

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0496.01 Christy Chase

HOUSE BILL 10-1397

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT THAT EMPLOYERS PROVIDE
102 EMPLOYEE-EARNED PAID SICK TIME TO THEIR EMPLOYEES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the "Healthy Families and Workplaces Act" (act), which requires all private employers in Colorado to provide paid sick leave to their employees, accrued at one hour of sick leave for every 30 hours worked, subject to the following limits:

! For employers employing 10 or more employees, the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

employer is not required to provide more than a total of 72 hours of paid sick leave in a 12-month period; and

- ! For employers employing fewer than 10 employees, the employer is not required to provide more than a total of 40 hours of paid sick leave in a 12-month period.

An employee would start accruing paid sick leave when his or her employment begins and would be permitted to use his or her accrued paid sick leave as it is accrued.

Additionally, an employee would be allowed to carry forward and use in subsequent calendar years paid sick leave that is not used in the year in which it is accrued, subject to the caps on the total amount of leave allowed in a 12-month period.

Employees may use accrued paid sick leave to be absent from work for the following purposes:

- ! The employee has a mental or physical illness, injury, or health condition, needs a medical diagnosis, care, or treatment related to such illness, injury, or condition, or needs to obtain preventive medical care;
- ! The employee needs to care for a family member who has a mental or physical illness, injury, or health condition, needs a medical diagnosis, care, or treatment related to such illness, injury, or condition, or needs to obtain preventive medical care;
- ! The employee or family member has been the victim of domestic abuse, sexual assault, or stalking and needs to be absent from work for purposes related to such crime; or
- ! A public official has ordered the closure of the school or place of care of the employee's child or of the employee's place of business due to a public health emergency, necessitating the employee's absence from work.

The bill prohibits an employer from retaliating against an employee who uses his or her paid sick leave or otherwise exercises his or her rights under the act. Employers are required to notify employees of their rights under the act by providing employees with a written notice of their rights and displaying a poster, developed by the division of labor (division) in the department of labor and employment, detailing employees' rights under the act.

Employers must retain records documenting, by employee, the hours worked, paid sick leave accrued, and paid sick leave used and make such records available to the division to monitor compliance with the act.

The director of the division will implement and enforce the act and adopt rules necessary for such purposes. The bill treats an employee's information about his, her, or a family member's health condition or domestic abuse, sexual assault, or stalking case as confidential, and prohibits an employer from disclosing such information or requiring the

employee to disclose such information as a condition of using paid sick leave.

Employers, including public employers, that provide comparable paid leave to their employees and allow employees to use that leave as permitted under the act are not required to provide additional paid sick leave to their employees.

Employees covered by a collective bargaining agreement would not be entitled to sick leave under the act if the collective bargaining agreement expressly waives the requirements of the act and provides an equivalent benefit to covered employees.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 8, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 13.1**

5 **Healthy Families and Workplaces**

6 **8-13.1-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "HEALTHY FAMILIES AND WORKPLACES ACT".

8 **8-13.1-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

11 (2) "DIVISION" MEANS THE DIVISION OF LABOR IN THE
12 DEPARTMENT OF LABOR AND EMPLOYMENT CREATED IN SECTION 8-1-103.

13 (3) "DOMESTIC ABUSE" HAS THE MEANING SET FORTH IN SECTION
14 13-14-101, C.R.S.

15 (4) "EMPLOYEE" HAS THE MEANING SET FORTH IN SECTION
16 8-4-101.

17 (5) (a) "EMPLOYER" HAS THE MEANING SET FORTH IN SECTION
18 8-4-101 BUT ALSO INCLUDES THE STATE OR ITS AGENCIES OR ENTITIES,
19 COUNTIES, CITIES AND COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS,
20 AND ANY POLITICAL SUBDIVISIONS OF THE STATE.

1 (b) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT.

2 (6) "FAMILY MEMBER" MEANS:

3 (a) A PERSON RELATED TO AN EMPLOYEE BY BLOOD, MARRIAGE,
4 OR ADOPTION WHO IS THE CHILD, PARENT, SPOUSE, SIBLING,
5 GRANDPARENT, OR GRANDCHILD OF THE EMPLOYEE;

6 (b) A FOSTER CHILD, PARENT, SIBLING, GRANDPARENT, OR
7 GRANDCHILD OF THE EMPLOYEE OR A CHILD OF WHOM THE EMPLOYEE IS
8 THE LEGAL GUARDIAN;

9 (c) THE EMPLOYEE'S DOMESTIC PARTNER, AS DEFINED IN SECTION
10 24-50-603, C.R.S.;

11 (d) THE SPOUSE OF AN EMPLOYEE'S CHILD, PARENT, SIBLING, OR
12 GRANDPARENT;

13 (e) A LEGAL GUARDIAN OF AN EMPLOYEE, A PERSON WHO STOOD
14 IN LOCO PARENTIS TO THE EMPLOYEE WHEN HE OR SHE WAS A MINOR, OR
15 A PARENT OF THE EMPLOYEE'S SPOUSE;

16 (f) A PERSON WHO RESIDES WITH THE EMPLOYEE AND HAS RESIDED
17 WITH THE EMPLOYEE FOR MORE THAN SIX MONTHS; OR

18 (g) ANY OTHER INDIVIDUAL RELATED BY BLOOD OR AFFINITY
19 WHOSE CLOSE RELATIONSHIP WITH AN EMPLOYEE IS EQUIVALENT TO A
20 FAMILY RELATIONSHIP.

21 (7) "PAID SICK LEAVE" MEANS TIME AWAY OR OFF FROM WORK
22 THAT IS:

23 (a) COMPENSATED AT THE SAME HOURLY RATE AND WITH THE
24 SAME BENEFITS, INCLUDING HEALTH CARE BENEFITS, AS THE EMPLOYEE
25 NORMALLY EARNS DURING HOURS WORKED; AND

26 (b) PROVIDED BY AN EMPLOYER TO AN EMPLOYEE FOR THE
27 PURPOSES DESCRIBED IN SECTION 8-13.1-104.

1 (8) "RETALIATORY PERSONNEL ACTION" MEANS THE DISCHARGE,
2 SUSPENSION, DEMOTION, OR OTHER ADVERSE ACTION TAKEN BY THE
3 EMPLOYER AGAINST AN EMPLOYEE WHO EXERCISES HIS OR HER RIGHTS
4 UNDER THIS ARTICLE.

5 (9) "SEXUAL ASSAULT" HAS THE MEANING SET FORTH IN SECTION
6 18-3-402, C.R.S.

7 (10) "STALKING" HAS THE MEANING SET FORTH IN SECTION
8 18-9-111, C.R.S.

9 **8-13.1-103. Paid sick leave - accrual - carry forward to**
10 **subsequent calendar year - comparable leave provided by employer**
11 **- no payment for unused leave.** (1) ALL EMPLOYEES WORKING IN
12 COLORADO HAVE THE RIGHT TO PAID SICK LEAVE AS SPECIFIED IN THIS
13 ARTICLE.

14 (2) (a) AN EMPLOYER SHALL PROVIDE EACH EMPLOYEE AT LEAST
15 ONE HOUR OF PAID SICK LEAVE FOR EVERY THIRTY HOURS WORKED BY THE
16 EMPLOYEE; EXCEPT THAT:

17 (I) AN EMPLOYER THAT EMPLOYS TEN OR MORE EMPLOYEES SHALL
18 NOT BE REQUIRED TO PROVIDE EACH EMPLOYEE MORE THAN A TOTAL OF
19 SEVENTY-TWO HOURS OF PAID SICK LEAVE IN A TWELVE-MONTH PERIOD.

20 (II) AN EMPLOYER THAT EMPLOYS FEWER THAN TEN EMPLOYEES
21 SHALL NOT BE REQUIRED TO PROVIDE EACH EMPLOYEE MORE THAN A
22 TOTAL OF FORTY HOURS OF PAID SICK LEAVE IN A TWELVE-MONTH PERIOD.

23 (b) NOTHING IN THIS ARTICLE PRECLUDES AN EMPLOYER FROM
24 PROVIDING EMPLOYEES MORE PAID SICK LEAVE THAN THE AMOUNTS
25 SPECIFIED IN THIS SUBSECTION (2).

26 (c) AN EMPLOYEE WHO IS EXEMPT FROM OVERTIME REQUIREMENTS
27 UNDER SECTION 213 (a) (1) OF THE FEDERAL "FAIR LABOR STANDARDS

1 ACT OF 1938", AS AMENDED, 29 U.S.C. SEC. 201 ET SEQ., SHALL ACCRUE
2 PAID SICK LEAVE BASED ON THE ASSUMPTION THAT THE EMPLOYEE WORKS
3 FORTY HOURS A WEEK. IF THE EMPLOYEE'S NORMAL WORK WEEK
4 CONSISTS OF FEWER THAN FORTY HOURS, THE EMPLOYEE SHALL ACCRUE
5 PAID SICK LEAVE BASED UPON THE NUMBER OF HOURS THAT COMPRISE THE
6 EMPLOYEE'S NORMAL WORK WEEK.

7 (3) (a) AN EMPLOYEE SHALL BEGIN TO ACCRUE PAID SICK LEAVE
8 WHEN EMPLOYMENT WITH THE EMPLOYER BEGINS AND SHALL BE ENTITLED
9 TO USE HIS OR HER ACCRUED PAID SICK LEAVE AS IT IS ACCRUED.

10 (b) ANY AMOUNT OF PAID SICK LEAVE THAT AN EMPLOYEE
11 ACCRUES IN A CALENDAR YEAR BUT DOES NOT USE CARRIES FORWARD TO
12 AND MAY BE USED IN SUBSEQUENT CALENDAR YEARS, BUT THE EMPLOYER
13 IS NOT REQUIRED TO ALLOW THE EMPLOYEE TO USE MORE PAID SICK LEAVE
14 IN A TWELVE-MONTH PERIOD THAN THE AMOUNTS SPECIFIED IN
15 SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS
16 SECTION, AS APPLICABLE.

17 (4) (a) AN EMPLOYER THAT HAS A PAID LEAVE POLICY FOR ITS
18 EMPLOYEES MAY SATISFY THE REQUIREMENTS OF THIS SECTION, AND IS
19 NOT REQUIRED TO PROVIDE ADDITIONAL PAID SICK LEAVE TO ITS
20 EMPLOYEES, IF THE EMPLOYER:

21 (I) MAKES AVAILABLE TO ITS EMPLOYEES, THROUGH ITS PAID
22 LEAVE POLICY, AN AMOUNT OF PAID LEAVE SUFFICIENT TO MEET THE
23 ACCRUAL REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION; AND

24 (II) ALLOWS ITS EMPLOYEES TO USE THE PAID LEAVE FOR THE
25 SAME PURPOSES AND UNDER THE SAME CONDITIONS AS THOSE APPLICABLE
26 TO PAID SICK LEAVE UNDER THIS ARTICLE.

27 (b) THIS SECTION DOES NOT APPLY TO EMPLOYEES IN THE STATE

1 PERSONNEL SYSTEM IF THE STATE'S LEAVE POLICY PROVIDES AN
2 EQUIVALENT BENEFIT TO STATE PERSONNEL SYSTEM EMPLOYEES WHO
3 WOULD OTHERWISE BE COVERED BY THIS ARTICLE.

4 (c) THIS SECTION DOES NOT APPLY TO EMPLOYEES OF A LOCAL
5 GOVERNMENT, AS DEFINED IN SECTION 29-1-102, C.R.S., IF THE LOCAL
6 GOVERNMENT'S LEAVE POLICY PROVIDES AN EQUIVALENT BENEFIT TO ITS
7 EMPLOYEES WHO WOULD OTHERWISE BE COVERED BY THIS ARTICLE.

8 (5) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
9 SUBSECTION (5), NOTHING IN THIS SECTION REQUIRES AN EMPLOYER TO
10 PROVIDE FINANCIAL OR OTHER REIMBURSEMENT OF ACCRUED BUT UNUSED
11 PAID SICK LEAVE TO AN EMPLOYEE UPON TERMINATION, RESIGNATION,
12 RETIREMENT, OR OTHER SEPARATION FROM EMPLOYMENT.

13 (b) IF AN EMPLOYEE SEPARATES FROM EMPLOYMENT AND IS
14 REHIRED BY THE SAME EMPLOYER WITHIN TWELVE MONTHS AFTER THE
15 SEPARATION, THE EMPLOYER SHALL REINSTATE ANY PAID SICK LEAVE
16 THAT THE EMPLOYEE HAD ACCRUED BUT NOT USED DURING HIS OR HER
17 INITIAL EMPLOYMENT WITH THE EMPLOYER AND HAD NOT BEEN
18 CONVERTED TO MONETARY COMPENSATION TO THE EMPLOYEE AT THE
19 TIME OF SEPARATION FROM EMPLOYMENT.

20 (6) AN EMPLOYER MAY LOAN PAID SICK LEAVE TO AN EMPLOYEE
21 IN ADVANCE OF ACCRUAL OF PAID SICK LEAVE BY THE EMPLOYEE.

22 **8-13.1-104. Use of paid sick leave - purposes - time increments.**

23 (1) AN EMPLOYEE SHALL BE ALLOWED TO USE HIS OR HER ACCRUED PAID
24 SICK LEAVE TO BE ABSENT FROM WORK FOR ANY OF THE FOLLOWING
25 PURPOSES:

26 (a) THE EMPLOYEE:

27 (I) HAS A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH

1 CONDITION;

2 (II) NEEDS TO OBTAIN A MEDICAL DIAGNOSIS, CARE, OR

3 TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH

4 CONDITION; OR

5 (III) NEEDS TO OBTAIN PREVENTIVE MEDICAL CARE;

6 (b) THE EMPLOYEE NEEDS TO CARE FOR A FAMILY MEMBER WHO:

7 (I) HAS A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH

8 CONDITION;

9 (II) NEEDS TO OBTAIN A MEDICAL DIAGNOSIS, CARE, OR

10 TREATMENT OF A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH

11 CONDITION; OR

12 (III) NEEDS TO OBTAIN PREVENTIVE MEDICAL CARE;

13 (c) THE EMPLOYEE OR A FAMILY MEMBER HAS BEEN THE VICTIM OF

14 DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING AND THE USE OF LEAVE

15 IS TO:

16 (I) SEEK MEDICAL ATTENTION FOR THE EMPLOYEE OR THE

17 EMPLOYEE'S FAMILY MEMBER TO RECOVER FROM PHYSICAL OR

18 PSYCHOLOGICAL INJURY OR DISABILITY CAUSED BY THE DOMESTIC ABUSE,

19 SEXUAL ASSAULT, OR STALKING;

20 (II) OBTAIN SERVICES FROM A VICTIM SERVICES ORGANIZATION;

21 (III) OBTAIN PSYCHOLOGICAL OR OTHER COUNSELING;

22 (IV) SEEK RELOCATION DUE TO THE DOMESTIC ABUSE, SEXUAL

23 ASSAULT, OR STALKING; OR

24 (V) TAKE LEGAL ACTION, INCLUDING PREPARATION FOR OR

25 PARTICIPATION IN A CIVIL OR CRIMINAL PROCEEDING RELATING TO OR

26 RESULTING FROM THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING;

27 (d) DUE TO A PUBLIC HEALTH EMERGENCY, A PUBLIC OFFICIAL HAS

1 ORDERED CLOSURE OF:

2 (I) THE EMPLOYEE'S PLACE OF BUSINESS; OR

3 (II) THE SCHOOL OR PLACE OF CARE OF THE EMPLOYEE'S CHILD
4 AND THE EMPLOYEE NEEDS TO BE ABSENT FROM WORK TO CARE FOR HIS OR
5 HER CHILD.

6 (2) THE EMPLOYER SHALL ALLOW AN EMPLOYEE TO USE PAID SICK
7 LEAVE UPON ORAL REQUEST MADE BY THE EMPLOYEE. WHEN POSSIBLE,
8 THE EMPLOYEE SHALL INCLUDE IN HIS OR HER REQUEST THE EXPECTED
9 DURATION OF THE EMPLOYEE'S ABSENCE FROM WORK.

10 (3) AN EMPLOYEE MAY USE PAID SICK LEAVE IN HOURLY
11 INCREMENTS OR THE SMALLEST INCREMENT OF TIME THAT THE
12 EMPLOYER'S PAYROLL SYSTEM USES TO ACCOUNT FOR ABSENCES OR USE
13 OF OTHER TIME OFF, WHICHEVER IS SMALLER. AN EMPLOYEE EMPLOYED
14 BY AN EMPLOYER THAT EMPLOYS TEN OR MORE EMPLOYEES MAY USE NO
15 MORE THAN SEVENTY-TWO HOURS OF ACCRUED SICK LEAVE IN A
16 TWELVE-MONTH PERIOD. AN EMPLOYEE EMPLOYED BY AN EMPLOYER
17 THAT EMPLOYS FEWER THAN TEN EMPLOYEES MAY USE NO MORE THAN
18 FORTY HOURS OF ACCRUED SICK LEAVE IN A TWELVE-MONTH PERIOD.

19 (4) AN EMPLOYER SHALL NOT REQUIRE, AS A CONDITION OF
20 PROVIDING PAID SICK LEAVE UNDER THIS ARTICLE, AN EMPLOYEE WHO
21 USES PAID SICK LEAVE TO SEARCH FOR OR FIND A REPLACEMENT WORKER
22 TO COVER THE TIME DURING WHICH THE EMPLOYEE IS ABSENT FROM
23 WORK.

24 **8-13.1-105. Employee rights protected - retaliation prohibited.**

25 (1) AN EMPLOYEE HAS THE FOLLOWING RIGHTS UNDER THIS ARTICLE:

26 (a) THE RIGHT TO USE ACCRUED PAID SICK LEAVE CONSISTENT
27 WITH THIS ARTICLE;

1 (b) THE RIGHT TO FILE A COMPLAINT OR INFORM ANY PERSON
2 ABOUT AN EMPLOYER'S ALLEGED VIOLATION OF THIS ARTICLE;

3 (c) THE RIGHT TO COOPERATE WITH THE DIVISION IN ITS
4 INVESTIGATION OF AN ALLEGED VIOLATION OF THIS ARTICLE; AND

5 (d) THE RIGHT TO INFORM ANY PERSON OF HIS OR HER POTENTIAL
6 RIGHTS UNDER THIS ARTICLE.

7 (2) (a) IT IS UNLAWFUL FOR AN EMPLOYER OR ANY OTHER PERSON
8 TO INTERFERE WITH, RESTRAIN, OR DENY AN EMPLOYEE THE RIGHT TO
9 EXERCISE OR ATTEMPT TO EXERCISE HIS OR HER RIGHTS UNDER THIS
10 ARTICLE.

11 (b) AN EMPLOYER SHALL NOT TAKE A RETALIATORY PERSONNEL
12 ACTION OR DISCRIMINATE AGAINST AN EMPLOYEE WHO EXERCISES HIS OR
13 HER RIGHTS UNDER THIS ARTICLE.

14 (c) IT IS UNLAWFUL FOR AN EMPLOYER, UNDER ITS ABSENCE
15 CONTROL POLICY, TO COUNT PAID SICK LEAVE USED BY AN EMPLOYEE AS
16 AN ABSENCE THAT MAY LEAD TO OR RESULT IN DISCIPLINE, DISCHARGE,
17 DEMOTION, SUSPENSION, OR ANY OTHER ADVERSE ACTION AGAINST THE
18 EMPLOYEE.

19 (3) A REBUTTABLE PRESUMPTION OF AN UNLAWFUL RETALIATORY
20 PERSONNEL ACTION IS CREATED IF AN EMPLOYER TAKES AN ADVERSE
21 ACTION AGAINST AN EMPLOYEE WITHIN NINETY DAYS AFTER THE
22 EMPLOYEE:

23 (a) USES ACCRUED PAID SICK LEAVE;

24 (b) FILES A COMPLAINT WITH THE DIVISION OR A COURT ALLEGING
25 A VIOLATION OF THIS ARTICLE;

26 (c) INFORMS ANY PERSON ABOUT AN EMPLOYER'S ALLEGED
27 VIOLATION OF THIS ARTICLE;

1 (d) COOPERATES WITH THE DIVISION OR ANOTHER PERSON IN THE
2 INVESTIGATION OR PROSECUTION OF AN ALLEGED VIOLATION OF THIS
3 ARTICLE;

4 (e) OPPOSES ANY POLICY, PRACTICE, OR ACT THAT IS UNLAWFUL
5 UNDER THIS ARTICLE; OR

6 (f) INFORMS ANY PERSON OF HIS OR HER RIGHTS UNDER THIS
7 ARTICLE.

8 (4) THE PROTECTIONS OF THIS SECTION APPLY TO ANY PERSON
9 ACTING IN GOOD FAITH WHO ALLEGES A VIOLATION OF THIS ARTICLE, EVEN
10 IF THE ALLEGATION IS DETERMINED TO BE MISTAKEN.

11 **8-13.1-106. Notice to employees.** (1) EMPLOYERS SHALL NOTIFY
12 THEIR EMPLOYEES THAT THEY ARE ENTITLED TO PAID SICK LEAVE. THE
13 NOTICE SHALL SPECIFY THE AMOUNT OF PAID SICK LEAVE TO WHICH
14 EMPLOYEES ARE ENTITLED AND THE TERMS OF ITS USE UNDER THIS
15 ARTICLE. THE NOTICE SHALL ALSO INFORM EMPLOYEES THAT EMPLOYERS
16 CANNOT RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING OR USING
17 PAID SICK LEAVE AND THAT AN EMPLOYEE HAS THE RIGHT TO FILE A
18 COMPLAINT OR BRING A CIVIL ACTION IF PAID SICK LEAVE IS DENIED BY
19 THE EMPLOYER OR THE EMPLOYER RETALIATES AGAINST THE EMPLOYEE
20 FOR EXERCISING HIS OR HER RIGHTS UNDER THIS ARTICLE.

21 (2) AN EMPLOYER MAY COMPLY WITH THE NOTICE REQUIREMENTS
22 OF THIS SECTION BY:

23 (a) SUPPLYING EACH EMPLOYEE WITH A WRITTEN NOTICE
24 CONTAINING THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS
25 SECTION THAT IS IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST
26 LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S
27 WORKFORCE; AND

1 (b) DISPLAYING A POSTER IN A CONSPICUOUS AND ACCESSIBLE
2 LOCATION IN EACH ESTABLISHMENT WHERE THE EMPLOYER'S EMPLOYEES
3 WORK THAT CONTAINS THE INFORMATION REQUIRED BY SUBSECTION (1)
4 OF THIS SECTION IN ENGLISH AND IN ANY LANGUAGE THAT IS THE FIRST
5 LANGUAGE SPOKEN BY AT LEAST FIVE PERCENT OF THE EMPLOYER'S
6 WORKFORCE.

7 (3) THE DIVISION SHALL CREATE AND MAKE AVAILABLE TO
8 EMPLOYERS POSTERS AND NOTICES THAT CONTAIN THE INFORMATION
9 REQUIRED BY SUBSECTION (1) OF THIS SECTION, AND EMPLOYERS MAY USE
10 THE POSTERS AND NOTICES TO COMPLY WITH THE REQUIREMENTS OF THIS
11 SECTION.

12 (4) AN EMPLOYER WHO WILLFULLY VIOLATES THIS SECTION IS
13 SUBJECT TO A CIVIL FINE NOT TO EXCEED ONE HUNDRED DOLLARS FOR
14 EACH SEPARATE VIOLATION. THE FINE SHALL BE TRANSMITTED TO THE
15 STATE TREASURER, WHO SHALL DEPOSIT IT IN THE GENERAL FUND.

16 **8-13.1-107. Employer records.** (1) AN EMPLOYER SHALL RETAIN
17 RECORDS FOR EACH EMPLOYEE FOR A FIVE-YEAR PERIOD, DOCUMENTING
18 HOURS WORKED, PAID SICK LEAVE ACCRUED, AND PAID SICK LEAVE USED.
19 UPON APPROPRIATE NOTICE AND AT A MUTUALLY AGREEABLE TIME, THE
20 EMPLOYER SHALL ALLOW THE DIVISION ACCESS TO THE RECORDS FOR
21 PURPOSES OF MONITORING COMPLIANCE WITH THIS ARTICLE.

22 (2) IF AN ISSUE ARISES AS TO AN EMPLOYEE'S RIGHT TO PAID SICK
23 LEAVE AND THE EMPLOYER HAS NOT MAINTAINED OR RETAINED ADEQUATE
24 RECORDS FOR THAT EMPLOYEE OR DOES NOT ALLOW THE DIVISION
25 REASONABLE ACCESS TO THE RECORDS, THE EMPLOYER SHALL BE
26 PRESUMED TO HAVE VIOLATED THIS ARTICLE ABSENT CLEAR AND
27 CONVINCING EVIDENCE TO DEMONSTRATE THE EMPLOYER'S COMPLIANCE.

1 **8-13.1-108. Authority of director - rules.** THE DIRECTOR SHALL
2 COORDINATE IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE AND
3 SHALL ADOPT RULES AS NECESSARY FOR SUCH PURPOSES.

4 **8-13.1-109. Enforcement - judicial review of director's actions.**

5 (1) THE DIRECTOR AND THE DIVISION HAVE JURISDICTION OVER THE
6 ENFORCEMENT OF THIS ARTICLE AND SHALL EXERCISE ALL POWERS
7 GRANTED UNDER ARTICLE 1 OF THIS TITLE TO ENFORCE THIS ARTICLE.

8 (2) PURSUANT TO SECTION 8-1-130, ANY FINDINGS, AWARDS, OR
9 ORDERS ISSUED BY THE DIRECTOR WITH RESPECT TO ENFORCEMENT OF
10 THIS ARTICLE CONSTITUTE FINAL AGENCY ACTION, AND ANY PERSON
11 AFFECTED BY SUCH FINAL AGENCY ACTION MAY SEEK JUDICIAL REVIEW AS
12 PROVIDED IN SECTION 24-4-106, C.R.S.

13 **8-13.1-110. Confidentiality of employee information -**
14 **definition.** (1) AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE, AS A
15 CONDITION OF USING PAID SICK LEAVE, TO DISCLOSE THE DETAILS OF:

16 (a) THE EMPLOYEE'S OR FAMILY MEMBER'S MEDICAL CONDITION;
17 OR

18 (b) ANY DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING THAT
19 GIVES RISE TO THE USE OF THE PAID SICK LEAVE.

20 (2) (a) IF AN EMPLOYER HAS AN EMPLOYEE'S OR FAMILY MEMBER'S
21 HEALTH INFORMATION OR INFORMATION PERTAINING TO AN EMPLOYEE'S
22 OR FAMILY MEMBER'S DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING,
23 THE EMPLOYER SHALL TREAT THE INFORMATION AS CONFIDENTIAL AND
24 SHALL NOT DISCLOSE THE INFORMATION EXCEPT TO THE AFFECTED
25 EMPLOYEE OR WITH THE PERMISSION OF THE AFFECTED EMPLOYEE.

26 (b) AS USED IN THIS SUBSECTION (2), "AFFECTED EMPLOYEE"
27 MEANS THE EMPLOYEE:

1 (I) ABOUT WHOM THE HEALTH INFORMATION PERTAINS OR WHO IS
2 THE VICTIM OF THE DOMESTIC ABUSE, SEXUAL ASSAULT, OR STALKING; OR

3 (II) WHOSE FAMILY MEMBER IS THE SUBJECT OF THE HEALTH
4 INFORMATION OR IS THE VICTIM OF THE DOMESTIC ABUSE, SEXUAL
5 ASSAULT, OR STALKING.

6 **8-13.1-111. Employers encouraged to provide more generous**
7 **paid sick leave.** (1) NOTHING IN THIS ARTICLE DISCOURAGES OR
8 PROHIBITS AN EMPLOYER FROM ADOPTING OR CONTINUING A PAID SICK
9 LEAVE POLICY THAT IS MORE GENEROUS THAN THE PAID SICK LEAVE
10 REQUIRED BY THIS ARTICLE.

11 (2) NOTHING IN THIS ARTICLE DIMINISHES THE OBLIGATION OF AN
12 EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING
13 AGREEMENT, EMPLOYMENT BENEFIT PLAN, OR OTHER AGREEMENT
14 PROVIDING EMPLOYEES WITH MORE GENEROUS PAID SICK LEAVE THAN THE
15 PAID SICK LEAVE REQUIRED BY THIS ARTICLE.

16 (3) NOTHING IN THIS ARTICLE DIMINISHES THE RIGHTS OF PUBLIC
17 EMPLOYEES REGARDING PAID SICK LEAVE OR THE USE OF PAID SICK LEAVE.

18 **8-13.1-112. Other legal requirements applicable.** THIS ARTICLE
19 PROVIDES MINIMUM REQUIREMENTS PERTAINING TO PAID SICK LEAVE AND
20 DOES NOT PREEMPT, LIMIT, OR OTHERWISE AFFECT THE APPLICABILITY OF
21 ANY OTHER LAW, RULE, REQUIREMENT, POLICY, OR STANDARD THAT
22 PROVIDES FOR GREATER ACCRUAL OR USE OF PAID OR UNPAID SICK LEAVE
23 BY EMPLOYEES OR THAT EXTENDS OTHER PROTECTIONS TO EMPLOYEES.

24 **8-13.1-113. Collective bargaining agreements.** THIS SECTION
25 DOES NOT APPLY TO EMPLOYEES COVERED BY A BONA FIDE COLLECTIVE
26 BARGAINING AGREEMENT TO THE EXTENT THAT THE REQUIREMENTS OF
27 THIS SECTION ARE EXPRESSLY WAIVED IN THE COLLECTIVE BARGAINING

1 AGREEMENT IN CLEAR AND UNAMBIGUOUS TERMS AND THE COLLECTIVE
2 BARGAINING AGREEMENT PROVIDES FOR AN EQUIVALENT BENEFIT FOR THE
3 EMPLOYEES COVERED BY THE AGREEMENT.

4 **8-13.1-114. Severability.** IF ANY PROVISION OF THIS ARTICLE OR
5 APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES IS JUDGED
6 INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR
7 APPLICATIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE
8 INVALID PROVISION OR APPLICATION, AND TO THIS END, THE PROVISIONS
9 OF THIS ARTICLE ARE DECLARED TO BE SEVERABLE.

10 **SECTION 2. Act subject to petition - effective date.** This act
11 shall take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part shall not take effect
17 unless approved by the people at the general election to be held in
18 November 2010 and shall take effect on the date of the official
19 declaration of the vote thereon by the governor.