

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Healthy Workplace Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds:

8 (1) Nearly every worker in the State is likely to need
9 time off to attend to his or her own illness or that of a
10 family member. More than 30% of all private sector workers
11 in Illinois (almost 2,000,000 people) have no right to a
12 paid sick day. Over three-fourths of the lowest-wage
13 workers do not receive paid sick time and cannot forfeit a
14 day's work, so they often come into work sick.

15 (2) Preventive and routine medical care helps avoid
16 illness and injury by detecting illnesses early on and
17 shortening the duration of illnesses. Providing employees
18 with time off to attend to their own health care needs
19 ensures that they will be healthier and more efficient
20 employees. It will also reduce the spread of disease within
21 workplaces and to the public, such as customers, when
22 employees go to work sick, a practice known as
23 "presenteeism". Routine medical care results in savings by

1 detecting and treating illness and injury early and
2 decreasing the need for emergency care. These savings
3 benefit public and private payers of health insurance.

4 (3) When the school of a worker's child is closed
5 because of extreme weather, it is often at the last minute
6 and workers cannot find someone to babysit, so they are
7 forced to stay at home to take care of their children.

8 (4) Nearly one-quarter of American women report
9 domestic violence and nearly one in 5 women report
10 experiencing rape at some time during their lives. Many
11 workers, men and women, need time off to care for their
12 health after these incidents or to take legal action.
13 Without paid time off, victims are in danger of losing
14 their jobs.

15 (5) Employed individuals who have court appointments,
16 sentencing hearings, probation, conditional discharge,
17 parole, or mandatory supervised release requirements, or
18 are visiting a family member in jail or prison need paid
19 time off work so that their families do not fall further
20 into economic jeopardy and so that they are not further
21 penalized, as these court-related events are frequently
22 scheduled during work hours.

23 (6) Employers that provide paid sick time see better
24 productivity, reduced flu contagion, and lower turnover,
25 which saves them the costs of replacing and training
26 workers.

1 (b) This Act is enacted to establish the Healthy Workplace
2 Act to provide at least a minimum time-off standard of paid
3 sick time for all workers.

4 Section 10. Definitions. As used in this Act:

5 "Child" means a son or daughter who is a biological,
6 adopted, or foster child, a stepchild, a legal ward, a child of
7 a person standing in loco parentis, or any other individual
8 whose close association with the employee is the equivalent of
9 a child.

10 "Construction industry" means any constructing, altering,
11 reconstructing, repairing, rehabilitating, refinishing,
12 refurbishing, remodeling, remediating, renovating, custom
13 fabricating, maintenance, landscaping, improving, wrecking,
14 painting, decorating, demolishing, or adding to or subtracting
15 from any building, structure, highway, roadway, street,
16 bridge, alley, sewer, ditch, sewage disposal plant,
17 waterworks, parking facility, railroad, excavation or other
18 structure, project, development, real property, or
19 improvement, or to do any part thereof, whether or not the
20 performance of the work herein described involves the addition
21 to or fabrication into, any structure, project, development,
22 real property, or improvement herein described of any material
23 or article of merchandise.

24 "Construction industry" also includes moving construction
25 related materials on the job site or to or from the job site,

1 snow plowing, snow removal, and refuse collection.

2 "Department" means the Illinois Department of Labor.

3 "Employ" means to suffer or permit to work.

4 "Employee" means any person who performs services for an
5 employer for wage, remuneration, or other compensation. This
6 includes persons working any number of hours, including a
7 full-time or part-time status.

8 "Employee" does not include any person who the employer
9 establishes:

10 (A) has been and will continue to be free from
11 control and direction over the performance of their
12 work, both under a contract of service and in fact;

13 (B) is engaged in an independently established
14 trade, occupation, profession or business; or

15 (C) is deemed a legitimate sole proprietor or
16 partnership.

17 A sole proprietor or partnership shall be deemed to be
18 legitimate if the employer establishes that:

19 (1) the sole proprietor or partnership is performing
20 the service free from the direction or control over the
21 means and manner of providing the service, subject only to
22 the right of the employer for whom the service is provided
23 to specify the desired result;

24 (2) the sole proprietor or partnership is not subject
25 to cancellation or destruction upon severance of the
26 relationship with the employer;

1 (3) the sole proprietor or partnership has a
2 substantial investment of capital in the sole
3 proprietorship or partnership beyond the ordinary tools
4 and equipment and a personal vehicle;

5 (4) the sole proprietor or partnership owns the capital
6 goods and gains the profits and bears the losses of the
7 sole proprietorship or partnership;

8 (5) the sole proprietor or partnership makes its
9 services available to the general public on a continuing
10 basis;

11 (6) the sole proprietor or partnership includes
12 services rendered on a Federal Income Tax Schedule as an
13 independent business or profession;

14 (7) the sole proprietor or partnership performs
15 services for the contractor under the sole proprietor's or
16 partnership's name;

17 (8) when the services being provided require a license
18 or permit, the sole proprietor or partnership obtains and
19 pays for the license or permit in the sole proprietorship's
20 or partnership's name;

21 (9) the sole proprietor or partnership furnishes the
22 tools and equipment necessary to provide the service;

23 (10) if necessary, the sole proprietor or partnership
24 hires its own employees without approval of the employer,
25 pays the employees without reimbursement from the employer
26 and reports the employees' income to the Internal Revenue

1 Service;

2 (11) the employer does not represent the sole
3 proprietorship or partnership as an employee of the
4 employer to the public; and

5 (12) the sole proprietor or partnership has the right
6 to perform similar services for others on whatever basis
7 and whenever it chooses.

8 "Employee" does not include any employee of an employer
9 subject to the Railway Labor Act.

10 Nothing in this Act shall hinder or prohibit the ability of
11 an exempted employee from taking uncompensated time off due to
12 any reason for leave allowable for paid sick time under Section
13 15.

14 "Employer" means any individual; person; partnership;
15 association; corporation; limited liability company; business
16 trust; employment or labor placement agency or business where
17 wages are made directly or indirectly by the agency or business
18 for work undertaken by the employee under hire to a third party
19 pursuant to a contract between the agency or business with the
20 third party; the State of Illinois and local governments; or
21 any political subdivision of the State or local government, or
22 State or local government agency; for which one or more persons
23 is gainfully employed, express or implied, whether lawfully or
24 unlawfully employed, who employs a worker or who employs a
25 worker not excluded as an employee pursuant to the definition
26 of "employee" or, notwithstanding any other law, who is the

1 employer or joint employer for collective bargaining purposes
2 of a bargaining unit of employees. "Employer" does not include
3 school districts organized under the School Code, park
4 districts organized under the Park District Code, or any City
5 of Chicago Sister Agency under the Chicago Minimum Wage and
6 Paid Sick Leave Ordinance as of the effective date of this Act.

7 "Family member" means a child, spouse, parent, child or
8 parent of an employee's spouse, sibling, grandparent,
9 grandchild, or any other individual related by blood or whose
10 close association with the employee is the equivalent of a
11 family relationship.

12 "Health care provider" means a person:

13 (1) who is:

14 (A) licensed to practice medicine in all of its
15 branches in Illinois and possesses the degree of doctor
16 of medicine;

17 (B) licensed to practice medicine in all of its
18 branches in Illinois and possesses the degree of doctor
19 of osteopathy or osteopathic medicine;

20 (C) licensed to practice medicine in all of its
21 branches or as an osteopathic physician in another
22 state or jurisdiction;

23 (D) a chiropractic physician licensed under the
24 Medical Practice Act of 1987; or

25 (E) any other person determined by final rule as of
26 the date this Act becomes law under the Family and

1 Medical Leave Act of 1993; and

2 (2) who is not employed by an employer to whom the
3 provider issues certifications under this Act.

4 "Paid sick time" means a portion of or an entire scheduled
5 or regular workday when an employee is unable to report to work
6 because of a reason described in subsection (b) of Section 15.

7 "Parent" means a biological, adoptive, or foster parent, a
8 stepparent, a parent of a legal ward, a person who stands in
9 loco parentis to an employee or an employee's spouse, or any
10 other individual whose close association with the employee is
11 the equivalent of a parent.

12 "Spouse" means a party to a marriage or a party to a civil
13 union as defined by law.

14 "Victim services organization" means a nonprofit,
15 nongovernmental organization that provides assistance to
16 victims of domestic or sexual violence, including rape crisis
17 centers, organizations carrying out a domestic violence
18 program, organizations operating a shelter or providing
19 counseling services, and a legal services organization or other
20 organization providing assistance through the legal process.

21 Section 15. Provision of paid sick time.

22 (a) An employee who works in Illinois who is absent from
23 work for a reason set forth in subsection (b) is entitled to
24 earn and use a minimum of 40 hours of paid sick time during a
25 12-month period or a pro rata number of hours of paid sick time

1 under the provisions of subsection (c). The 12-month period for
2 an employee shall be calculated annually from the date of hire
3 or the effective date of this Act, whichever is later.

4 (b) Paid sick time shall be provided to an employee by an
5 employer to:

6 (1) care for the employee's own physical or mental
7 illness, injury, or health condition, or seek medical
8 diagnosis or care, or attend a medical appointment;

9 (2) care for the employee's family member who is
10 suffering from a physical or mental illness, injury, or
11 health condition, or seek medical diagnosis or care, or
12 attend a medical appointment;

13 (3) care for a child whose school or place of care has
14 been closed by order of a public official due to a public
15 health emergency or to not go in to work because of the
16 closure of the employee's place of business by order of a
17 public official due to a public health emergency;

18 (4) be absent from work because the employee or the
19 employee's family member is the victim of:

20 (A) domestic violence as defined in Section 103(3)
21 of the Illinois Domestic Violence Act of 1986; or

22 (B) sexual violence, which means:

23 (i) any conduct proscribed by Article 11 of the
24 Criminal Code of 2012 except Sections 11-35 and
25 11-45;

26 (ii) Sections 12-7.3, 12-7.4, and 12-7.5 of

1 the Criminal Code of 2012; or
2 (iii) a similar provision of the Criminal Code
3 of 1961; or

4 (5) be absent from work to visit the employee's family
5 member who is in jail or prison, for the employee to attend
6 his or her own or his or her family member's appointment
7 regarding court sentencing, probation, conditional
8 discharge, parole, or mandatory supervised release
9 requirements, or any other civil or criminal court hearing
10 or trial.

11 (c) Paid sick time shall accrue at the rate of one hour of
12 paid sick time for every 40 hours worked up to a minimum of 40
13 hours of paid sick time unless the employer selects a higher
14 limit. Employees who are exempt from the overtime requirements
15 of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1))
16 shall be deemed to work 40 hours in each work week for purposes
17 of paid sick time accrual unless their normal work week is less
18 than 40 hours, in which case paid sick time accrues based on
19 that normal work week. Employees shall determine how much paid
20 sick time they need to use, provided that employers may set a
21 reasonable minimum increment for the use of paid sick time not
22 to exceed 4 hours per day.

23 (d) Employees shall be paid their regular rate of pay for
24 paid sick time. However, employees engaged in an occupation in
25 which gratuities or commissions have customarily and usually
26 constituted and have been recognized as part of the

1 remuneration for hire purposes shall be paid by their employer
2 at least the full minimum wage in the jurisdiction in which
3 they are employed when paid sick time is taken. Paid sick time
4 under this Act shall not be charged or otherwise credited to
5 employee vacation accounts.

6 (e) Paid sick time shall begin to accrue at the
7 commencement of employment or on the effective date of this
8 Act, whichever is later. Employees shall be entitled to begin
9 using paid sick time 180 days following commencement of their
10 employment or 180 days following the effective date of this
11 Act, whichever is later. Nothing in this Section shall be
12 construed to discourage or prohibit an employer from allowing
13 the use of paid sick time at an earlier date than this Section
14 requires. Nothing in this Act shall be construed to discourage
15 employers from adopting or retaining paid sick time policies
16 more generous than policies that comply with the requirements
17 of this Act.

18 (f) An employer may require certification of the qualifying
19 illness, injury, or health condition, or for time used pursuant
20 to item (1) or (2) of subsection (b), when paid sick time used
21 covers more than 3 consecutive workdays. Any reasonable
22 documentation signed by a health care provider of the
23 employee's choice involved in following or treating the
24 illness, injury, or health condition, and indicating the need
25 for the amount of sick time taken, shall be deemed acceptable
26 certification. Nothing in this Act shall be construed to

1 require an employee to provide as certification any information
2 from a health care provider that would be a disclosure in
3 violation of Section 1177 of the Social Security Act or the
4 regulations promulgated pursuant to the federal Health
5 Insurance Portability and Accountability Act of 1996. If an
6 employer possesses health information or any information
7 related to domestic or sexual violence about an employee or
8 employee's family member, the information shall be treated as
9 confidential and not disclosed except with the permission of
10 the affected employee. For paid sick time used pursuant to item
11 (4) of subsection (b), any one of the following is acceptable
12 documentation, and only one of the following shall be required:
13 a police report, court document, any reasonable documentation
14 signed by a health care provider, or signed statement from an
15 attorney, a member of the clergy, a victim services
16 organization or advocate, or the employee. It is up to the
17 employee to determine which documentation to submit. If a
18 document has been submitted, the employer shall not request or
19 require any other document if the reason for the sick time is
20 related to the same incident of violence or the same
21 perpetrator of the violence. The employer shall not delay the
22 commencement of leave taken for purposes of subsection (b) nor
23 delay pay for this period on the basis that the employer has
24 not yet received the certification.

25 (g) Paid sick time shall be provided upon the oral request
26 of an employee. If the necessity for paid sick time under this

1 Act is foreseeable, the employee shall provide the employer
2 with not less than 7 days' notice before the date the leave is
3 to begin. If the necessity for leave is not foreseeable, the
4 employee shall provide such notice as soon as is practical
5 after the employee is aware of the necessity of the leave. An
6 employer may not require, as a condition of providing paid sick
7 time under this Act, that the employee search for or find a
8 replacement worker to cover the hours during which the employee
9 is on paid sick time leave.

10 (h) Paid sick time shall carry over annually to the extent
11 not used by the employee, provided that nothing in this Act
12 shall be construed to require an employer to allow use of more
13 than 40 hours of paid sick time for an employee unless the
14 employer agrees to do so.

15 (i) It is unlawful for an employer to interfere with,
16 restrain, deny, change work days or hours scheduled to avoid
17 paying sick time, or discipline an employee for the exercise
18 of, or the attempt to exercise, any right provided under or in
19 connection with this Act, including considering the use of paid
20 sick time as a negative factor in an employment action that
21 involves hiring, terminating, evaluating, promoting,
22 disciplining, or counting the paid sick time under a no-fault
23 attendance policy.

24 (j) During any period an employee takes leave under this
25 Act, the employer shall maintain coverage for the employee and
26 any family member under any group health plan for the duration

1 of such leave at at least the level and conditions of coverage
2 as would have been provided if the employee had not taken the
3 leave.

4 (k) Nothing in this Section shall be construed as requiring
5 financial or other payment to an employee from an employer upon
6 the employee's termination, resignation, retirement, or other
7 separation from employment for accrued paid sick time that has
8 not been used.

9 (l) Nothing in this Section shall be construed to prohibit
10 an employer from taking disciplinary action, up to and
11 including termination, against an employee who uses paid sick
12 time provided pursuant to this Act for purposes other than
13 those described in this Section.

14 (m) If an employee is transferred to a separate division,
15 entity, or location, but remains employed by the same employer,
16 the employee is entitled to all paid sick time accrued at the
17 prior division, entity, or location and is entitled to use all
18 paid sick time as provided in this Section. If there is a
19 separation from employment and the employee is rehired within
20 12 months of separation by the same employer, previously
21 accrued paid sick time that had not been used shall be
22 reinstated. The employee shall be entitled to use accrued paid
23 sick time at the commencement of employment following a
24 separation from employment of 12 months or less.

25 (n) Nothing in this Section shall be deemed to interfere
26 with, impede, or in any way diminish the right of employees to

1 bargain collectively with their employers through
2 representatives of their own choosing in order to establish
3 wages or other conditions of work in excess of the applicable
4 minimum standards of the provisions of this Act. Nothing in
5 this Section shall be deemed to affect the validity or change
6 the terms of bona fide collective bargaining agreements in
7 force on the effective date of this Act. After the effective
8 date of this Act, requirements of this Section may be waived in
9 a bona fide collective bargaining agreement, but only if the
10 waiver is set forth explicitly in such agreement in clear and
11 unambiguous terms. In no event shall this Section apply to any
12 employee working in the construction industry who is covered by
13 a bona fide collective bargaining agreement.

14 Section 20. Related employer responsibilities.

15 (a) An employer subject to any provision of this Act shall
16 make and preserve records documenting hours worked by employees
17 and the amount of paid sick time taken by employees for a
18 period of not less than 3 years and shall allow the Department
19 access to such records, with appropriate notice and a mutually
20 agreeable time, to monitor compliance with the requirements of
21 this Section. In addition, the records shall be preserved for
22 the duration of any claim pending pursuant to Section 35.

23 (b) An agreement by employees to waive their rights under
24 this Act, except as allowed under subsection (n) of Section 15,
25 is void as against public policy.

1 (c) Employers who have a paid time off policy that complies
2 with the requirements of this Act are not required to modify
3 the policy if such policy offers an employee the option, at the
4 employee's discretion, to take paid sick time that is at least
5 equivalent to the paid sick time described in this Act.

6 (d) An employer shall post and keep posted in a conspicuous
7 place on the premises of the employer where notices to
8 employees are customarily posted, and include in an employee
9 manual or policy if the employer has one, a notice, to be
10 prepared by the Department, summarizing the requirements of
11 this Act and information pertaining to the filing of a charge.
12 If an employer's workforce is comprised of a significant
13 portion of workers who are not literate in English, the
14 employer is responsible for providing the notice in a language
15 in which the employees are literate. An employer who willfully
16 violates the notice and posting requirements of this Section
17 shall be subject to a civil penalty to be paid to the employee
18 in an amount not to exceed \$100 for each separate offense.

19 Section 25. Unlawful employer practices. It is unlawful for
20 any employer to take any adverse action against an employee
21 because the employee (1) exercises rights or attempts to
22 exercise rights under this Act, (2) opposes practices which
23 such employee believes to be in violation of this Act, or (3)
24 supports the exercise of rights of another under this Act. Such
25 unlawful employer practices include, but are not limited to,

1 any reference to the employee's or any of the employee's family
2 members' citizenship or immigration status, or any threat to
3 contact or actual contact with any local, State, or federal
4 government entities regarding the employee's or any of the
5 employee's family members' citizenship or immigration status,
6 or sexual harassment. Exercising rights under this Act includes
7 filing an action or instituting or causing to be instituted any
8 proceeding under or related to this Act; providing or agreeing
9 to provide any information in connection with any inquiry or
10 proceeding relating to any right provided under this Act; or
11 testifying to or agreeing to testify in any inquiry or
12 proceeding relating to any right provided under this Act.

13 Section 30. Department responsibilities.

14 (a) The Department shall administer and enforce this Act
15 and adopt rules under the Illinois Administrative Procedure Act
16 for the purpose of this Act. The Department shall have the
17 powers and the parties shall have the rights provided in the
18 Illinois Administrative Procedure Act for contested cases. The
19 Department shall have the power to conduct investigations in
20 connection with the administration and enforcement of this Act,
21 including the power to conduct depositions and discovery and to
22 issue subpoenas. If the Department finds cause to believe that
23 this Act has been violated, the Department shall notify the
24 parties in writing and the matter shall be referred to an
25 Administrative Law Judge to schedule a formal hearing in

1 accordance with hearing procedures established by rule.
2 Administrative decisions shall be reviewed under the
3 Administrative Review Law.

4 (b) The Department is authorized to impose civil penalties
5 prescribed in Section 35 in administrative proceedings that
6 comply with the Illinois Administrative Procedure Act and to
7 supervise the payment of the unpaid wages and damages owing to
8 the employee or employees under this Act. The Department may
9 bring any legal action necessary to recover the amount of
10 unpaid wages, damages, and penalties, and the employer shall be
11 required to pay the costs. Any sums recovered by the Department
12 on behalf of an employee under this Act shall be paid to the
13 employee or employees affected. However, 20% of any penalty
14 collected from the employer for a violation of this Act shall
15 be deposited into the Healthy Workplace Fund, a special fund
16 created in the State treasury that is dedicated to enforcing
17 this Act.

18 (c) The Attorney General may bring an action to enforce the
19 collection of any civil penalty imposed under this Act.

20 Section 35. Enforcement.

21 (a) An employee who believes his or her rights under this
22 Act or any rule adopted under this Act have been violated may,
23 within 3 years after the date of the last event constituting
24 the alleged violation for which the action is brought, file a
25 complaint with the Department or file a civil action.

1 (b) Any employer that violates this Act is liable in a
2 claim filed with the Department or in a civil action in circuit
3 court to any affected individuals for actual and compensatory
4 damages, with interest at the prevailing rate, punitive
5 damages, and such equitable relief as may be appropriate, in
6 addition to reasonable attorney's fees, reasonable expert
7 witness fees, and other costs of the action to be paid by the
8 defendant. A civil action may be brought without first filing a
9 complaint with the Department. Administrative decisions are
10 reviewable under the Administrative Review Law.

11 (c) Any employer that the Department or a court finds by a
12 preponderance of the evidence to have knowingly, repeatedly, or
13 with reckless disregard violated any provision of this Act or
14 any rule adopted under this Act is subject to a civil money
15 penalty to be paid to the employee not to exceed \$2,500 for
16 each separate offense.

17 Section 90. The State Finance Act is amended by adding
18 Section 5.891 as follows:

19 (30 ILCS 105/5.891 new)

20 Sec. 5.891. The Healthy Workplace Fund.

21 Section 97. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.