

AMENDMENTS TO LB258

Introduced by Vargas, 7.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 9 of this act shall be known and may be
4 cited as the Healthy and Safe Families and Workplaces Act.

5 Sec. 2. For purposes of the Healthy and Safe Families and
6 Workplaces Act:

7 (1) Commissioner means the Commissioner of Labor;

8 (2) Department means the Department of Labor;

9 (3) Domestic abuse means any behavior within an intimate
10 relationship that causes physical, psychological, or emotional harm to
11 those in the relationship, including behavior that causes the employee
12 fear or concern for the employee's own safety or the safety of someone
13 close to the employee or behavior done with the intent to harm or exert
14 control over the employee;

15 (4) Domestic assault means domestic assault in the first, second, or
16 third degree under section 28-323 or any similar crime committed in
17 another state;

18 (5) Employee means any individual employed full-time by an employer
19 who receives compensation from such employer and includes recipients of
20 public benefits who are engaged in work activity as a condition of
21 receiving public assistance. Employee does not include a minor child
22 employed by a parent.

23 (6) Employer includes any individual, partnership, limited liability
24 company, association, corporation, business trust, legal representative,
25 or any organized group of persons employing more than fifty employees at
26 any one time, excluding any employees who work no more than twenty weeks
27 in any calendar year, but does not include the United States, the State

1 of Nebraska, or any political subdivision thereof;

2 (7) Family member means:

3 (a) A biological, adopted, or foster child, a stepchild, or a legal
4 ward of an employee or the employee's spouse or domestic partner
5 regardless of the age or dependency status of such child, stepchild, or
6 legal ward;

7 (b) A person to whom the employee or the employee's spouse or
8 domestic partner stood in loco parentis when such person was a minor
9 child, regardless of the age or dependency status of person;

10 (c) A biological, adoptive, or foster parent, a stepparent, or a
11 legal guardian of an employee or the employee's spouse or domestic
12 partner

13 (d) A person who stood in loco parentis to the employee or the
14 employee's spouse or domestic partner when the employee or the employee's
15 spouse or domestic partner was a minor child;

16 (e) An employee's spouse or domestic partner; or

17 (f) A grandparent, grandchild, or sibling, whether of a biological,
18 foster, adoptive, or step relationship, of the employee or the employee's
19 spouse or domestic partner;

20 (8) Health care professional means any person licensed under federal
21 or state law to provide medical or emergency services, including, but not
22 limited to, doctors, nurses, and emergency room personnel;

23 (9) Sexual assault means sexual assault under section 28-319 or
24 28-320, sexual assault of a child under section 28-319.01 or 28-320.01,
25 sexual assault by use of an electronic communication device under section
26 28-320.02, or any similar crime committed in another state;

27 (10) Sick and safe time means leave time that is uncompensated and
28 available to an employee for the purposes described in section 4 of this
29 act; and

30 (11) Stalking means stalking under section 28-311.03 or any similar
31 crime committed in another state.

1 Sec. 3. (1) Employees shall accrue a minimum of one hour of sick
2 and safe time for every thirty hours worked. Employees shall not accrue
3 more than forty hours of sick and safe time in a calendar year unless the
4 employer selects a higher limit.

5 (2) Employees who are exempt from overtime requirements under 29
6 U.S.C. 213(a)(1) shall be assumed to work forty hours in each work week
7 for purposes of sick and safe time accrual unless their normal work week
8 is less than forty hours, in which case sick and safe time accrues based
9 upon that normal work week.

10 (3) Sick and safe time accrual shall begin at the commencement of
11 employment.

12 (4) Employees shall be entitled to use accrued sick and safe time
13 beginning on the sixtieth calendar day following commencement of
14 employment. After the sixtieth calendar day, employees may use sick and
15 safe time as it is accrued.

16 (5) Sick and safe time shall be carried over to subsequent calendar
17 years, except that an employee's use of sick and safe time in each
18 calendar year shall not exceed forty hours unless the employer selects a
19 higher limit.

20 (6) Any employer with a leave policy which makes available an amount
21 of leave which is sufficient to meet the accrual requirements for sick
22 and safe time under this section and which may be used for the same
23 purposes and under the same conditions as sick and safe time under the
24 Healthy and Safe Families and Workplaces Act is not required to provide
25 additional sick and safe time.

26 (7) Nothing in this section shall be construed as requiring
27 financial or other reimbursement to an employee from an employer upon the
28 employee's termination, resignation, retirement, or other separation from
29 employment for accrued sick and safe time that has not been used.

30 (8) If an employee is transferred to a separate division, entity, or
31 location, but remains employed by the same employer, the employee shall

1 be entitled to all sick and safe time accrued at the prior division,
2 entity, or location and is entitled to use all sick and safe time as
3 provided in this section. When there is a separation from employment and
4 the employee is rehired within six months after separation by the same
5 employer, previously accrued sick and safe time that had not been used
6 shall be reinstated, and the employee shall be entitled to use accrued
7 sick and safe time and accrue additional sick and safe time at the
8 recommencement of employment.

9 Sec. 4. (1) An employer shall allow an employee to use sick and
10 safe time for:

11 (a) An employee's mental or physical illness, injury, or health
12 condition; an employee's need for medical diagnosis, care, or treatment
13 of a mental or physical illness, injury, or health condition; or an
14 employee's need for preventive medical care;

15 (b) Care of a family member with a mental or physical illness,
16 injury, or health condition; care of a family member who needs medical
17 diagnosis, care, or treatment of a mental or physical illness, injury, or
18 health condition; or care of a family member who needs preventive medical
19 care; or

20 (c) Absence necessary due to domestic abuse, domestic assault,
21 sexual assault, or stalking, regardless of whether a charge has been
22 filed or a conviction has been obtained, if the leave is to allow the
23 employee to obtain any of the following for the employee or the
24 employee's family member:

25 (i) Medical attention needed to recover from physical or
26 psychological injury or disability caused by such domestic abuse,
27 domestic assault, sexual assault, or stalking;

28 (ii) Services from a victim services organization;

29 (iii) Psychological or other counseling;

30 (iv) Relocation due to the domestic abuse, domestic assault, sexual
31 assault, or stalking; or

1 (v) Legal services, including preparing for or participating in any
2 civil or criminal legal proceeding relating to or resulting from the
3 domestic abuse, domestic assault, sexual assault, or stalking.

4 (2) Sick and safe time shall be provided upon the oral request of an
5 employee as soon as practicable after the employee is aware of the need
6 for such sick and safe time. The request shall include the expected
7 duration of the absence, if reasonably possible.

8 (3) An employer cannot require, as a condition of an employee's
9 taking sick and safe time, that the employee search for or find a
10 replacement worker to cover the hours during which the employee is on
11 sick and safe time.

12 (4) Accrued sick and safe time may be used in the smaller of hourly
13 increments or the smallest increment that the employer's payroll system
14 uses to account for absences or use of other time.

15 (5)(a) If the use of sick and safe time exceeds more than three
16 consecutive workdays, an employer may require reasonable documentation
17 that the sick and safe time has been used for a purpose described in
18 subsection (1) of this section.

19 (b) Documentation signed by a health care professional indicating
20 that sick time is necessary shall be considered reasonable documentation.

21 (c) The following documentation shall be considered reasonable
22 documentation for absences due to domestic abuse, domestic assault,
23 sexual assault, or stalking:

24 (i) A police report indicating that the employee or the employee's
25 family member was a victim of domestic abuse, domestic assault, sexual
26 assault, or stalking;

27 (ii) A court order protecting or separating the employee or the
28 employee's family member from the perpetrator of an act of domestic
29 abuse, domestic assault, sexual assault, or stalking or other evidence
30 from the court or prosecuting attorney that the employee or the
31 employee's family member has appeared in court or is scheduled to appear

1 in court in a proceeding related to the domestic abuse, domestic assault,
2 sexual assault, or stalking; or

3 (iii) Other documentation signed by an advocate as defined in
4 section 29-4302, an attorney, a police officer, a licensed mental health
5 professional, a medical professional, a social worker, an antiviolence
6 counselor, or a member of the clergy affirming that the employee or the
7 employee's family member is a victim of domestic abuse, domestic assault,
8 sexual assault, or stalking.

9 (d) The employee may choose the type of applicable documentation to
10 submit and the employer shall not require more than one type of
11 reasonable documentation for the same incident.

12 (e) An employer shall not require that the documentation explain the
13 nature of the illness or the details of the domestic abuse, domestic
14 assault, sexual assault, or stalking.

15 (f) If required by the employer, the employee shall provide such
16 reasonable documentation to the employer no later than thirty days after
17 the first day of the period of time for which the employee is requesting
18 sick and safe time. The employer shall not delay the commencement of sick
19 and safe time on the basis that the employer has not yet received the
20 documentation.

21 (6) Any information provided to an employer regarding sick and safe
22 time shall be confidential except to the extent that any disclosure of
23 such information is:

24 (a) Requested or consented to in writing by the employee;

25 (b) Otherwise required by federal or state law; or

26 (c) Necessary to prevent a clear and definite danger to other
27 employees.

28 Sec. 5. (1) It shall be unlawful for an employer or any other
29 person to interfere with, restrain, or deny the exercise of, or the
30 attempt to exercise, any right protected under the Healthy and Safe
31 Families and Workplaces Act.

1 (2) An employer shall not take retaliatory personnel action or
2 discriminate against an employee because the employee has exercised
3 rights protected under the act. Such rights include, but are not limited
4 to, the right to use sick and safe time pursuant to the act, the right to
5 file a complaint or inform any person about any employer's alleged
6 violation of the act, the right to cooperate with the department in its
7 investigations of alleged violations of the act, and the right to inform
8 any person of potential rights under the act.

9 (3) It is unlawful for an employer's absence control policy to count
10 sick and safe time taken under the act as an absence that may lead to or
11 result in discipline, discharge, demotion, suspension, or any other
12 adverse action.

13 (4) The protections of this section shall apply to any person who
14 mistakenly but in good faith alleges violations of the act.

15 Sec. 6. Employers shall give notice at the time of hire that
16 employees are entitled to sick and safe time, the amount of sick and safe
17 time, the terms of use for sick and safe time guaranteed under the
18 Healthy and Safe Families and Workplaces Act, that retaliation against
19 employees who request or use sick and safe time is prohibited, and that
20 each employee has the right to file a complaint or bring a civil action
21 if sick and safe time is denied by the employer or the employee is
22 retaliated against for exercising rights under the act.

23 Sec. 7. (1) An employee may report to the commissioner any
24 suspected violation of the Healthy and Safe Families and Workplaces Act.
25 The commissioner shall encourage reporting pursuant to this subsection by
26 keeping confidential, to the maximum extent permitted by applicable law,
27 the name and other identifying information of the employee reporting the
28 suspected violation, except that with the authorization of such employee,
29 the commissioner may disclose the employee's name and identifying
30 information as necessary to enforce the act or for other appropriate
31 purposes. The commissioner may summon witnesses and require the

1 production of records, books, and documents for examination in any
2 investigation conducted by the department pursuant to this section. The
3 commissioner shall assess an administrative penalty against an employer
4 when an investigation reveals that the employer violated the act. The
5 administrative penalty shall be not more than five hundred dollars in the
6 case of a first violation and not more than five thousand dollars in the
7 case of a second or subsequent violation. The commissioner shall notify
8 the employer of the proposed administrative penalty by certified mail or
9 any other manner of delivery by which the United States Postal Service
10 can verify delivery. The employer shall have fifteen working days after
11 the date the commissioner sends notification of the penalty to contest
12 such penalty. Notice of contest shall be sent to the commissioner who
13 shall provide a hearing in accordance with the Administrative Procedure
14 Act.

15 (2) Any employee aggrieved by a violation of the Health and Safe
16 Families and Workplaces Act or any entity, a member of which is an
17 employee aggrieved by a violation of the act, may bring a civil action in
18 a court of competent jurisdiction against an employer who violates the
19 act. The action may be brought without first filing an administrative
20 complaint. Upon prevailing in an action brought pursuant to this
21 subsection, such employee or entity shall be entitled to appropriate
22 relief, including temporary or permanent injunctive relief, general and
23 special damages, and reasonable attorney's fees and costs.

24 Sec. 8. (1) Nothing in the Healthy and Safe Families and Workplaces
25 Act shall be construed to discourage or prohibit an employer from the
26 adoption or retention of a sick and safe time policy that is more
27 generous than the policy required by the act.

28 (2) The act provides minimum requirements pertaining to sick and
29 safe time and shall not be construed to preempt, limit, or otherwise
30 affect the applicability of any other law, rule, regulation, requirement,
31 policy, contract, or standard that provides for greater accrual or use by

1 employees of sick and safe time, whether paid or unpaid, or that extends
2 other protections to employees.

3 Sec. 9. The department shall administer and enforce the Healthy and
4 Safe Families and Workplaces Act and may adopt and promulgate rules and
5 regulations to carry out the purposes of the act.

6 Sec. 10. If any section in this act or any part of any section is
7 declared invalid or unconstitutional, the declaration shall not affect
8 the validity or constitutionality of the remaining portions.