

REFERENCE TITLE: paid sick and safe time

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2196

Introduced by
Representatives Larkin, Cardenas, Espinoza: Friese, Hale, Mach

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8.1; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 8.1, to read:

4 ARTICLE 8.1. PAID SICK AND SAFE TIME LEAVE

5 23-371. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COMMISSION" MEANS THE INDUSTRIAL COMMISSION OF ARIZONA.

8 2. "DOMESTIC VIOLENCE" HAS THE SAME MEANING PRESCRIBED IN SECTION
9 13-3601.

10 3. "EMPLOYEE" MEANS ANY PERSON WHO IS OR WAS EMPLOYED BY AN EMPLOYER
11 BUT DOES NOT INCLUDE ANY PERSON WHO IS EMPLOYED BY A PARENT OR A SIBLING OR
12 WHO IS EMPLOYED PERFORMING BABYSITTING SERVICES IN THE EMPLOYER'S HOME ON A
13 CASUAL BASIS.

14 4. "EMPLOYER" INCLUDES ANY CORPORATION, PROPRIETORSHIP, PARTNERSHIP,
15 JOINT VENTURE, LIMITED LIABILITY COMPANY, TRUST, ASSOCIATION, POLITICAL
16 SUBDIVISION OF THIS STATE, INDIVIDUAL OR OTHER ENTITY ACTING DIRECTLY OR
17 INDIRECTLY IN THE INTEREST OF AN EMPLOYER IN RELATION TO AN EMPLOYEE BUT DOES
18 NOT INCLUDE THIS STATE, THE UNITED STATES OR A SMALL BUSINESS.

19 5. "FAMILY MEMBER" MEANS:

20 (a) A BIOLOGICAL, ADOPTED OR FOSTER CHILD, A STEPCHILD OR LEGAL WARD,
21 A CHILD OF A DOMESTIC PARTNER OR A CHILD FOR WHOM THE EMPLOYEE SERVES AS A
22 TEMPORARY GUARDIAN.

23 (b) A BIOLOGICAL, FOSTER OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF THE
24 EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER, A STEPPARENT OF THE
25 EMPLOYEE OR THE EMPLOYEE'S SPOUSE OR DOMESTIC PARTNER OR AN INDIVIDUAL WHO
26 WAS A TEMPORARY GUARDIAN OF THE EMPLOYEE WHEN THE EMPLOYEE WAS A MINOR.

27 (c) THE SPOUSE OR DOMESTIC PARTNER OF THE EMPLOYEE.

28 (d) A GRANDPARENT OR A SPOUSE OR DOMESTIC PARTNER OF A GRANDPARENT.

29 (e) A BIOLOGICAL, FOSTER OR ADOPTED SIBLING OR A SPOUSE OR DOMESTIC
30 PARTNER OF A BIOLOGICAL, FOSTER OR ADOPTED SIBLING.

31 (f) A GRANDCHILD.

32 (g) ANY OTHER INDIVIDUAL WHO IS RELATED BY BLOOD OR AFFINITY WHOSE
33 CLOSE ASSOCIATION WITH THE EMPLOYEE IS THE EQUIVALENT OF A FAMILY
34 RELATIONSHIP.

35 6. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION
36 32-3201.

37 7. "PAID SICK AND SAFE TIME" MEANS TIME THAT IS PROVIDED BY AN
38 EMPLOYER TO AN EMPLOYEE FOR THE PURPOSES DESCRIBED IN SECTION 23-373.

39 8. "RETALIATORY PERSONNEL ACTION" MEANS THE DISCHARGE, SUSPENSION OR
40 DEMOTION BY AN EMPLOYER OF AN EMPLOYEE OR ANY OTHER ADVERSE ACTION THAT AN
41 EMPLOYER TAKES AGAINST AN EMPLOYEE AND INCLUDES ANY SANCTIONS AGAINST A
42 RECIPIENT OF PUBLIC BENEFITS.

43 9. "SEXUAL ASSAULT" MEANS INTENTIONALLY OR KNOWINGLY ENGAGING IN
44 SEXUAL INTERCOURSE OR ORAL SEXUAL CONTACT WITH ANY PERSON WITHOUT CONSENT OF
45 THAT PERSON AS PROHIBITED BY SECTION 13-1406.

1 10. "STALKING" MEANS A VIOLATION OF SECTION 13-2923.
2 23-372. Accrual of paid sick and safe time
3 A. AN EMPLOYEE ACCRUES A MINIMUM OF ONE HOUR OF PAID SICK AND SAFE
4 TIME FOR EVERY THIRTY HOURS WORKED. AN EMPLOYEE MAY NOT ACCRUE MORE THAN
5 SEVENTY-TWO HOURS OF PAID SICK AND SAFE TIME IN A CALENDAR YEAR, UNLESS THE
6 EMPLOYER SELECTS A HIGHER LIMIT.
7 B. AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME REQUIREMENTS UNDER 29
8 UNITED STATES CODE SECTION 213(a)(1) IS ASSUMED TO WORK FORTY HOURS IN EACH
9 WORKWEEK FOR THE PURPOSES OF PAID SICK AND SAFE TIME ACCRUAL UNLESS THE
10 EMPLOYEE'S NORMAL WORKWEEK IS FEWER THAN FORTY HOURS. IF THE EMPLOYEE'S
11 WORKWEEK IS FEWER THAN FORTY HOURS, PAID SICK AND SAFE TIME ACCRUES BASED ON
12 THE NUMBER OF HOURS ACTUALLY WORKED.
13 C. PAID SICK AND SAFE TIME BEGINS TO ACCRUE AT THE COMMENCEMENT OF
14 EMPLOYMENT.
15 D. AN EMPLOYEE MAY USE ACCRUED PAID SICK AND SAFE TIME BEGINNING ON
16 THE NINETIETH CALENDAR DAY AFTER COMMENCEMENT OF EMPLOYMENT. AFTER THE
17 NINETIETH CALENDAR DAY OF EMPLOYMENT, AN EMPLOYEE MAY USE PAID SICK AND SAFE
18 TIME AS IT IS ACCRUED.
19 E. PAID SICK AND SAFE TIME IS CARRIED OVER TO THE FOLLOWING CALENDAR
20 YEAR, EXCEPT THAT AN EMPLOYEE MAY NOT USE MORE THAN SEVENTY-TWO HOURS OF PAID
21 SICK AND SAFE TIME IN A CALENDAR YEAR.
22 F. IF AN EMPLOYER PROVIDES A PAID LEAVE THAT MEETS THE ACCRUAL
23 REQUIREMENTS OF THIS SECTION AND THAT MAY BE USED FOR THE SAME PURPOSES AND
24 UNDER THE SAME CONDITIONS AS PRESCRIBED IN SECTION 23-373, THE EMPLOYER IS
25 NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK AND SAFE TIME.
26 G. THIS SECTION DOES NOT REQUIRE FINANCIAL OR OTHER REIMBURSEMENT TO
27 AN EMPLOYEE FROM AN EMPLOYER FOR ACCRUED PAID SICK AND SAFE TIME ON THE
28 EMPLOYEE'S TERMINATION, RESIGNATION, RETIREMENT OR OTHER SEPARATION FROM
29 EMPLOYMENT.
30 H. IF AN EMPLOYEE IS TRANSFERRED TO A SEPARATE DIVISION, ENTITY OR
31 LOCATION BUT REMAINS EMPLOYED BY THE SAME EMPLOYER, THE EMPLOYEE IS ENTITLED
32 TO USE ALL UNUSED PAID SICK AND SAFE TIME ACCRUED WHILE WORKING AT THE PRIOR
33 DIVISION, ENTITY OR LOCATION. IF THERE IS A SEPARATION FROM EMPLOYMENT AND
34 THE EMPLOYEE IS REHIRED WITHIN SIX MONTHS OF SEPARATION BY THE SAME EMPLOYER,
35 PREVIOUSLY ACCRUED PAID SICK AND SAFE TIME THAT HAD NOT BEEN USED MUST BE
36 REINSTATED. THE EMPLOYEE MAY USE ACCRUED PAID SICK AND SAFE TIME AND ACCRUE
37 ADDITIONAL PAID SICK AND SAFE TIME AT THE COMMENCEMENT OF THE REEMPLOYMENT.
38 I. AN EMPLOYER MAY LEND PAID SICK AND SAFE TIME TO AN EMPLOYEE IN
39 ADVANCE OF ACCRUAL OF THE TIME BY THE EMPLOYEE.
40 J. THIS ARTICLE DOES NOT:
41 1. DISCOURAGE OR PROHIBIT AN EMPLOYER FROM THE ADOPTION OR RETENTION
42 OF A PAID LEAVE POLICY THAT IS MORE GENEROUS THAN THE PAID SICK AND SAFE TIME
43 POLICY.

1 2. DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH ANY CONTRACT,
2 COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT BENEFIT PLAN OR OTHER AGREEMENT
3 THAT PROVIDES MORE GENEROUS SICK AND SAFE TIME LEAVE TO AN EMPLOYEE THAN
4 REQUIRED IN THIS ARTICLE.

5 3. DIMINISH THE RIGHTS OF PUBLIC EMPLOYEES REGARDING PAID SICK AND
6 SAFE TIME OR USE OF PAID SICK AND SAFE TIME AS OTHERWISE PROVIDED BY LAW.

7 4. PREEMPT, LIMIT OR OTHERWISE AFFECT THE APPLICABILITY OF ANY OTHER
8 LAW, REGULATION, REQUIREMENT, POLICY OR STANDARD THAT PROVIDES FOR GREATER
9 ACCRUAL OR USE BY EMPLOYEES OF SICK AND SAFE TIME, WHETHER PAID OR UNPAID, OR
10 THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

11 23-373. Use of paid sick and safe time

12 A. AN EMPLOYER SHALL PROVIDE AN EMPLOYEE PAID SICK AND SAFE TIME FOR
13 ANY OF THE FOLLOWING:

14 1. AN EMPLOYEE'S:

15 (a) MENTAL OR PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION.

16 (b) NEED FOR MEDICAL DIAGNOSIS, CARE OR TREATMENT OF A MENTAL OR
17 PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION.

18 (c) NEED FOR PREVENTIVE MEDICAL CARE.

19 2. AN EMPLOYEE'S NEED TO CARE FOR A FAMILY MEMBER WITH A MENTAL OR
20 PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION:

21 (a) WHO NEEDS MEDICAL DIAGNOSIS, CARE OR TREATMENT OF A MENTAL OR
22 PHYSICAL ILLNESS, INJURY OR HEALTH CONDITION.

23 (b) WHO NEEDS PREVENTIVE MEDICAL CARE.

24 3. CLOSURE OF THE EMPLOYEE'S PLACE OF BUSINESS BY ORDER OF A PUBLIC
25 OFFICIAL DUE TO A PUBLIC HEALTH EMERGENCY.

26 4. AN EMPLOYEE'S NEED TO CARE FOR A CHILD WHOSE SCHOOL OR PLACE OF
27 CARE HAS BEEN CLOSED BY ORDER OF A PUBLIC OFFICIAL DUE TO A PUBLIC HEALTH
28 EMERGENCY.

29 5. AN EMPLOYEE'S NEED TO CARE FOR A FAMILY MEMBER IF THE HEALTH
30 AUTHORITIES HAVING JURISDICTION OR A HEALTH CARE PROVIDER DETERMINES THAT THE
31 FAMILY MEMBER'S PRESENCE IN THE COMMUNITY WOULD JEOPARDIZE THE HEALTH OF
32 OTHERS BECAUSE OF THE FAMILY MEMBER'S EXPOSURE TO A COMMUNICABLE DISEASE,
33 WHETHER OR NOT THE FAMILY MEMBER HAS ACTUALLY CONTRACTED THE COMMUNICABLE
34 DISEASE.

35 6. ABSENCE NECESSARY DUE TO DOMESTIC VIOLENCE, SEXUAL ASSAULT OR
36 STALKING IF THE LEAVE IS TO DO ANY OF THE FOLLOWING:

37 (a) SEEK MEDICAL ATTENTION FOR THE EMPLOYEE OR EMPLOYEE'S FAMILY
38 MEMBER TO RECOVER FROM PHYSICAL OR PSYCHOLOGICAL INJURY OR DISABILITY THAT IS
39 CAUSED BY DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING.

40 (b) OBTAIN SERVICES FROM A VICTIM SERVICES ORGANIZATION.

41 (c) OBTAIN PSYCHOLOGICAL OR OTHER COUNSELING.

42 (d) SEEK RELOCATION DUE TO THE DOMESTIC VIOLENCE, SEXUAL ASSAULT OR
43 STALKING.

1 (e) TAKE LEGAL ACTION, INCLUDING PREPARING FOR OR PARTICIPATING IN ANY
2 CIVIL OR CRIMINAL LEGAL PROCEEDING THAT IS RELATED TO OR RESULTING FROM THE
3 DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING.

4 B. THE EMPLOYER SHALL PROVIDE PAID SICK AND SAFE TIME ON THE ORAL
5 REQUEST OF AN EMPLOYEE. IF POSSIBLE, THE EMPLOYEE SHALL INCLUDE IN THE
6 REQUEST THE EXPECTED DURATION OF THE ABSENCE.

7 C. IF THE USE OF PAID SICK AND SAFE TIME IS FORESEEABLE, THE EMPLOYEE
8 SHALL DO BOTH OF THE FOLLOWING:

9 1. MAKE A GOOD FAITH EFFORT TO PROVIDE NOTICE OF THE NEED FOR THE TIME
10 TO THE EMPLOYER IN ADVANCE OF THE USE OF THE PAID SICK AND SAFE TIME.

11 2. MAKE A REASONABLE EFFORT TO SCHEDULE THE USE OF PAID SICK AND SAFE
12 TIME IN A MANNER THAT DOES NOT UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

13 D. PAID SICK AND SAFE TIME IS COMPENSATED AT THE SAME HOURLY RATE AND
14 WITH THE SAME BENEFITS, INCLUDING HEALTH CARE BENEFITS, AS THE EMPLOYEE
15 NORMALLY EARNS DURING HOURS WORKED, EXCEPT THAT THE HOURLY WAGE MAY NOT BE
16 LESS THAN THAT PRESCRIBED IN SECTION 23-363.

17 E. FOR PAID SICK AND SAFE TIME OF MORE THAN THREE CONSECUTIVE DAYS, AN
18 EMPLOYER MAY REQUIRE REASONABLE DOCUMENTATION THAT THE PAID SICK AND SAFE
19 TIME IS FOR A PURPOSE PRESCRIBED BY SUBSECTION A OF THIS SECTION. REASONABLE
20 DOCUMENTATION INCLUDES:

21 1. DOCUMENTATION THAT IS SIGNED BY A HEALTH PROFESSIONAL THAT
22 INDICATES THAT SICK TIME IS NECESSARY.

23 2. A POLICE REPORT THAT INDICATES THAT THE EMPLOYEE WAS A VICTIM OF
24 DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING.

25 3. A COURT ORDER OR A SIGNED STATEMENT FROM A VICTIM AND WITNESS
26 ADVOCATE THAT AFFIRMS THAT THE EMPLOYEE IS INVOLVED IN LEGAL ACTION THAT IS
27 RELATED TO DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING.

28 F. AN EMPLOYER MAY NOT REQUIRE THAT THE DOCUMENTATION EXPLAIN THE
29 NATURE OF THE ILLNESS OR THE DETAILS OF THE VIOLENCE. IF AN EMPLOYER CHOOSES
30 TO REQUIRE DOCUMENTATION FOR SICK TIME AND THE EMPLOYEE DOES NOT HAVE HEALTH
31 INSURANCE, THE EMPLOYER IS RESPONSIBLE FOR PAYING ALL OF THE OUT-OF-POCKET
32 EXPENSES THE EMPLOYEE INCURS IN OBTAINING THE DOCUMENTATION. IF THE EMPLOYEE
33 DOES HAVE HEALTH INSURANCE, THE EMPLOYER IS RESPONSIBLE FOR PAYING ANY COSTS
34 THE HEALTH CARE PROVIDER CHARGES TO THE EMPLOYEE FOR PROVIDING THE SPECIFIC
35 DOCUMENTATION THAT THE EMPLOYER REQUIRES.

36 G. AN EMPLOYER MAY NOT REQUIRE AS A CONDITION OF PROVIDING PAID SICK
37 AND SAFE TIME THAT THE EMPLOYEE SEARCH FOR OR FIND A REPLACEMENT WORKER TO
38 COVER THE HOURS DURING WHICH THE EMPLOYEE IS ON PAID SICK AND SAFE TIME.

39 23-374. Protection of rights; retaliation prohibition

40 A. IT IS UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON TO INTERFERE
41 WITH, RESTRAIN OR DENY THE EXERCISE OF, OR THE ATTEMPT TO EXERCISE, ANY RIGHT
42 THAT IS PROVIDED UNDER THIS ARTICLE.

43 B. AN EMPLOYER MAY NOT TAKE RETALIATORY PERSONNEL ACTION OR
44 DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS EXERCISED RIGHTS
45 THAT ARE PROVIDED UNDER THIS ARTICLE. THESE RIGHTS INCLUDE THE RIGHT TO:

- 1 1. USE PAID SICK AND SAFE TIME.
- 2 2. FILE A COMPLAINT OR INFORM ANY PERSON ABOUT ANY EMPLOYER'S ALLEGED
- 3 VIOLATION OF THIS ARTICLE.
- 4 3. COOPERATE WITH THE COMMISSION IN ITS INVESTIGATIONS OF ALLEGED
- 5 VIOLATIONS OF THIS ARTICLE.
- 6 4. INFORM ANY PERSON OF POTENTIAL RIGHTS UNDER THIS ARTICLE.
- 7 C. IT IS UNLAWFUL FOR AN EMPLOYER TO COUNT PAID SICK AND SAFE TIME
- 8 TAKEN AS AN ABSENCE THAT MAY RESULT IN DISCIPLINE, DISCHARGE, DEMOTION,
- 9 SUSPENSION OR ANY OTHER ADVERSE ACTION.
- 10 D. THE PROTECTIONS OF THIS SECTION APPLY TO ANY PERSON THAT ALLEGES
- 11 VIOLATIONS OF THIS SECTION IN GOOD FAITH, EVEN IF THE ALLEGATIONS ARE IN
- 12 ERROR.
- 13 E. A REBUTTABLE PRESUMPTION OF UNLAWFUL RETALIATION EXISTS IF AN
- 14 EMPLOYER TAKES ADVERSE ACTION AGAINST A PERSON WITHIN NINETY DAYS AFTER THAT
- 15 PERSON DOES ANY OF THE FOLLOWING:
- 16 1. FILES A COMPLAINT WITH THE COMMISSION OR A COURT ALLEGING A
- 17 VIOLATION OF THIS SECTION.
- 18 2. INFORMS ANY PERSON ABOUT AN EMPLOYER'S ALLEGED VIOLATION OF THIS
- 19 SECTION.
- 20 3. COOPERATES WITH THE COMMISSION OR OTHER PERSONS IN THE
- 21 INVESTIGATION OR PROSECUTION OF ANY ALLEGED VIOLATION OF THIS SECTION.
- 22 4. OPPOSES ANY POLICY, PRACTICE OR ACT THAT IS UNLAWFUL UNDER THIS
- 23 SECTION.
- 24 5. INFORMS ANY PERSON OF THE PERSON'S RIGHTS UNDER THIS ARTICLE.
- 25 23-375. Notice and posting
- 26 A. AN EMPLOYER SHALL GIVE NOTICE AS PROVIDED IN THIS SECTION THAT
- 27 STATES ALL OF THE FOLLOWING:
- 28 1. EMPLOYEES ARE ENTITLED TO PAID SICK AND SAFE TIME, THE AMOUNT OF
- 29 PAID SICK AND SAFE TIME AND THE TERMS OF ITS USE GUARANTEED UNDER THIS
- 30 ARTICLE.
- 31 2. RETALIATION AGAINST EMPLOYEES WHO REQUEST OR USE PAID SICK AND SAFE
- 32 TIME IS PROHIBITED.
- 33 3. EACH EMPLOYEE MAY FILE A COMPLAINT OR BRING A CIVIL ACTION IF THE
- 34 EMPLOYER DENIES PAID SICK AND SAFE TIME OR THE EMPLOYEE IS RETALIATED AGAINST
- 35 FOR REQUESTING OR TAKING PAID SICK AND SAFE TIME.
- 36 B. AN EMPLOYER MAY COMPLY WITH THIS SECTION BY SUPPLYING EACH EMPLOYEE
- 37 WITH A NOTICE THAT CONTAINS IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST
- 38 LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S WORKFORCE THE
- 39 INFORMATION THAT IS REQUIRED UNDER SUBSECTION A OF THIS SECTION.
- 40 C. AN EMPLOYER MAY COMPLY WITH THIS SECTION BY DISPLAYING A POSTER IN
- 41 A CONSPICUOUS AND ACCESSIBLE PLACE IN EACH ESTABLISHMENT WHERE EMPLOYEES ARE
- 42 EMPLOYED THAT CONTAINS IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST
- 43 LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S WORKFORCE THE
- 44 INFORMATION THAT IS REQUIRED UNDER SUBSECTION A OF THIS SECTION.

1 D. THE COMMISSION SHALL CREATE AND MAKE AVAILABLE TO EMPLOYERS POSTERS
2 THAT CONTAIN THE INFORMATION THAT IS REQUIRED UNDER SUBSECTION A OF THIS
3 SECTION FOR THEIR USE IN COMPLYING WITH THIS SECTION.

4 23-376. Employer records

5 A. AN EMPLOYER SHALL RETAIN RECORDS THAT DOCUMENT HOURS WORKED BY
6 EMPLOYEES AND PAID SICK AND SAFE TIME TAKEN BY EMPLOYEES FOR A PERIOD OF AT
7 LEAST FIVE YEARS AND SHALL ALLOW THE COMMISSION ACCESS TO THESE RECORDS, WITH
8 APPROPRIATE NOTICE AND AT A MUTUALLY AGREEABLE TIME, TO MONITOR COMPLIANCE
9 WITH THE REQUIREMENTS OF THIS ARTICLE.

10 B. IF A DISPUTE ARISES ABOUT AN EMPLOYEE'S ENTITLEMENT TO PAID SICK
11 AND SAFE TIME UNDER THIS ARTICLE, AN EMPLOYER IS PRESUMED TO HAVE VIOLATED
12 THIS ARTICLE, ABSENT CLEAR AND CONVINCING EVIDENCE TO THE CONTRARY, IF THE
13 EMPLOYER DOES EITHER OF THE FOLLOWING:

14 1. FAILS TO MAINTAIN OR RETAIN ADEQUATE RECORDS THAT DOCUMENT HOURS
15 WORKED BY THE EMPLOYEE AND PAID SICK AND SAFE TIME TAKEN BY THE EMPLOYEE.

16 2. DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THESE RECORDS.

17 23-377. Enforcement; civil penalty

18 A. THE COMMISSION SHALL IMPLEMENT AND ENFORCE THIS ARTICLE AND SHALL
19 ADOPT RULES FOR THESE PURPOSES.

20 B. AN EMPLOYEE OR OTHER PERSON MAY REPORT TO THE COMMISSION ANY
21 SUSPECTED VIOLATION OF THIS ARTICLE. THE COMMISSION SHALL KEEP CONFIDENTIAL
22 THE NAME AND OTHER IDENTIFYING INFORMATION OF THE EMPLOYEE OR PERSON THAT
23 REPORTS THE VIOLATION, EXCEPT THAT THE COMMISSION MAY DISCLOSE THIS
24 INFORMATION AS AUTHORIZED BY THE EMPLOYEE OR OTHER PERSON AS NECESSARY TO
25 ENFORCE THIS ARTICLE OR FOR OTHER APPROPRIATE PURPOSES.

26 C. A LAW ENFORCEMENT OFFICER OR ANY PRIVATE PARTY THAT IS INJURED BY A
27 VIOLATION OF THIS ARTICLE MAY MAINTAIN A CIVIL ACTION TO ENFORCE THIS ARTICLE
28 IN A COURT OF COMPETENT JURISDICTION.

29 D. ANY EMPLOYER THAT VIOLATES THE RECORDKEEPING OR POSTING
30 REQUIREMENTS PRESCRIBED IN THIS ARTICLE OR OTHER REQUIREMENTS THAT THE
31 COMMISSION ESTABLISHES UNDER THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF AT
32 LEAST TWO HUNDRED FIFTY DOLLARS FOR A FIRST VIOLATION AND AT LEAST FIVE
33 HUNDRED DOLLARS FOR EACH SUBSEQUENT OR WILFUL VIOLATION AND MAY, IF THE
34 COMMISSION OR COURT DETERMINES APPROPRIATE, BE SUBJECT TO SPECIAL MONITORING
35 AND INSPECTIONS.

36 E. ANY EMPLOYER THAT FAILS TO PROVIDE PAID SICK AND SAFE TIME AS
37 REQUIRED UNDER THIS ARTICLE SHALL PAY THE EMPLOYEE ANY WAGES OWING FOR THE
38 PAID SICK AND SAFE TIME, INCLUDING INTEREST ON THE UNPAID WAGES, AND AN
39 ADDITIONAL AMOUNT EQUAL TO TWICE THE AMOUNT OF THE PAID SICK AND SAFE TIME
40 WAGES OWED TO THE EMPLOYEE. ANY EMPLOYER THAT RETALIATES AGAINST AN EMPLOYEE
41 OR OTHER PERSON IN VIOLATION OF THIS ARTICLE SHALL PAY THE EMPLOYEE AN AMOUNT
42 SET BY THE COMMISSION OR A COURT THAT IS SUFFICIENT TO COMPENSATE THE
43 EMPLOYEE AND DETER FUTURE VIOLATIONS BUT AT LEAST ONE HUNDRED FIFTY DOLLARS
44 FOR EACH DAY THAT THE VIOLATION CONTINUED UNTIL LEGAL JUDGMENT WAS FINAL.
45 BOTH THE COMMISSION AND THE COURTS MAY ORDER PAYMENT OF ANY UNPAID WAGES DUE

1 UNDER THIS SECTION AS PAID SICK AND SAFE TIME, OTHER AMOUNTS AND CIVIL
2 PENALTIES AND ORDER ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF FOR
3 VIOLATIONS OF THIS ARTICLE. CIVIL PENALTIES SHALL BE RETAINED BY THE AGENCY
4 THAT RECOVERED THEM AND USED TO FINANCE ACTIVITIES TO ENFORCE THIS ARTICLE.
5 A PREVAILING PLAINTIFF IS ENTITLED TO REASONABLE ATTORNEY FEES AND COSTS.

6 F. A CIVIL ACTION TO ENFORCE THIS ARTICLE MAY BE COMMENCED NOT LATER
7 THAN TWO YEARS AFTER A VIOLATION LAST OCCURS, OR THREE YEARS IN THE CASE OF A
8 WILFUL VIOLATION, AND MAY ENCOMPASS ALL VIOLATIONS THAT OCCURRED AS PART OF A
9 CONTINUING COURSE OF EMPLOYER CONDUCT REGARDLESS OF THE DATE OF OCCURRENCE.
10 THE STATUTE OF LIMITATIONS MUST BE TOLLED DURING ANY INVESTIGATION OF AN
11 EMPLOYER BY THE COMMISSION OR OTHER LAW ENFORCEMENT OFFICER, BUT THIS
12 INVESTIGATION DOES NOT BAR A PERSON FROM BRINGING A CIVIL ACTION UNDER THIS
13 ARTICLE.

14 23-378. Confidentiality

15 A. AN EMPLOYER MAY NOT REQUIRE DISCLOSURE OF DETAILS THAT RELATE TO
16 DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING OR THE DETAILS OF AN EMPLOYEE'S
17 MEDICAL CONDITION AS A CONDITION OF RECEIVING PAID SICK AND SAFE TIME LEAVE.

18 B. AN EMPLOYER MAY NOT DISCLOSE EXCEPT TO THE AFFECTED EMPLOYEE OR
19 WITH THE PERMISSION OF THE AFFECTED EMPLOYEE HEALTH INFORMATION OR
20 INFORMATION THAT RELATES TO DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING
21 ABOUT AN EMPLOYEE OR EMPLOYEE'S FAMILY MEMBER AND THIS INFORMATION SHALL BE
22 TREATED AS CONFIDENTIAL.

23 Sec. 2. Effective date; effect on existing collective
24 bargaining agreements

25 This act is effective from and after December 31, 2016. If an employer
26 and employees have a collective bargaining agreement in effect on January 1,
27 2017, this act applies to that employer and employees on the termination of
28 the collective bargaining agreement.