



HOUSE BILL 899: Enact KinCare Act.

2019-2020 General Assembly

Committee:	House State and Local Government. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 29, 2019
Introduced by:	Reps. Clemmons, Grange, Carney	Prepared by:	Jessica Sammons
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 899 would require an employer who provides either paid or unpaid sick leave to employees to allow an employee to use accrued sick leave to provide for care of a family member, for up to five consecutive days.*

CURRENT LAW: Article 2A of Chapter 95 is the Wage and Hour Act, which addresses wage levels, hours of labor, wage payment, the well-being of minors, the withholding of wages, and vacation pay plans. The Commissioner of Labor is charged with enforcement of the Article.

Under the Wage and Hour Act, employers must pay its employees at least minimum wage (currently \$7.25 per hour) for all hours worked, and not less than time and one half of the regular rate of pay for hours worked in excess of 40 hours in a workweek, unless the employee is exempt. Employers are not required to give mandatory wage benefits such as vacation pay, sick leave, jury duty pay, and holiday pay. Any grant of promised wages or wage benefits is in the discretion of each employer. However, if an employer does provide vacation pay plans for employees, the employer must give all vacation time off or payment in lieu of time off in accordance with company policy or practice. Employees must be notified of any policy or practice which requires or results in loss or forfeiture of vacation time or pay. If the employee is not notified, are not subject to the loss or forfeiture.

The Wage and Hour Act also requires employers to make and keep records of wages, hours, and other conditions and practices of employment.

BILL ANALYSIS: House Bill 899 would amend the Wage and Hour Act to require an employer who provides sick leave, whether paid or unpaid, for employees must allow an employee to use, in any calendar year, any accrued and available sick leave to attend to the care of a family member, for up to five consecutive days.

Any conditions placed on the use of the sick leave by the employee would also apply when used to attend to the care of a family member.

A "family member" would include any of the following:

- The employee's child, grandchild, sibling, spouse, domestic partner, civil union partner, parent, or grandparent.
- A sibling of a spouse, domestic partner, or civil union partner of the employee.
- Any other individual related by blood to the employee, or whose close association with the employee is the equivalent of a family relationship.

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"Sick leave" would be defined to apply to absences from employment for any of the following reasons:

- The employee is physically or mentally unable to perform job duties due to illness, injury, or a medical condition of the employee.
- The employee is obtaining preventative care or professional diagnosis or treatment for a medical condition of the employee.
- The employee has a medical reason, such as pregnancy or obtaining a physical examination.
- The employee, or a family member of the employee, is obtaining any of the following, due to being a victim of stalking or domestic or sexual violence:
 - Medical attention needed to recover from physical or psychological injury to disability caused by stalking or domestic or sexual violence.
 - Services from a designated domestic violence agency or other victim services organization.
 - Psychological therapy or other counseling.
 - Relocation or legal services, including obtaining a restraining order or preparing for, or participating in, any civil or criminal legal proceeding.

This benefit would not apply to:

- 1) Any benefit provided under an employee welfare benefit plan, subject to the federal Employee Retirement Income Security Act of 1974.
- 2) Any insurance benefit, workers' compensation benefit, unemployment compensation disability benefit, or other benefit not payable from the employer's general assets.

House Bill 899 would also prohibit an employer from taking retaliatory action against an employee for filing a claim or complaint, initiating an inquiry or investigation, or providing information regarding the use of accrued sick leave to attend to the care of a family member.

EFFECTIVE DATE: Effective October 1, 2019.