



JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
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November 17, 2016

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED

NOV 17 2016

STATE AUDITORS OFFICE

RE: Petition approval request from Richard Von Glahn regarding a proposed statutory amendment to Chapter 285, version 2 (2018-029)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Richard Von Glahn on November 16, 2016.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Jason Kander".

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

JAMES C. KIRKPATRICK STATE INFORMATION CENTER
600 W. MAIN STREET • JEFFERSON CITY 65101

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 6th day of November, 2018 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
NOV 16 2016
MO. SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

(Name of Payer) Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ___ day of _____, A.D. 201___.

Notary Public (Seal)

Signature of Notary

My commission expires _____.

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 285.600, 285.603, 285.606, 285.609, 285.612, 285.615, 285.618, 285.621, 285.624, 285.627, 285.630, 285.633, 285.636, 285.639, and 285.642 are enacted to read as follows:

285.600. As used in sections 285.600 through 285.642:

(1) “Department”, Department of Labor and Industrial Relations.

(2) “Director”, Director of the Department of Labor and Industrial Relations.

(3) “Earned paid sick time”, time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 285.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(4) “Employee”, any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii); or

(J) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550.

(5) “Employer”, any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 285.600 through 285.642, “employer” does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, or other political subdivision of the state.

(6) “Family member”, any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee’s spouse or domestic partner or an individual who stood in loco parentis when the employee or employee’s spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of a political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee’s spouse or domestic partner; or

(E) A member of the employee’s household.

(7) “Health care professional,” any individual licensed under Federal or State law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, and emergency room personnel.

(8) “Person”, any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(9) “Retaliatory personnel action”, denial of any right guaranteed under sections 285.600 through 285.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. “Retaliatory personnel action” shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 285.600 through 285.642.

(10) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 285.615 and section 285.627, "year" shall mean a calendar year.

285.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to accrue or use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to accrue or use more than twenty-four hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees who work for an employer for compensation per week fluctuates above and below fifteen employees per week over the course of the year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees on the payroll for some portion of a day in each of twenty different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or ninety days after this law goes into effect, whichever is later. An employer may provide all paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) An employee may use earned paid sick time as it is accrued, except that an employer may require an employee hired more than ninety days after this law goes into effect to wait until the ninetieth calendar day after commencing employment before using accrued earned paid sick time, unless otherwise permitted by the employer.

(C) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(D) Earned paid sick time shall be carried over to the following year, subject to the limitations on usage in subsections (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 285.600 through 285.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(E) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(F) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(G) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 285.600 through 285.642 is not required to provide additional paid sick time.

6. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

285.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventive medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventive medical care; or

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been

determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. An employer may not require that the documentation explain the nature of the illness unless otherwise required by law.

285.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 285.600 through 285.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because he or she has exercised rights protected under sections 285.600 through 285.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 285.600 through 285.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 285.600 through 285.642; the right to participate in an investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 285.600 through 285.642; and the right to inform any person of his or her potential rights under sections 285.600 through 285.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 285.600 through 285.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 285.600 through 285.642.

285.612. 1. Employers shall give employees written notice of the following at the commencement of employment or by ninety days after this law goes into effect, whichever is later: employees are entitled to earned paid sick time and the amount of earned paid sick time, the terms of its use guaranteed under sections 285.600 through 285.642, that retaliatory personnel action against employees who request or use earned paid sick time is prohibited, that each employee has the right to bring a civil action if earned paid sick time as required by sections 285.600 through 285.642 is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and, if applicable, the contact information for the Department where questions about rights and responsibilities under sections 285.600 through 285.642 may be answered.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in this subsection shall be interpreted or applied, either expressly or through practical necessity, to require the Department to create or make available notices or posters if it requires the appropriation of funds to cover the costs of such acts.

285.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 285.600 through 285.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in this section shall be interpreted or applied, either expressly or through practical necessity, to require the Department or Director to access or inspect records or to create forms relating to the inspection of records if it requires the appropriation of funds to cover the costs of such acts.

285.618. 1. The Department may, in accordance with chapter 536, promulgate rules to implement the provisions of sections 285.600 through 285.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

2. Nothing in this section shall be interpreted or applied, either expressly or through practical necessity, to require the promulgation or adoption of rules if it requires the appropriation of funds to cover the costs of such acts.

285.621. 1. To the extent permitted by law, the Department may investigate and ascertain compliance with sections 285.600 through 285.642, establish and implement a system to receive complaints regarding non-compliance with sections 285.600 through 285.642 and to investigate and attempt to resolve complaints through mediation between the complainant and the subject of the complaint, and establish additional means of enforcement to the extent permitted by the law.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 285.600 through 285.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. Nothing in this section shall be interpreted or applied, either expressly or through practical necessity, to require the Department to conduct investigations and ascertain compliance with sections 285.600 through 285.642, to establish and implement a system to receive or resolve complaints, to establish additional means of enforcement, or to conduct outreach and education, including the creation of notices and other written materials, concerning sections 285.600 through 285.642, if it requires the appropriation of funds to cover the costs of such acts.

285.624. 1. To the extent permitted by law, any employer who violates or fails to comply with any of the provisions and requirements of sections 285.600 through 285.642 shall be guilty of a class C misdemeanor and shall be punished for each violation thereof by a fine, up to the maximum allowed under state law for violation of a class C misdemeanor; provided, however, that an employer who willfully violates the notice and posting requirements of section 285.612 shall be guilty of an infraction and shall be punished for each violation thereof by a fine, up to the maximum allowed under state law for an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

285.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 285.600 through 285.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 285.600 through 285.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 285.600 through 285.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay. Any agreement between the employee and the employer to waive the protections of sections 285.600 through 285.642, with the exception of section 285.633, shall be no defense to the action.

285.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information as a condition of providing earned paid sick time under sections 285.600 through 285.642.

2. Unless as otherwise required by law, any health information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;
(B) be treated as confidential medical records; and
(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

285.633. 1. All or any portion of the earned paid sick time requirements of sections 285.600 through 285.642 shall not apply to employees covered by a valid collective bargaining agreement, to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

2. Notwithstanding subsection (1) of this section, with respect to employees covered by a valid collective bargaining agreement in effect on the effective date of sections 285.600 through 285.642, no provisions of sections 285.600 through 285.642 shall apply until the stated expiration date in the collective bargaining agreement.

3. Nothing in sections 285.600 through 285.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing.

285.636. 1. Nothing in sections 285.600 through 285.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 285.600 through 285.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 285.600 through 285.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri pertaining to public employees.

285.639. 1. Sections 285.600 through 285.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 285.600 through 285.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

285.642. Except as detailed in section 285.618, all of the provisions of sections 285.600 through 285.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 285.600 through 285.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 285.600 through 285.642 are declared severable.