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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- HEALTHY AND SAFE FAMILIES
AND WORKPLACES ACT

Introduced By: Senators Goodwin, Calkin, Goldin, Seveney, and Satchell

Date Introduced: February 15, 2017

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR
2 RELATIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 57

4 HEALTHY AND SAFE FAMILIES AND WORKPLACES ACT

5 **28-57-1. Short title.**

6 This chapter shall be known and may be cited as the "Healthy and Safe Families and
7 Workplaces Act."

8 **28-57-2. Definitions.**

9 As used in this chapter, the following words and terms have the following meanings:

10 (1) "Care recipient" means a person for whom the employee is responsible for providing
11 or arranging health or safety related care, including, but not limited to, helping the person obtain
12 diagnostic, preventive, routine, or therapeutic health treatment or ensuring the person is safe
13 following domestic violence, sexual assault or stalking.

14 (2) "CCAP Family child care provider" means a child care worker as defined in §40-6.6-
15 2(2).

16 (3) "Child" means a person as defined in §28-41-34(1).

17 (4) "Department" means the department of labor and training.

18 (5) "Domestic partner" means a party to a civil union as defined in chapter 3.1 of title 15.

1 or a person who meets the requirements in §36-12-1(3)(i) through (v) and has the same meaning
2 as that term is defined in §8-8.2-20.

3 (6) "Domestic violence" means certain crimes when committed by one family or
4 household member against another as defined in §12-29-2.

5 (7) "Employee" means any person suffered or permitted to work by an employer, except
6 that employees employed by cities and towns, independent contractors or subcontractors shall not
7 be considered employees for the purposes of this section.

8 (8) "Employer" means any individual or entity that includes any individual, partnership,
9 association, corporation, business, trust, or any person or group of persons acting directly or
10 indirectly in the interest of an employer, in relation to an employee as defined in §28-12-2, but
11 does not include the federal government.

12 (9) "Family member" means a child, parent, spouse, mother-in-law, father-in-law,
13 domestic partner, grandparent, grandchild, sibling, care recipient, or member of the employee's
14 household.

15 (10) "Grandchild" means a child of the employee's child.

16 (11) "Grandparent" means a parent of the employee's parent.

17 (12) "Health care professional" means any person licensed under federal or state law to
18 provide medical or emergency services, including, but not limited to, doctors, nurses, and
19 emergency room personnel.

20 (13) "Intern" means a student who is performing work for an employer as part of a course
21 of study for a time limited period or performing work for which the student receives credit from
22 an educational institution, instead of payment or who is compensated pursuant to a work study
23 program under 42 U.S.C. section 2753.

24 (14) "Paid sick leave time" or "paid sick and safe leave time" means time that is
25 compensated at the same hourly rate and with the same benefits, including health care benefits, as
26 the employee normally earns during hours worked and is provided by an employer to an
27 employee for the purposes described in §28-57-3, but in no case shall the hourly wage paid leave
28 be less than that provided under §28-12-3.

29 (15) "Parent" means a person as defined in §28-41-34(5) or a parent-in-law as defined in
30 §28-41-34 (9).

31 (16) "Retaliatory personnel action" means denial of any right guaranteed under this
32 chapter and any threat, discharge, suspension, demotion, reduction of hours, reporting or
33 threatening to report an employee's suspected citizenship or immigration status, or the suspected
34 citizenship or immigration status of a family member of the employee to a federal, state or local

1 agency, or any other adverse action against an employee for the exercise of any right guaranteed
2 herein including any sanctions against an employee who is the recipient of public benefits for
3 rights guaranteed under this chapter. Retaliatory personnel action shall also include interference
4 with or punishment for in any manner participating in or assisting an investigation, proceeding, or
5 hearing under this chapter.

6 (17) "Sexual assault" means a crime as defined in §§11-37-2, 11-37-4 or 11-37-6.

7 (18) "Sibling" means a brother or a sister, whether related through half blood, whole
8 blood or adoption, a foster sibling, or a step-sibling.

9 (19) "Spouse" means a person as defined in §28-41-34(7).

10 (20) "Stalking" means a crime as defined in §§11-59-2 and 11-52-4.2, harassing another
11 person or willfully, maliciously and repeatedly following another person with the intent to place
12 that person in reasonable fear of bodily injury.

13 (21) "Year" means a regular and consecutive twelve (12) month period as determined by
14 the employer; except that for the purposes of §§28-57-7 and 28-57-9, year means a calendar year.

15 **28-57-3. Accrual of paid sick and safe leave time.**

16 (a) All employees employed by an employer of eleven (11) or more employees in the
17 state shall accrue a minimum of one hour of paid sick and safe leave time for every thirty (30)
18 hours worked up to a maximum of thirty-two (32) hours per year during calendar year 2018 and
19 up to a maximum of forty (40) hours per year thereafter, unless the employer chooses to provide a
20 higher annual limit. In determining the number of employees who are employed by an employer
21 for compensation, all employees performing work for compensation on a full-time, part-time, or
22 temporary basis shall be counted in accordance with regulations of the department of labor and
23 training.

24 (b) Employees who are exempt from the overtime requirements under 29 U.S.C.
25 §213(a)(1) of the Fair Labor Standards Act will be assumed to work forty (40) hours in each work
26 week for purposes of paid sick and safe leave time accrual unless their normal work week is less
27 than forty (40) hours, in which case paid sick and safe leave time accrues based upon that normal
28 work week.

29 (c) Paid sick and safe leave time as provided in this chapter shall begin to accrue at the
30 commencement of employment or pursuant to the law's effective date, whichever is later. An
31 employer may provide all paid sick and safe leave time that an employee is expected to accrue in
32 a year at the beginning of the year.

33 (d) Employees shall be entitled to use accrued paid sick and safe leave time beginning on
34 the ninetieth calendar day following commencement of their employment, unless otherwise

1 permitted by the employer. On and after the ninetieth calendar day of employment, employees
2 may use paid sick and safe leave time as it is accrued.

3 (e) Paid sick and safe leave time shall be carried over to the following calendar year;
4 however, an employee's use of paid sick and safe leave time provided under this chapter in each
5 calendar year shall not exceed forty (40) hours. Alternatively, in lieu of carryover of unused
6 earned paid sick and safe leave time from one year to the next, an employer may pay an employee
7 for unused earned paid sick and safe leave time at the end of a year and provide the employee
8 with an amount of paid sick and safe leave that meets or exceeds the requirements of this chapter
9 that is available for the employee's immediate use at the beginning of the subsequent year.

10 (f) Nothing in this chapter shall be construed as requiring financial or other
11 reimbursement to an employee from an employer upon the employee's termination, resignation,
12 retirement, or other separation from employment for accrued paid sick and safe leave time that
13 has not been used.

14 (g) If an employee is transferred to a separate division, entity or location, but remains
15 employed by the same employer, the employee is entitled to all paid sick and safe leave time
16 accrued at the prior division, entity or location and is entitled to use all paid sick and safe leave
17 time as provided in this chapter. When there is a separation from employment and the employee
18 is rehired within one hundred and thirty-five (135) days of separation by the same employer,
19 previously accrued paid sick and safe leave time that had not been used shall be reinstated.
20 Further, the employee shall be entitled to use accrued paid sick and safe leave time and accrue
21 additional sick and safe leave time at the recommencement of employment.

22 (h) When a different employer succeeds or takes the place of an existing employer, all
23 employees of the original employer who remain employed by the successor employer are entitled
24 to all earned paid sick and safe leave time they accrued when employed by the original employer,
25 and are entitled to use earned paid sick and safe leave time previously accrued.

26 (i) At its discretion, an employer may loan sick and safe leave time to an employee in
27 advance of accrual by such employee.

28 (j) All employees not entitled to paid sick and safe leave pursuant to this chapter shall be
29 entitled to unpaid sick and safe leave time in accordance with the provisions of this chapter.

30 (k) Any employer in the construction industry, as classified as code 23 under the North
31 American Industry Classification System, is not required to provide any paid or unpaid sick
32 and/or safe leave time to any employees that work under a collective bargaining agreement until
33 July 1, 2018.

34 (l) Temporary employees shall also mean casual employees, as defined in §28-9.4-

1 2(b)(5), shall be entitled to use accrued paid sick and safe leave time beginning on the one
2 hundred eightieth calendar day following commencement of their employment, unless otherwise
3 permitted by the employer. On and after the one hundred eightieth calendar day of employment,
4 employees may use all paid sick time accrued since the first day of employment and paid and safe
5 leave time as it is accrued.

6 (m) Seasonal employees, as defined in §28-9.4-2(b)(6), shall be entitled to use accrued
7 paid sick and safe leave time beginning on the one hundred twentieth calendar day following
8 commencement of their employment, unless otherwise permitted by the employer. On and after
9 the one hundred twentieth calendar day of employment, employees may use all paid sick time
10 accrued since the first day of employment and paid and sick and safe leave time as it is accrued.

11 (n) This chapter shall not apply to an employee licensed to practice nursing pursuant to
12 chapter 34 of title 5 if the employee:

13 (1) Is employed by a health care facility;

14 (2) Is under no obligation to work a regular schedule;

15 (3) Works only when he or she indicates that he or she is available to work and has no
16 obligation to work when he or she does not indicate availability; and

17 (4) Receives higher pay than that paid to an employee of the same health care facility
18 performing the same job on a regular schedule.

19 (o) Interns shall not be entitled to paid sick leave, but shall be entitled to unpaid sick and
20 safe leave in accordance with the provisions of this chapter.

21 **28-57-4. Use of paid sick and safe leave time.**

22 (a) Paid sick and safe leave time shall be provided to an employee by an employer for:

23 (1) An employee's mental or physical illness, injury or health condition; an employee's
24 need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health
25 condition; an employee's need for preventive medical care;

26 (2) Care of a family member with a mental or physical illness, injury or health condition;
27 care of a family member who needs medical diagnosis, care, or treatment of a mental or physical
28 illness, injury or health condition; care of a family member who needs preventive medical care;

29 (3) Closure of the employee's place of business by order of a public official due to a
30 public health emergency or an employee's need to care for a child whose school or place of care
31 has been closed by order of a public official due to a public health emergency, or care for oneself
32 or a family member when it has been determined by the health authorities having jurisdiction or
33 by a health care provider that the employee's or family member's presence in the community may
34 jeopardize the health of others because of their exposure to a communicable disease, whether or

1 not the employee or family member has actually contracted the communicable disease; or

2 (4) Time off needed when the employee or a member of the employee's family is a victim
3 of domestic violence, sexual assault or stalking.

4 (b) Paid sick and safe leave time shall be provided upon the request of an employee. Such
5 request may be made orally, in writing, by electronic means or by any other means acceptable to
6 the employer. When possible, the request shall include the expected duration of the absence.

7 (1) Paid sick and safe leave cannot be used as an excuse to be late for work without an
8 authorized purpose.

9 (2) If an employee is committing fraud or abuse by engaging in an activity that is not
10 consistent with allowable purposes for paid sick and safe leave in this section, an employer may
11 discipline the employee for misuse of sick leave.

12 (3) If an employee is exhibiting a clear pattern of taking leave on days just before or after
13 a weekend, vacation, or holiday, an employer may discipline the employee for misuse of paid sick
14 and safe leave, unless the employee provides reasonable documentation that the paid sick and
15 safe leave time has been used for a purpose covered by subsection (a) of this section.

16 (c) When the use of paid sick and safe leave time is foreseeable, the employee shall make
17 a reasonable effort to provide notice of the need for such time to the employer in advance of the
18 use of the sick and safe leave time and shall make a reasonable effort to schedule the use of sick
19 and safe leave time in a manner that does not unduly disrupt the operations of the employer.

20 (d) An employer that requires notice of the need to use earned paid sick and safe leave
21 time where the need is not foreseeable shall provide a written policy that contains procedures for
22 the employee to provide notice. An employer that has not provided to the employee a copy of its
23 written policy for providing such notice shall not deny earned paid sick and safe leave time to the
24 employee based on noncompliance with such a policy.

25 (1) An employer may require employees to use reasonable notification systems the
26 employer creates, provided that the employees shall be allowed to communicate with the
27 employer in a manner the employee customarily uses to communicate with the employer for
28 absences.

29 (e) Unless otherwise in conflict with state or federal law or regulations, an employee may
30 decide how much sick time to use; provided, however, that an employer may set a minimum
31 increment for the use of sick time, not to exceed four (4) hours per day, provided such minimum
32 increment is reasonable under the circumstances.

33 (f) For paid sick and safe leave time of more than three (3) consecutive work days, an
34 employer may require reasonable documentation that the paid sick and safe leave time has been

1 used for a purpose covered by subsection (a) of this section if the employer has notified the
2 employee in writing of this requirement in advance of the employee's use of paid sick and safe
3 time. An employer may not require that the documentation explain the nature of the illness or the
4 details of the domestic violence, sexual assault, or stalking.

5 (1) Documentation signed by a health care professional indicating that paid sick leave
6 time is necessary shall be considered reasonable documentation under subsection (a) of this
7 section.

8 (2) One of the following, of the employee's choosing, shall be considered reasonable
9 documentation of an absence under subsection (a)(4) of this section:

10 (i) An employee's written statement that the employee or the employee's family member
11 is a victim of domestic violence, sexual assault, or stalking and that the leave taken was for one of
12 the purposes of §28-57-4(a)(4);

13 (ii) A police report indicating that the employee or employee's family member was a
14 victim of domestic violence, sexual assault, or stalking;

15 (iii) A court document indicating that the employee or employee's family member is
16 involved in legal action related to domestic violence, sexual assault, or stalking; or

17 (iv) A signed statement from a victim and witness advocate affirming that the employee
18 or employee's family member is receiving services from a victim services organization or is
19 involved in legal action related to domestic violence, sexual assault, or stalking.

20 (3) Nothing in this chapter shall be construed to require an employer or employee to
21 violate the provisions of the Food Code or the Rules and Regulations pertaining to Reporting
22 Infectious, Environmental and Occupational Diseases.

23 (g) An employer's requirements for verification may not result in an unreasonable burden
24 or expense on the employee and may not exceed privacy or verification requirements otherwise
25 established by law.

26 (h) An employer may not require, as a condition of providing earned paid sick and safe
27 time under this chapter, that the employee search for or find a replacement worker to cover the
28 hours during which the employee is using paid sick and safe leave time. However, if an employee
29 is absent from work for any reason listed in §28-57-4(a) and by mutual consent of the employer
30 and the employee, the employee works an equivalent number of additional hours or shifts during
31 the same or the next pay period as the hours or shifts not worked due to reasons listed in §28-57-
32 4(a), an employee shall not be required to use accrued and earned paid or unpaid sick time for the
33 employee's absence during that time period, and the employer shall not be required to pay for sick
34 time taken during the time period.

1 **28-57-5. Family child care providers.**

2 CCAP family child care providers shall accrue and may use paid sick and safe leave in
3 the same manner as do employees under this chapter. The implementation, but not the amount, of
4 paid sick and safe leave for CCAP family child care providers shall be a subject of negotiation
5 with director of the department of administration under §40-6.6-4. The department of human
6 services shall promulgate any necessary regulations to implement the requirement of paid sick
7 and safe leave for CCAP family child care providers.

8 **28-57-6. Exercise of rights protected; Retaliation prohibited.**

9 (a) It shall be unlawful for an employer or any other person to interfere with, restrain, or
10 deny the exercise, or the attempt to exercise, any right protected under this chapter.

11 (b) An employer shall not take retaliatory personnel action or discriminate against an
12 employee or former employee because the person has exercised rights protected under this
13 chapter. Such rights include, but are not limited to, the right to request or use paid sick and safe
14 leave pursuant to this chapter; the right to file a complaint with the department or the courts or
15 inform any person about any employer's alleged violation of this chapter; the right to participate
16 in an investigation, hearing or proceeding or cooperate with or assist the department in its
17 investigations of alleged violations of this chapter; and the right to inform any person of their
18 potential rights under this chapter.

19 (c) It shall be unlawful for an employer's absence control policy to count paid sick and
20 safe leave time taken under this chapter as an absence that may lead to or result in discipline,
21 discharge, demotion, suspension, or any other adverse action.

22 (d) The department may promulgate regulations consistent with this chapter that further
23 define protections of this section and address possible discipline for fraud.

24 (e) There shall be a rebuttable presumption of unlawful retaliatory personnel action under
25 this section whenever an employer takes action against a person within ninety (90) days of when
26 that person:

27 (1) Files a complaint with the department or a court alleging a violation of any provision
28 of this chapter;

29 (2) Informs any person about an employer's alleged violation of this chapter;

30 (3) Cooperates with the department or other persons in the investigation or prosecution of
31 any alleged violation of this chapter;

32 (4) Opposes any policy, practice, or act that is unlawful under this chapter; or

33 (5) Informs any person of their rights under this chapter.

34 **28-57-7. Notice and posting.**

1 (a) Employers shall give employees written notice of the following at the commencement
2 of employment or by the effective date of this chapter, whichever is later, which shall include the
3 following information:

4 (1) Employees are entitled to paid or unpaid sick and safe leave time;

5 (2) The amount of paid or unpaid sick and safe leave time;

6 (3) The terms of paid or unpaid sick and safe leave time use guaranteed under this
7 chapter;

8 (4) That retaliatory personnel actions against employees who request or use paid or
9 unpaid sick and safe leave time is prohibited;

10 (5) That each employee has the right to file a complaint or bring a civil action if paid or
11 unpaid sick and safe leave time, as required by this chapter, is denied by the employer or the
12 employee is subjected to retaliatory personnel action for requesting or taking paid or unpaid sick
13 and safe leave time; and

14 (6) Contact information for the department where questions about rights and
15 responsibilities under this chapter can be answered.

16 (b) Employers shall comply with this section by supplying each of their employees with a
17 notice in English and in any language that is the first language spoken by at least five percent
18 (5%) of the employer's workforce that contains the information required in subsection (a) of this
19 section, provided that the notice has been translated into such language by the department.

20 (c) The amount of paid or unpaid sick and safe leave time available to the employee, the
21 amount of paid or unpaid sick and safe leave time taken by the employee to date in the year and
22 the amount of pay the employee has received as paid sick and safe leave time shall be recorded
23 in, or on an attachment to, the employee's regular paycheck or be made available at the
24 employees request.

25 (d) Employers shall display a poster in a conspicuous and accessible place in each
26 establishment where such employees are employed. The poster displayed shall be in English and
27 in any language that is the first language spoken by at least five percent (5%) of the employer's
28 workforce that contains the information required in subsection (a) of this section, provided that
29 the poster has been translated into such language by the department.

30 (e) The department shall create and make available to employers, in all languages spoken
31 by more than five percent (5%) of Rhode Island's population and any language deemed
32 appropriate by the department, posters that contain the information required under subsection (a)
33 of this section.

34 (f) An employer who willfully violates the notice and posting requirements of this section

1 shall be subject to a civil fine in an amount not to exceed one hundred dollars (\$100) for each
2 separate violation.

3 **28-57-8. Employer records.**

4 Employers shall retain records documenting hours worked by employees and paid or
5 unpaid sick and safe leave time taken by employees, for a period of three (3) years, and shall
6 allow the department access to such records, with appropriate notice and at a mutually agreeable
7 time, to monitor compliance with the requirements of this chapter. When an issue arises as to an
8 employee's entitlement to paid or unpaid sick and safe leave time under this chapter, if the
9 employer does not maintain or retain adequate records documenting hours worked by the
10 employee and paid sick and safe leave time taken by the employee, or does not allow the
11 department reasonable access to such records, it shall be presumed that the employer has violated
12 the chapter, absent clear and convincing evidence otherwise.

13 **28-57-9. Regulations.**

14 The department shall coordinate implementation and enforcement of this chapter and
15 shall promulgate appropriate guidelines or regulations for such purposes.

16 **28-57-10. Enforcement.**

17 (a) The department shall enforce the provisions of this chapter. In effectuating such
18 enforcement, the department shall establish a system utilizing multiple means of communication
19 to receive complaints regarding noncompliance with this chapter and investigate complaints
20 received by the department in a timely manner. The department is empowered to hold hearings
21 and shall cooperate with any employee in the enforcement of a claim against their employer in
22 any case where the claim is just and valid.

23 (b) Any person alleging a violation of this chapter shall have the right to file a complaint
24 with the department within one year of the date the person knew or should have known of the
25 alleged violation. The department shall maintain confidential the identity of any complainant
26 unless disclosure of such complainant's identity is necessary for resolution of the investigation or
27 otherwise required by law. The department shall, to the extent practicable, notify such
28 complainant that the department will be disclosing their identity prior to such disclosure.

29 (c) Upon receiving a complaint alleging a violation of this chapter, the department shall
30 investigate such complaint and attempt to resolve it through mediation. The department shall keep
31 complainants reasonably notified regarding the status of their complaint and any resultant
32 investigation. If the department believes that a violation has occurred, it shall issue to the
33 offending person or entity a notice of violation. The commissioner shall prescribe the form and
34 wording of such notices of violation. The notice of violation shall be returnable to the

1 administrative tribunal authorized to adjudicate violations of this chapter.

2 (d) On or after July 1, 2018, the department shall have the power to impose penalties as
3 provided in subsection (h) of this section and to grant an employee or former employee all
4 appropriate relief.

5 (e) In the event a complaint deemed just and valid cannot be resolved by the department
6 through mediation, the department shall order a hearing thereon at a time and place to be
7 specified, and shall give notice thereof, together with a copy of the complaint or the purpose
8 thereof, or a statement of the facts disclosed upon investigation, which notice shall be served
9 personally or by mail on any person, business, corporation, or entity of any kind affected thereby.
10 The hearing shall be scheduled within thirty (30) days upon determination that the complaint is
11 just and valid. The person, business, corporation, or entity shall have an opportunity to be heard
12 in respect to the matters complained of at the time and place specified in the notice. The hearing
13 shall be conducted by the department. The hearing officer in the hearing shall be deemed to be
14 acting in a judicial capacity, and shall have the right to issue subpoenas, administer oaths, and
15 examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by
16 Rhode Island civil practice laws and rules. The hearing shall be expeditiously conducted and
17 upon such hearing the hearing officer shall determine the issues raised thereon and shall make a
18 determination and enter an order within thirty (30) days of the close of the hearing, and forthwith
19 serve a copy of the order, with a notice of the filing thereof, upon the parties to the proceeding,
20 personally or by mail. The order shall dismiss the complaint or direct payment of penalties under
21 subsection (h) of this section and direct payment of reasonable attorneys' fees and costs to the
22 complaining party.

23 (f) The director may institute investigations into violations of this chapter absent receipt
24 of a complaint and may institute any action to ensure compliance with this chapter.

25 (g) Any agreement between the employee and employer that purports to waive the
26 provisions of this chapter shall be deemed void as against public policy.

27 (h) On or after July 1, 2018, any employee or former employee aggrieved by a violation
28 of the provisions of this chapter shall be entitled to the same protections and relief as under §28-
29 14-19. Any employer who violates the provisions of this chapter shall be subject to the provisions
30 of §§28-12-18 and 28-14-19.

31 (i) In determining the amount of any penalty imposed under this section, the director or
32 their designee shall consider the good faith of the employer, the size of the employer, the gravity
33 of the violation, the history of previous violations, and whether or not the violation was an
34 innocent mistake or willful.

1 (j) The department, any person aggrieved by a violation of this chapter, or any entity
2 member of which is aggrieved by a violation of this chapter may bring a civil action in a court of
3 competent jurisdiction against an employer violating this chapter. Such action may be brought by
4 a person aggrieved by a violation of this chapter without first filing an administrative complaint.

5 (1) Aggrieved persons shall also be entitled to reasonable attorneys' fees.

6 (2) Upon prevailing in an action brought pursuant to this section, aggrieved persons shall
7 be entitled to such legal or equitable relief as may be appropriate to remedy the violation,
8 including, without limitation, reinstatement to employment, back pay and injunctive relief, plus
9 liquidated damages of at least as much as provided as penalty amounts in subsection (h) of this
10 section.

11 (3) The statute of limitations for a civil action brought pursuant to this section shall be for
12 a period of three (3) years from the date the alleged violation occurred or the date the employee
13 knew or should have known of the violation.

14 **28-57-11. Confidentiality and nondisclosure.**

15 An employer may not require disclosure of details relating to domestic violence, sexual
16 assault, sexual contact or stalking or the details of an employee's or an employee's family
17 member's health information as a condition of providing paid sick and safe leave time under this
18 chapter. If an employer possesses health information or information pertaining to domestic
19 violence, sexual assault, sexual contact, or stalking about an employee or employee's family
20 member, such information shall be treated as confidential and not disclosed except to the affected
21 employee or with the permission of the affected employee.

22 **28-57-12. Greater sick and safe leave time policies.**

23 (a) This chapter provides minimum requirements pertaining to paid sick and safe leave
24 time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other
25 law, regulation, requirement, policy, or standard that provides for greater accrual or use by
26 employees of sick and safe leave time, whether paid or unpaid, or that extends other protections
27 to employees.

28 (b) Nothing in this chapter shall be construed to supersede or preempt any provision of
29 any local law that provides greater rights to paid sick and safe leave time than the rights
30 established under this chapter.

31 (c) Nothing in this chapter shall be construed in a manner to discourage or prohibit an
32 employer from the adoption of a paid sick and safe leave time policy greater that provides greater
33 rights or benefits than the one required in this chapter.

34 (d) Nothing in this chapter shall be construed as diminishing the obligation of an

1 employer to comply with any contract, collective bargaining agreement, employment benefit plan
2 or other agreement that provides greater sick and safe leave time to an employee than required in
3 this chapter.

4 (e) Nothing in this chapter shall be construed as diminishing the rights of public
5 employees regarding paid sick and safe leave or use of sick and safe leave time as provided under
6 existing laws.

7 **28-57-13. Public education and outreach.**

8 The department shall develop and implement a multilingual outreach program to inform
9 employees, parents, and persons who are under the care of a health care provider about the
10 availability of paid sick and safe leave time under this chapter. This program shall include the
11 distribution of notices and other written materials in English and in all languages spoken by more
12 than five percent (5%) of the state's population and any language deemed appropriate by the
13 department to all child care and elder care providers, domestic violence shelters or victim services
14 organizations, schools, hospitals, community health centers, and other health care providers.

15 **28-57-14. Allowable substitution of employers' paid sick and safe leave time.**

16 (a) Any employer with a paid leave time off policy, who makes available an amount of
17 paid leave time off sufficient to meet the accrual requirements of this section that may be used for
18 the same purposes and under the same conditions, including with regards to employee notice and
19 documentation, as paid sick and safe leave time under this chapter and is not required to provide
20 additional paid sick and safe leave time.

21 (1) Employers may have their own sick leave or paid time off policies, so long as
22 employees can use at least the same amount of time, for the same purposes, under the same
23 conditions, and with the same job protections provided in this section.

24 (2) An employer's own paid time, vacation, sick leave, or other policy may be substituted
25 for earned sick time so long as forty (40) hours of time off provided under the policy, or such
26 lesser amount as each employee might earn if the employer were not using the substitute policy,
27 complies with the provisions of the statute.

28 (3) Employers may have different paid leave policies for different groups of employees,
29 so long as all employees can use at least the same amount of time, for the same purposes, under
30 the same conditions, and with the same job protections provided in this section.

31 (4) Employers that provide forty (40) or more hours of paid time off or vacation to
32 employees that also may be used as paid sick and safe leave, consistent with this section, shall not
33 be required to provide additional sick leave to employees who use all their time for other
34 purposes and have need of paid sick and safe leave later in the year, provided that the employers'

1 leave policies make clear that additional time will not be provided.

2 (b) Employers that have an unlimited sick leave policy shall not be required to track
3 accrual of sick leave or allow any rollover, provided that such leave is otherwise consistent with
4 this section.

5 (c) Employers that provide forty (40) or more hours of paid sick, safe, or paid time off at
6 the beginning of each benefit year do not need to track accrual, allow any carryover, or payout.

7 (d) Employers that prefer not to track accrual of paid sick and safe leave time over the
8 course of the benefit year may also use the following schedules for providing lump sums of sick
9 leave or paid time off to their employees. Employers using these schedules will be in compliance
10 even if an employee's hours vary from week to week. For employees working an average of:

11 (i) Thirty-seven and one half (37.5) to forty (40) hours per week, provide eight (8) hours
12 per month for five (5) months;

13 (ii) Thirty (30) hours per week, provide five (5) hours per month for eight (8) months

14 (iii) Twenty-four (24) hours per week, provide four (4) hours per month for nine (9)
15 months;

16 (iv) Sixteen (16) hours per week, provide three (3) hours per month for ten (10) months;

17 (v) Ten (10) hours per week, provide two (2) hours per month for ten (10) months;

18 (e) In the case an employer whose regular work day for full-time employees is less than
19 eight (8) hours per day, if the employer provides five (5) days of paid sick and safe time leave
20 consisting of the number of hours per day that constitute that full-time employee's work day and
21 provides them at the beginning of the year, the employer shall be in compliance with this sub-
22 section.

23 **28-57-15. Severability.**

24 If any provision of this chapter, or any rule or regulation created under this chapter, or the
25 application of any provision of this chapter, to any person or circumstance, shall be held invalid
26 by any court of competent jurisdiction, the remainder of the chapter, rule or regulation and the
27 application of such provision to other persons or circumstances shall not be affected thereby. The
28 invalidity of any section or sections or parts of any section of this chapter shall not affect the
29 validity of the remainder of this chapter and to this end the provisions of the chapter are declared
30 to be severable.

31 SECTION 2. This act shall take effect on January 1, 2018.

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LC001160/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- HEALTHY AND SAFE FAMILIES
AND WORKPLACES ACT

1 This act would require all employers with at least eleven (11) employees to provide their
2 employees with a minimum level of paid sick and safe leave, including time to care for the
3 employee's family members.

4 This act would take effect on January 1, 2018.

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LC001160/SUB A/2
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