

1 H.208

2 Introduced by Representatives Krowinski of Burlington, Donovan of
3 Burlington, Christie of Hartford, Cole of Burlington, Cross of
4 Winooski, Davis of Washington, Evans of Essex, Fay of St.
5 Johnsbury, Frank of Underhill, French of Randolph, Kitzmiller
6 of Montpelier, Lanpher of Vergennes, Lenes of Shelburne,
7 Macaig of Williston, Martin of Wolcott, McCormack of
8 Burlington, McCullough of Williston, Moran of Wardsboro,
9 Mrowicki of Putney, O'Sullivan of Burlington, Pearson of
10 Burlington, Poirier of Barre City, Rachelson of Burlington,
11 Ram of Burlington, Sharpe of Bristol, South of St. Johnsbury,
12 Spengler of Colchester, Stevens of Waterbury, Till of Jericho,
13 Townsend of South Burlington, Weed of Enosburgh, Wizowaty
14 of Burlington, Yantachka of Charlotte, and Zagar of Barnard

15 Referred to Committee on

16 Date:

17 Subject: Labor; employment practices; paid absence from work; health care;
18 domestic or sexual violence

19 Statement of purpose of bill as introduced: This bill proposes to ensure that all
20 employees shall accrue a minimum number of paid hours annually so they can

1 take paid time from work to take care of their own health and safety needs and
2 those of their families.

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

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

5 Sec. 1. FINDINGS

6 The General Assembly finds:

7 (1) Nearly all employees need to take time off from work because the
8 employee is sick or injured; needs to care for a sick or injured family member;
9 or needs to attend or accompany a family member to scheduled preventive,
10 routine, or therapeutic health care appointments.

11 (2) One-half of all private sector employers do not provide paid time off
12 for absence from work for medical care. An estimated 38 percent of all private
13 sector workers in the State must choose between jeopardizing their health or
14 the health of a family member and forgoing income.

15 (3) Low-income employees are less likely to have paid time from work
16 to care for their health and therefore are more likely to work when sick or
17 injured to avoid losing income. The majority of low-income workers are
18 clustered in service sector jobs such as food services, retail sales, child care,
19 and health care, which require substantial contact with the public. When these
20 service employees work when sick, they jeopardize not only their own health,

1 but also the health of coworkers and the public, thereby creating health and
2 financial implications that extend well beyond the workplace.

3 (4) Many employees who do have paid time off from work to tend to
4 their own health care issues are not permitted to use that time to care for sick
5 family members.

6 (5) Routine, preventive health care contributes to the prevention of
7 illness or injury, minimizing recovery time, and reducing the need for more
8 costly medical or emergency treatment.

9 (6) When parents care for their sick children, the children tend to
10 recover more quickly and experience improved mental and physical health.
11 Sick children who are sent to school and child care because a parent cannot
12 afford to leave work to care for them infect other children and adults and
13 increase time lost from school or work.

14 (7) For decades the State has developed programs to help older
15 Vermonters and Vermonters with a disability to live at home, avoiding some of
16 the financial and social costs of institutional care. It is crucial for the success
17 of these programs that relatives are available to provide care or assist
18 caregivers.

19 (8) When employees have paid time off from work and are able to care
20 for their own health and the health of close family members without sacrificing

1 income, stress and anxiety are greatly reduced. The employer benefits by
2 gaining a more stable, productive, loyal, and satisfied workforce.

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

8 (10) Employers who provide paid time off for health care generally
9 report that their employees do not overuse or abuse the time off. The typical
10 use of paid time off for health care is between three and five days, even when
11 the amount of paid time available is greater.

12 (11) Nationally, at least one-quarter of all women report having suffered
13 physical or sexual abuse by an intimate partner. One in seven men report
14 physical abuse by an intimate partner. One in five women and one in 71 men
15 report having been raped during their lifetimes.

16 (12) Victims of domestic violence are forced to be absent from work
17 because of the abuse. The mean number of days lost from work by rape
18 victims is 8.1, for victims of physical assault 7.2, and for stalking 10.1.
19 Without paid time from work, these victims are in grave danger of losing their
20 jobs. Victims of domestic violence, who frequently need the economic

1 security to ensure their health and safety, are particularly devastated by loss of
2 employment.

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

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

9 (A) parental leave, employs ten or more individuals who are
10 employed for an average of at least 30 hours per week during a year ~~and for the~~
11 ~~purposes of family~~;

12 (B) family leave, employs 15 or more individuals for an average of at
13 least 30 hours per week during a year;

14 (C) paid health care time, employs one or more individuals.

15 (2)(A) ~~"Employee" means a person~~ "Employee," for the purpose of
16 parental or family leave, means an individual who, in consideration of direct or
17 indirect gain or profit, has been continuously employed by the same employer
18 for a period of one year for an average of at least 30 hours per week.

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

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

2 § 472c. PAID HEALTH CARE TIME

3 (a) An employee shall accrue not less than one hour of paid health care
4 time for every 30 hours worked. In the absence of a more generous paid health
5 care time plan, an employer may:

6 (1) limit the amount of paid health care time accrued to a maximum of
7 56 hours in a 12-month period;

8 (2) limit to 40 hours the number of hours in the workweek for which
9 full-time employees not subject to the overtime provisions of the Federal Fair
10 Labor Standards Act (29 U.S.C. § 213(a)(1)) may accrue paid health care
11 time; or

12 (3) incorporate paid health care time within a complement of paid leave
13 for its employees that provides no less than the minimum required by this
14 subsection.

15 (b) Paid health care time shall be compensated at the same hourly rate and
16 with the same benefits, including health care benefits, as the employee
17 normally earns for hours worked. Service or tipped employees shall be
18 compensated at an amount that is not less than the minimum wage required for
19 nonservice or nontipped employees pursuant to section 384 of this title.

20 (c) An employee may use paid health care time for any of the following
21 reasons:

1 (1) The employee is ill or injured.

2 (2) The employee obtains professional diagnostic, preventive, routine, or
3 therapeutic health care.

4 (3) The employee cares for a sick or injured child, parent, parent-in-law,
5 grandparent, spouse, domestic partner, stepchild, foster child, or ward of the
6 employee who lives with the employee, including helping that individual
7 obtain diagnostic, preventive, routine, or therapeutic health treatment.

8 (4) The employee is arranging for social or legal services or obtaining
9 medical care or counseling for the employee or for the employee's child,
10 parent, parent-in-law, grandparent, spouse, stepchild, foster child, or ward of
11 the employee who is a victim of domestic violence, sexual assault, or stalking
12 or who is relocating as the result of domestic violence, sexual assault, or
13 stalking. For the purposes of this section, "domestic violence," "sexual
14 assault," or "stalking" has the same meaning as in 15 V.S.A. § 1151.

15 (d) Unless an employer and its employees agree to paid health care time
16 provisions more generous to employees with respect to accrual rates and
17 maximum hours:

18 (1) An employee shall use paid health care time in the smallest time
19 increment that the employer's payroll system uses to account for other
20 absences, when the employee's absence is shorter than a normal workday.

1 (2) Paid health care time that is accrued but unused shall be carried over
2 to the next year, but an employee may use no more than 56 hours of paid
3 health care in any one year, unless the employer provides a more generous
4 allotment.

5 (3) Upon separation from employment, an employee shall not be entitled
6 to payment for unused paid health care time unless agreed upon by the
7 employer.

8 (4) At the employer's discretion, an employee may borrow paid health
9 care time before the time is actually accrued.

10 (5) An employee who is rehired within 12 months after a separation
11 from employment shall retain paid health care time accrued but unused at the
12 time of separation.

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

16 (f) An employer may not require an employee to look for or provide a
17 replacement worker for the time during which the employee uses or is
18 expected to use paid health care time.

19 (g) An employer may require an employee planning to take paid health care
20 time to:

1 (1) make reasonable efforts to avoid having to do so for routine or
2 preventive health care; or

3 (2) notify the employer as soon as practicable by providing an
4 explanation of the reason for taking paid health care time and for the expected
5 duration of the employee's absence.

6 (h)(1) An employer may require certification from a health care provider to
7 verify the need for paid health care time when the employee is absent or plans
8 to be absent for more than three consecutive workdays.

9 (2) If the reason that the employee has been absent for more than three
10 consecutive workdays is due to domestic violence, sexual assault, or stalking,
11 the employee may provide certification by means of a sworn statement from
12 the employee or law enforcement or court records or other documentation from
13 an attorney or legal advisor, member of the clergy, or health care provider. An
14 employer receiving information relating to domestic violence, sexual assault,
15 or stalking shall not disclose the information unless the employee has
16 consented in writing to the disclosure. If the employer is required by law to
17 disclose this information, the employer shall notify the employee at the time
18 the notice or request for disclosure is received by the employer and prior to
19 disclosure.

20 (3) The employee shall provide the certification no later than 30 days
21 after it is requested by the employer. The employer shall pay the cost of or

1 reimburse the employee for any out-of-pocket costs related to providing this
2 certification.

3 (i) An employer shall post notice of the provisions of this section in a form
4 provided by the Commissioner in a place conspicuous to employees at the
5 employer's place of business.

6 Sec. 4. 21 V.S.A. § 472a(a) is amended to read:

7 (a) In addition to the leave provided in ~~section 472~~ sections 472 and 472c
8 of this title, an employee shall be entitled to take unpaid leave not to exceed
9 four hours in any 30-day period and not to exceed 24 hours in any 12-month
10 period. An employer may require that leave be taken in a minimum of
11 two-hour segments and may be taken for any of the following purposes:

12 * * *

13 Sec. 5. EFFECTIVE DATE

14 This act shall take effect on July 1, 2013.