrue in hour  
19 unit increments. Paid sick leave shall begin to accrue at the  
20 date of hire as indicated in the employee's personnel file.

21 (d) Use of leave.--Employees shall be entitled to use  
22 accrued paid sick leave beginning 90 business days following the  
23 employee's date of hire. After 90 business days of employment,  
24 employees may use sick leave as it is accrued.

25 (e) Carry forward of leave.--No more than 40 hours of paid  
26 sick leave of an employee may carry forward from one calendar  
27 year to the next.

28 (f) Compliance.--An employer with a paid leave policy who  
29 makes available an amount of paid leave that may be used for the  
30 same purposes and under the same conditions as paid sick leave

1 under this section shall be deemed to be in compliance with this  
2 section.

3 Section 5. Use of paid sick leave.

4 (a) General rule.--Paid sick leave shall be provided to an  
5 employee by an employer for all of the following:

6 (1) Absence necessary due to an employee's:

7 (i) mental or physical illness, injury or health  
8 condition;

9 (ii) need for medical diagnosis, care or treatment  
10 of a mental or physical illness, injury or health  
11 condition; or

12 (iii) need for preventive medical care.

13 (2) Care of a spouse, child, parent, grandparent or  
14 extended family member, or any other individual related by  
15 blood or affinity whose close relationship with the employee  
16 is the equivalent of a family relationship, who needs the  
17 following:

18 (i) medical diagnosis, care or treatment of a mental  
19 or physical illness, injury or health condition; or

20 (ii) preventive medical care.

21 (3) Absence necessary due to domestic violence or sexual  
22 assault, provided the leave is to:

23 (i) Seek medical attention for the employee or  
24 employee's child, spouse, parent, grandparent or extended  
25 family member to recover from physical injury or  
26 disability or psychological injury or disability caused  
27 by domestic violence or sexual assault.

28 (ii) Obtain services from a victims' services  
29 organization.

30 (iii) Obtain psychological or other counseling.

1           (iv) Seek relocation due to the domestic violence,  
2           sexual assault or stalking.

3           (v) Take legal action, including preparing for or  
4           participating in any civil or criminal legal proceeding  
5           related to or resulting from the domestic violence or  
6           sexual assault.

7           (b) Notice.--An employer may require reasonable notice of  
8           the need for paid sick leave. Where the need for the leave is  
9           foreseeable, an employer may require advance notice of the  
10          intention to take leave, but in no case shall require more than  
11          seven days' notice. Where the need is not foreseeable, an  
12          employer may require an employee to give notice of the need for  
13          leave as soon as practicable.

14          (c) Documentation.--For leave of more than three consecutive  
15          days, an employer may require reasonable documentation that the  
16          paid leave is covered under subsection (a). Under subsection (a)  
17          (1) or (2), documentation signed by a health care professional  
18          indicating the need for the number of paid sick leave days shall  
19          be considered reasonable documentation. Under subsection (a) (3),  
20          a court record or documentation signed by an employee or  
21          volunteer working for a victims' services organization, an  
22          attorney, police officer or other antiviolence counselor shall  
23          be considered reasonable documentation.

24          Section 6. Retaliation prohibited.

25          An employer may not take retaliatory personnel action or  
26          discriminate against an employee because the employee has  
27          requested paid sick leave under this act or taken paid sick  
28          leave guaranteed by this act or made a complaint or filed an  
29          action to enforce an employee's right to paid sick leave under  
30          this act.

1 Section 7. Notice and posting.

2 (a) Notice.--An employer shall give notice of all of the  
3 following to an employee entitled to paid sick leave:

4 (1) The amount of paid sick leave and the terms of its  
5 use provided for under this act.

6 (2) That retaliation against employees who request or  
7 use paid sick leave is prohibited.

8 (3) That an employee has the right to file a complaint  
9 or bring a civil action if sick leave as required under this  
10 act is denied by the employer or the employee is retaliated  
11 against for requesting or taking paid sick leave.

12 (b) Compliance.--

13 (1) An employer may comply with this section by  
14 supplying each employee with a notice that contains the  
15 information required under subsection (a).

16 (2) Employers may comply with this section by displaying  
17 a poster in a conspicuous and accessible place in each  
18 establishment where employees are employed that contains the  
19 information required under subsection (a).

20 (c) Department poster.--The department shall create posters  
21 and make them available to employers to assist employers in  
22 complying with this act. The posters shall contain the  
23 information required under subsection (a).

24 Section 8. Enforcement.

25 (a) Failure to provide leave.--

26 (1) A person aggrieved by an employer's failure to  
27 provide paid sick leave as required under this act may bring  
28 a civil action in a court of competent jurisdiction against  
29 an employer violating this act.

30 (2) Upon prevailing in an action brought under this

1 subsection, an aggrieved person shall recover the full amount  
2 of any unpaid sick leave plus any actual damages suffered as  
3 the result of the employer's failure to provide paid sick  
4 leave and shall also be entitled to reasonable attorney fees.

5 (3) Upon prevailing in an action brought under this  
6 subsection, an aggrieved person shall be entitled to legal or  
7 equitable relief as may be appropriate to remedy the  
8 violation, including, without limitation, reinstatement in  
9 employment and injunctive relief.

10 (b) Retaliatory personnel action.--An employee subjected to  
11 retaliatory personnel action in violation of this act may  
12 institute a civil action in a court of competent jurisdiction  
13 and shall be entitled to recover damages and any other legal or  
14 equitable relief as may be appropriate. An employee who prevails  
15 in an action under this subsection shall be entitled to  
16 reasonable attorney fees.

17 (c) Complaint.--A person aggrieved by either a retaliatory  
18 personnel action in violation of this act or by an employer's  
19 failure to provide paid sick leave as required by this act may  
20 file a complaint with the Office of Attorney General. The filing  
21 of a complaint with the Office of Attorney General does not  
22 preclude the filing of a civil action under subsection (a) or  
23 (b).

24 (d) Action of Attorney General.--The Attorney General may  
25 bring a civil action to enforce this act. The Attorney General  
26 may seek injunctive relief. In addition to injunctive relief, or  
27 in lieu of injunctive relief, for any employer or other person  
28 found to have willfully violated this section, the Attorney  
29 General may seek to impose a fine of \$1,000 per violation.

30 (e) Class action.--Actions brought under this section may be



1 brought as a class action pursuant to the laws of this  
2 Commonwealth.

3 Section 9. Confidentiality and nondisclosure.

4 If an employer possesses health information or information  
5 pertaining to domestic violence about an employee or employee's  
6 child, parent, spouse, extended family member or other  
7 individual described in section 5, the information shall be  
8 treated as confidential and not disclosed except under the  
9 Health Insurance Portability and Accountability Act of 1996  
10 (Public Law 104-191, 110 Stat. 1936).

11 Section 10. Construction.

12 The following apply:

13 (1) Nothing in this act may be construed to discourage  
14 or prohibit an employer from the adoption or retention of a  
15 paid leave policy more generous than the one required under  
16 this act.

17 (2) Nothing in this act may be construed as diminishing  
18 the obligation of an employer to comply with any contract,  
19 collective bargaining agreement, employment benefit plan or  
20 other agreement providing more generous leave to an employee  
21 than required in this act.

22 (3) Nothing in this act may be construed as diminishing  
23 the rights of public employees regarding paid sick leave or  
24 use of sick leave as provided in the employees' employment  
25 contract or collective bargaining agreement.

26 (4) Nothing in this act may be construed to conflict  
27 with the act of January 17, 1968 (P.L.11, No.5) known as The  
28 Minimum Wage Act of 1968.

29 Section 11. Regulations.

30 The department shall promulgate regulations to carry out the

1 provisions of this act.

2 Section 12. Effective date.

3 This act shall take effect as follows:

4 (1) This section and section 11 shall take effect  
5 immediately.

6 (2) The remainder of this act shall take effect in 180  
7 days.