

House File 2135 - Introduced

HOUSE FILE 2135
BY WILLEMS

A BILL FOR

1 An Act relating to employee leave by providing for time off and
2 sick leave, and including effective date and applicability
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 91.4, subsection 5, Code 2009, is amended
2 to read as follows:

3 5. The director of the department of workforce development,
4 in consultation with the labor commissioner, shall, at the time
5 provided by law, make an annual report to the governor setting
6 forth in appropriate form the business and expense of the
7 division of labor services for the preceding year, the number
8 of disputes or violations processed by the division and the
9 disposition of the disputes or violations, and other matters
10 pertaining to the division which are of public interest,
11 together with recommendations for change or amendment of the
12 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,
13 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and section 85.68,
14 and the recommendations, if any, shall be transmitted by the
15 governor to the first general assembly in session after the
16 report is filed.

17 Sec. 2. Section 91A.2, Code 2009, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 6A. *"Paid time off"* means a benefit
20 provided by an employer that allows an employee to take time
21 off from work with pay without regard to the reason the
22 employee chooses to take the time off.

23 Sec. 3. Section 91A.2, subsection 7, paragraph b, Code 2009,
24 is amended to read as follows:

25 *b.* Vacation, holiday, paid time off, sick leave, and
26 severance payments which are due an employee under an agreement
27 with the employer or under a policy or practice of the
28 employer.

29 Sec. 4. Section 91A.4, Code 2009, is amended by striking the
30 section and inserting in lieu thereof the following:

31 **91A.4 Employment suspension or termination — how wages are**
32 **paid.**

33 1. An employee's employer shall pay all wages earned by the
34 employee up to the time of the suspension or termination, less
35 any lawful deductions specified in section 91A.5, no later than

1 the next regular payday after suspension or termination, except
2 as follows:

3 a. Earned wages that are the difference between a credit
4 paid against wages determined on a commission basis and the
5 wages actually earned on a commission basis shall be paid
6 by the employer not more than thirty days after the date of
7 suspension or termination.

8 b. If while employed, an employee earned paid time off
9 but did not earn vacation, an employer may reduce pay for
10 accumulated paid time off by up to one-third.

11 c. If while employed, an employee earned both vacation pay
12 and paid time off, no payment for accrued paid time off is
13 required.

14 2. An employer shall not adopt a policy or practice of
15 denying payment for vacation or for paid time off upon the
16 suspension or termination of an employee's employment unless
17 the employee's employment was terminated by the employer for
18 misconduct as defined in 871 IAC 24.32(1)"a", as set forth in
19 section 96.5, subsection 2.

20 3. Except as provided in subsection 1, upon suspension or
21 termination of an employee's employment, the amount of pay owed
22 for accrued paid time off or accrued vacation shall be the
23 amount of pay the employee would have received if the employee
24 had not been suspended or terminated and had begun taking the
25 total amount of accrued paid time off or accrued vacation on
26 the date the suspension or termination occurred.

27 Sec. 5. NEW SECTION. 91F.1 Definitions.

28 1. "Employee" means as defined in the federal Fair Labor
29 Standards Act of 1938, 29 U.S.C. ch. 8, as amended to January
30 1, 2007.

31 2. "Employer" is defined as in the federal Fair Labor
32 Standards Act of 1938, 29 U.S.C. ch. 8, as amended to January
33 1, 2007.

34 3. "Family member" means any of the following:

35 a. An employee's spouse or domestic partner.

1 *b.* A child, foster child, stepchild, legal ward, a child of
2 a domestic partner, or a child to whom the employee stands in
3 loco parentis.

4 *c.* A parent, foster parent, stepparent, legal guardian of
5 an employee, or a person who stood in loco parentis when the
6 employee was a minor child.

7 *d.* A sibling, foster sibling, stepsibling, or spouse or
8 domestic partner of a sibling, foster sibling, or stepsibling.

9 Sec. 6. NEW SECTION. 91F.2 Paid sick leave and paid time
10 off — additional uses.

11 1. An employer who provides employees with paid sick leave
12 or paid time off, as defined in section 91A.2, shall permit
13 employees to use the accrued paid sick leave or paid time off
14 for the following nonexclusive purposes:

15 *a.* For prenatal care and maternity leave.

16 *b.* To care for a family member with mental or physical
17 illness, injury, or health condition who needs medical
18 diagnosis, care, or treatment for the mental or physical
19 illness, injury, or health condition, or who needs preventative
20 medical care.

21 2. This chapter shall not be construed to discourage or
22 prohibit an employer from adopting or maintaining a paid sick
23 leave or paid time off policy that permits employees to use
24 accrued paid sick leave or paid time off for purposes other
25 than enumerated in subsection 1.

26 3. This chapter shall not be construed as diminishing
27 the obligation of an employer to comply with any contract,
28 collective bargaining agreement, employment benefit plan, or
29 other agreement that permits employees to use accrued paid sick
30 leave or paid time off for purposes other than enumerated in
31 subsection 1.

32 4. This chapter shall not be construed as diminishing the
33 rights of public employees regarding paid sick leave or paid
34 time off or use of paid sick leave or paid time off as provided
35 by law.

1 employee's accrued paid time off or vacation if the employee is
2 suspended or terminated. Except as otherwise provided by the
3 formula, the amount of pay owed to an employee is the amount of
4 pay equal to the accrued vacation or paid time off as if the
5 employee began taking the vacation or paid time off the day the
6 suspension or termination took place. This formula substitutes
7 the pro rata policy for how accrued vacation is currently paid
8 out if an employee's policy or practice required it.

9 The bill includes new Code chapter 91F, which provides that
10 employers who provide paid sick leave and paid time off to
11 employees shall allow sick leave or paid time off to be used
12 for prenatal care and maternity leave and to care for family
13 members. "Family member" is defined in the new Code chapter.

14 The new Code chapter does not prohibit an employer from
15 providing a more generous paid sick leave or paid time off
16 policy; it does not diminish an employer's previous contractual
17 obligations for more generous paid sick leave or paid time off;
18 and it does not diminish public employees' rights to paid sick
19 leave or paid time off as provided by law.

20 The bill takes effect upon enactment. The sections of the
21 bill that would affect chapter 91A are made applicable only to
22 the suspension or termination of an employee's employment that
23 occurs on or after that date.