

1 H.382

2 Introduced by Representatives Edwards of Brattleboro, Fisher of Lincoln and

3 Poirier of Barre City

4 Referred to Committee on

5 Date:

6 Subject: Labor; employment practices; paid absence from work; health care;

7 domestic or sexual violence

8 Statement of purpose: This bill proposes to ensure that all workers in Vermont
9 are able to take care of their own health and safety needs and those of their
10 families by allowing employees to accrue a minimum number of paid hours
11 annually so that workers can take paid time from work to address issues related
12 to health care or safety for themselves or a family member.

13 An act relating to absence from work for health care and safety

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. FINDINGS

16 The general assembly finds:

17 (1) It is a rare employee who never needs to take time off from work
18 because the employee is sick or injured; needs to care for a sick or injured
19 family member; or needs to attend or accompany a family member to
20 scheduled preventive, routine, or therapeutic health care appointments.

1 (2) More than one-half of all private sector employees do not have paid
2 time off for absence from work for medical care and must choose between
3 jeopardizing their health or the health of a family member and forgoing
4 income.

5 (3) Minimum wage employees are less likely to have paid time from
6 work to care for their health and therefore are more likely to work when sick or
7 injured to avoid losing income. The majority of minimum wage workers are
8 clustered in service sector jobs such as food services, retail sales, child care,
9 and health care, which require substantial contact with the public. When these
10 service employees work when sick, they jeopardize not only their own health,
11 but also the health of coworkers and the public, thereby creating health and
12 financial implications that extend well beyond the workplace.

13 (4) Many employees who do have paid time off from work to tend to
14 their own health care issues are not permitted to use that time to care for sick
15 family members, particularly young children and elders.

16 (5) Routine, preventive health care goes a long way toward preventing
17 illness or injury, minimizing recovery time, and reducing the need for more
18 costly medical or emergency treatment.

19 (6) When parents care for their sick children, the children tend to
20 recover faster and experience improved mental and physical health. Sick
21 children who are sent to school and child care because a parent cannot afford

1 to leave work to care for them infect other children and adults and increase
2 time lost from school or work.

3 (7) For many years, Vermont has had the goal of helping and
4 encouraging elders to age in place, primarily at home, when possible. This
5 goal is more difficult to attain when relatives are not available to provide care
6 at home.

7 (8) When employees have paid time off from work and are able to care
8 for their own health and the health of close family members without sacrificing
9 income, stress and anxiety are greatly reduced. The employer benefits by
10 gaining a more stable, productive, loyal, and happy workforce.

11 (9) Employers who provide paid time off for health care also receive
12 direct financial benefits from providing employees with paid time off to care
13 for their own health or the health of a close family member. Studies show that
14 “presenteeism,” the circumstance in which an employee goes to work sick,
15 causes far more costly productivity and financial losses than any losses
16 associated from absenteeism.

17 (10) Nationally, nearly one in three women reports having suffered
18 physical or sexual abuse by a husband or partner at some time in her life.

19 (11) Victims of domestic violence are forced to be absent from work
20 because of the abuse. The mean number of days lost from work by rape
21 victims is 8.1, for victims of physical assault 7.2, and for stalking 10.1.

1 Without paid time from work, these victims are in grave danger of losing their
2 jobs. Victims of domestic violence, who frequently need the economic
3 security to ensure their health and safety, are particularly devastated by loss of
4 employment.

5 Sec. 2. 21 V.S.A. § 471(1) and (2) are amended to read:

6 (1) "Employer" means an individual, organization, or governmental
7 body, partnership, association, corporation, legal representative, trustee,
8 receiver, trustee in bankruptcy and any common carrier by rail, motor, water,
9 air, or express company doing business in or operating within this state which
10 for the purposes of ~~parental~~ :

11 (A) Parental leave, employs ten or more individuals who are
12 employed for an average of at least 30 hours per week during a year.

13 (B) ~~and for the purposes of family~~ Family leave, employs 15 or more
14 individuals for an average of at least 30 hours per week during a year.

15 (C) Paid health care time, employs one or more individuals.

16 (2) "Employee" means ~~a person~~ an individual:

17 (A) For the purposes of parental or family leave, who, in
18 consideration of direct or indirect gain or profit, has been continuously
19 employed by the same employer for a period of one year for an average of at
20 least 30 hours per week.

1 (B) For the purposes of paid health care time, employee has the same
2 meaning as set forth in section 341 of this title.

3 Sec. 3. 21 V.S.A. § 472c is added to read:

4 § 472c. PAID HEALTH CARE TIME

5 (a) During any 12-month period, each employee shall accrue one hour of
6 paid health care time for every 30 hours worked, up to a maximum of 56 hours
7 per year. An employee who is exempt from the overtime requirements of
8 29 U.S.C. sec. 213(a)(1), the Federal Fair Labor Standards Act, shall be
9 assumed to work 40 hours per week for the purposes of accruing paid health
10 care time unless the employee's normal workweek is less than 40 hours, in
11 which case paid health care time accrues based on the number of actual hours
12 worked. Paid health care time shall be compensated at the same hourly rate and
13 with the same benefits, including health care benefits, as the employee
14 normally earns for hours worked.

15 (b) Paid health care time may be used by an employee for any absence
16 from work necessitated by any of the following circumstances:

17 (1) The employee's physical or mental illness or injury.

18 (2) Obtaining professional diagnostic, preventive, routine, or therapeutic
19 health care for the employee.

20 (3) Caring for a sick or injured child, parent, parent-in-law, grandparent,
21 spouse, stepchild, foster child, or ward of the employee who lives with the

1 employee, including helping that relative obtain diagnostic, preventive,
2 routine, or therapeutic health treatment.

3 (4) Obtaining services for the employee or for the employee's child,
4 parent, parent-in-law, grandparent, spouse, stepchild, foster child, or ward who
5 is a victim of domestic or sexual violence, when the absence is directly related
6 to social or legal services. For the purposes of this section, "domestic and
7 sexual violence" means "domestic violence," "sexual assault," or "stalking" as
8 defined in 15 V.S.A. § 1151.

9 (5) Obtaining medical care for physical or mental injury caused by the
10 violence.

11 (c) Paid health care time:

12 (1) Shall be used in the smallest increment that the employer's payroll
13 system uses to account for other absences, when the period of absence is
14 shorter than a normal workday.

15 (2) That is accrued but unused shall be carried over to the next year, but
16 an employee may use no more than 56 hours of paid health care in any one
17 year, unless the employer provides a more generous allotment.

18 (3) That is accrued but unused shall not be reimbursed to the employee
19 at the time of separation from employment for whatever the reason for the
20 separation.

1 (4) At the employer's discretion, may be loaned to an employee before
2 the time is actually accrued by that employee.

3 (d) If an employee is rehired within 12 months after a separation from
4 employment, accrued and unused paid health care time accrued at the time of
5 separation shall be reinstated to the employee.

6 (e) An employer with a paid health care time policy that is comparable to
7 or more generous than the paid health care time provided under this section is
8 not required to provide additional paid health care time.

9 (f) An employer may not require as a condition of providing paid health
10 care time under this section that the employee look for a replacement worker to
11 cover the time during which the employee is absent from work.

12 (g) An employee shall notify the employer of the intent to take paid health
13 care time when an absence is foreseeable. An employee shall make every
14 effort to schedule any preventive or routine health care outside work hours and
15 to schedule absences to minimize disruption in the workplace. A request to
16 use paid health care time shall be given to the employer as soon as practicable
17 after the employee is aware of the need and shall include a general explanation
18 for the absence and its expected duration.

19 (h) An employer may require certification from a health care provider to
20 verify the need for paid health care time when the absence continues for more
21 than three consecutive workdays. If the absence is cause by domestic or sexual

1 violence, certification may include a sworn statement from the employee
2 attesting to the violence, law enforcement or court records, or other
3 documentation from an attorney or legal advisor, member of the clergy, or
4 health care provider. Information relating to domestic or sexual violence
5 provided to the employer shall not be disclosed unless the claimant has
6 consented in writing to the disclosure. In the event the employer is legally
7 required to disclose this information, the employer shall notify the claimant at
8 the time the notice or request for disclosure is received by the employer and
9 prior to disclosure. Certification under this subsection shall be provided no
10 later than 30 days after it is requested by the employer. The employer shall
11 pay the cost of or reimburse the employee for any out-of-pocket costs related
12 to providing this certification.

13 (h) An employer shall post notice of the provisions of this section in a form
14 provided by the commissioner in a place conspicuous to employees at the
15 employer's place of business.

16 Sec. 3. 21 V.S.A. § 472a(a) is amended to read:

17 (a) In addition to the leave provided in ~~section 472~~ sections 472 and 472c
18 of this title, an employee shall be entitled to take unpaid leave not to exceed
19 four hours in any 30-day period and not to exceed 24 hours in any 12-month

1 period. An employer may require that leave be taken in a minimum of
2 two-hour segments and may be taken for any of the following purposes:

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