

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of
2003

INTRODUCED BY YOUNGBLOOD, THOMAS, BEBKO-JONES, CRUZ, BELARDI,
BELFANTI, BISHOP, BROWNE, DeWEESE, FLICK, GOODMAN, HARHAI,
JAMES, KELLER, KIRKLAND, LAUGHLIN, LEDERER, LEVDANSKY, MANN,
MELIO, PISTELLA, SCRIMENTI, SHANER, STABACK, E. Z. TAYLOR,
TIGUE, WATERS, WEBER, WILLIAMS, WOJNAROSKI, CIVERA, HARPER,
DIVEN, HORSEY, WASHINGTON AND REICHLEY, FEBRUARY 24, 2003

AS AMENDED, COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES,
MARCH 31, 2004

AN ACT

1 Establishing the Victims of Domestic Violence Employment Leave
2 Act.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 ~~Section 1. Short title.~~

<—

6 ~~This act shall be known and may be cited as the Victims of~~
7 ~~Domestic Violence Employment Leave Act.~~

8 ~~Section 2. Legislative findings.~~

9 ~~The General Assembly finds and declares as follows:~~

10 ~~(1) Domestic violence affects many persons without~~
11 ~~regard to age, race, educational level, socioeconomic status,~~
12 ~~religion or occupation.~~

13 ~~(2) Domestic violence is a crime that has a devastating~~
14 ~~effect on families, communities and the workplace.~~

15 ~~(3) Domestic violence impacts on productivity,~~

effectiveness, absenteeism and employee turnover in the workplace.

(4) The National Crime Survey estimates that 175,000 days per year are missed from paid work due to domestic violence.

(5) The study also found that 56% of the victims were late for work at least five times a month, 28% of the victims had to leave work early at least five times a month and 54% missed at least three days a month, all due to domestic violence.

(6) Victims of domestic violence may be vulnerable at work when trying to end an abusive relationship because the workplace may be the only place where the perpetrator knows to contact the victim.

(7) Employers must be sensitive to the needs of employees who are experiencing domestic violence and be responsive to those needs through personnel leave and benefits policies.

(8) Employees who commit acts of domestic violence at or from the workplace should be disciplined in the same manner as employees who commit other acts of violence or harassment from the workplace.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Domestic violence." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or

1 ~~recklessly causing bodily injury, serious bodily injury,~~
2 ~~rape, involuntary deviate sexual intercourse, sexual assault,~~
3 ~~statutory sexual assault, aggravated indecent assault,~~
4 ~~indecent assault or incest with or without a deadly weapon.~~

5 ~~(2) Placing another in reasonable fear of imminent~~
6 ~~serious bodily injury.~~

7 ~~(3) The infliction of false imprisonment as provided~~
8 ~~under 18 Pa.C.S. § 2903 (relating to false imprisonment).~~

9 ~~(4) Physically or sexually abusing minor children,~~
10 ~~including such terms as defined in 23 Pa.C.S. Ch. 63~~
11 ~~(relating to child protective services).~~

12 ~~(5) Knowingly engaging in a course of conduct or~~
13 ~~repeatedly committing acts toward another person, including~~
14 ~~following the person, without proper authority, under~~
15 ~~circumstances which place the person in reasonable fear of~~
16 ~~bodily injury. The definition of this paragraph applies only~~
17 ~~to proceedings commenced under this act and is inapplicable~~
18 ~~to any criminal prosecutions commenced under 18 Pa.C.S.~~
19 ~~(relating to crimes and offenses).~~

20 ~~"Eligible employee." An individual who:~~

21 ~~(1) has been employed for at least 12 months by the~~
22 ~~employer with respect to whom leave under this act is~~
23 ~~requested;~~

24 ~~(2) has been employed for at least 1,250 hours of~~
25 ~~service with such employer during the previous 12 month~~
26 ~~period; and~~

27 ~~(3) is employed at a worksite within 75 miles of which~~
28 ~~such employer employs at least 50 employees.~~

29 ~~"Employer." Any of the following:~~

30 ~~(1) The Commonwealth or an agency or instrumentality of~~

1 ~~the Commonwealth.~~

2 ~~(2) A political subdivision or an agency or~~
3 ~~instrumentality of a political subdivision.~~

4 ~~(3) A person that employs at least 50 employees for each~~
5 ~~working day during each of 20 or more calendar work weeks in~~
6 ~~the current or preceding calendar year.~~

7 ~~"Perpetrator." A person who engages in domestic violence~~
8 ~~against another person or persons.~~

9 ~~"Victim of domestic violence." A person who is subjected to~~
10 ~~domestic violence by a perpetrator.~~

11 ~~Section 4. Leave requirement.~~

12 ~~(a) Entitlement. An eligible employee shall be entitled to~~
13 ~~a total of 30 days' leave during any 12 month period for one or~~
14 ~~more of the following:~~

15 ~~(1) To secure medical treatment to recover from injuries~~
16 ~~suffered from an act of domestic violence.~~

17 ~~(2) To attend to legal proceedings related to~~
18 ~~victimization by an act of domestic violence. Legal~~
19 ~~proceedings under this paragraph shall include matters~~
20 ~~arising under 23 Pa.C.S. Ch. 61 (relating to protection from~~
21 ~~abuse) and other related matters arising under 23 Pa.C.S.~~
22 ~~(relating to domestic relations).~~

23 ~~(3) To relocate to a new temporary or permanent place of~~
24 ~~residence for reasons of personal safety and to participate~~
25 ~~in domestic violence counseling.~~

26 ~~(b) Type of leave. Except as provided in section 5, leave~~
27 ~~granted under this section may consist of unpaid leave.~~

28 ~~Section 5. Relationship to paid leave.~~

29 ~~(a) General rule. If an employer provides paid leave for~~
30 ~~fewer than 30 days, the additional days to attain the 30 days of~~

1 ~~leave required under this act shall be provided either with or~~
2 ~~without compensation.~~

3 ~~(b) Other leave. An eligible employee may elect or an~~
4 ~~employer may require the employee to substitute any accrued paid~~
5 ~~vacation leave, personal leave or family leave of the employee~~
6 ~~for all or any part of the 30 day leave period provided under~~
7 ~~this act.~~

8 ~~Section 6. Requirement of notice.~~

9 ~~(a) General rule.—~~

10 ~~(1) Except as provided in paragraph (2), an eligible~~
11 ~~employee shall provide not less than ten business days'~~
12 ~~notice of the eligible employee's intention to take leave~~
13 ~~under the provisions of this act.~~

14 ~~(2) If attending to a matter described in section 4~~
15 ~~requires leave to begin in less than ten business days, the~~
16 ~~employee shall provide such notice as is practicable.~~

17 ~~(b) Reasonable effort by employee. The employee shall make~~
18 ~~a reasonable effort to schedule matters described in section~~
19 ~~4(a) so as not to disrupt unduly the operations of the employer,~~
20 ~~subject to the approval of the health care provider of the~~
21 ~~employee or officials involved in pending legal matters.~~

22 ~~Section 7. Certification.~~

23 ~~(a) General rule. An employer may require certification of~~
24 ~~a request for leave under the provisions of this act. The~~
25 ~~certification may be provided by law enforcement or legal~~
26 ~~records. The eligible employee shall provide, in a timely~~
27 ~~manner, a copy of the certification to the employer.~~

28 ~~(b) Form. Certification shall be in the form of one or more~~
29 ~~of the following:~~

30 ~~(1) Police report indicating that the employee was a~~

~~victim of domestic violence.~~

~~(2) A court order protecting or separating the employee from the perpetrator of an act of domestic violence against the employee.~~

~~(3) Documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries resulting in victimization from an act of domestic violence.~~

~~(c) Confidentiality. To the extent allowed by law, employers shall maintain the confidentiality of an employee requesting leave under this act.~~

~~Section 8. Employment and benefits protection.~~

~~(a) General rule. An eligible employee who takes leave under this act shall on return from leave be entitled to:~~

~~(1) restoration by the employer to the position of employment held by the employee when leave commenced; or~~

~~(2) restoration to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.~~

~~(b) Loss of benefits. The taking of leave shall not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.~~

~~(c) Restored employee. Nothing in this act shall be construed to entitle a restored employee to:~~

~~(1) the accrual of any seniority or employment benefits during any period of leave; or~~

~~(2) any right, benefit or position of employment other than a right, benefit or position to which the employee would have been entitled had the employee not taken the leave.~~

~~(d) Status report. Nothing in this section shall be~~

~~construed to prohibit an employer from requiring an employee on leave to report periodically to the employer on the status and intention of the employee to return to work.~~

~~(c) Maintain coverage. During the period when the eligible employee takes leave, the employer shall maintain coverage under a group health plan for the duration of the leave at the same level and under the same conditions that would have been provided if the employee's employment had not been temporarily interrupted by the leave. However, the employer may recover the premium from an employee who does not return to work after the leave expires unless:~~

~~(1) The employee fails to return to work on account of having relocated to a new temporary or permanent place of residence for reasons of personal safety.~~

~~(2) The employee fails to return to work because of continuing or recurring domestic violence or other circumstances beyond the control of the employee.~~

~~Section 9. Violations.~~

~~(a) General rule. An employer may not interfere with, restrain or deny the exercise of or the attempt to exercise any right provided under this act.~~

~~(b) Discrimination. An employer may not discharge or discriminate against an individual for exercising their rights under this act.~~

~~Section 10. Penalties.~~

~~(a) Lost compensation. An employer who violates the provisions of this act shall be liable for damages equal to any wages, salary, employment benefits or other compensation denied or lost to an eligible employee by reason of the violation.~~

~~(b) Monetary losses. An employer who violates the~~

~~provisions of this act shall be liable for damages sustained by the employee as a direct result of the violation.~~

~~(c) Equitable relief. An employer who violates the provisions of this act shall be liable for such equitable relief as may be appropriate, including employment reinstatement and promotion.~~

~~(d) Fine. An employer who violates the provisions of this act shall be subject to a civil fine of \$500 for each infraction. The Attorney General shall enforce this subsection.~~

~~Section 11. Right of action.~~

~~(a) General rule. Legal action to recover the damages or equitable relief under this act may be maintained against an employer in a court of competent jurisdiction in this Commonwealth by eligible employees.~~

~~(b) Fees. The court in such an action may, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney fee, reasonable expert witness fees and other costs of the action to be paid by the defendant.~~

~~Section 12. Statute of limitation.~~

~~An action may be brought under the provisions of this act not later than two years after the date of the last event constituting the alleged violation for which the action is brought.~~

~~Section 13. Effective date.~~

~~This act shall take effect in 90 days.~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE VICTIMS OF DOMESTIC VIOLENCE EMPLOYMENT LEAVE ACT.

SECTION 2. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL

HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"DOMESTIC VIOLENCE." ANY ACT OR ACTS OF ABUSE AS DEFINED IN
23 PA.C.S. § 6102 (RELATING TO DEFINITIONS).

"ELIGIBLE EMPLOYEE." AN INDIVIDUAL WHO:

(1) IS A VICTIM OF DOMESTIC VIOLENCE OR IS THE PARENT OF
A MINOR CHILD WHO IS A VICTIM OF DOMESTIC VIOLENCE;

(2) HAS BEEN EMPLOYED FOR AT LEAST 12 MONTHS BY THE
EMPLOYER TO WHOM A REQUEST FOR LEAVE UNDER THIS ACT IS
DIRECTED;

(3) HAS PERFORMED AT LEAST 1,250 HOURS OF SERVICE DURING
THE PREVIOUS 12 MONTHS OF EMPLOYMENT FOR SAID EMPLOYER; AND

(4) IS EMPLOYED AT A WORKSITE OR WITHIN 75 MILES OF A
WORKSITE, IN WHICH THE EMPLOYER EMPLOYS AT LEAST 50
EMPLOYEES.

"EMPLOYER." ANY OF THE FOLLOWING:

(1) THE COMMONWEALTH OR AN AGENCY OR INSTRUMENTALITY OF
THE COMMONWEALTH;

(2) A POLITICAL SUBDIVISION OF THE COMMONWEALTH OR AN
AGENCY OR INSTRUMENTALITY OF A POLITICAL SUBDIVISION;

(3) A PERSON OR ENTITY THAT CURRENTLY EMPLOYS AT LEAST
50 PERSONS EACH WORK DAY FOR 20 OR MORE WEEKS IN A CALENDAR
YEAR; OR

(4) A PERSON OR ENTITY THAT EMPLOYED AT LEAST 50 PERSONS
EACH WORK DAY FOR 20 OR MORE WEEKS IN THE IMMEDIATELY
PRECEDING CALENDAR YEAR.

"PERPETRATOR." A PERSON WHO HAS COMMITTED DOMESTIC VIOLENCE
AGAINST ANOTHER PERSON OR PERSONS.

"VICTIM OF DOMESTIC VIOLENCE." A PERSON WHO IS SUBJECTED TO
DOMESTIC VIOLENCE BY A PERPETRATOR.

1 SECTION 3. DOMESTIC VIOLENCE EMPLOYEE LEAVE.

2 (A) LEAVE REQUIREMENT.--

3 (1) AN ELIGIBLE EMPLOYEE MAY REQUEST AND AN EMPLOYER
4 SHALL PERMIT AN ELIGIBLE EMPLOYEE TO TAKE UNPAID LEAVE FROM
5 WORK FOR ANY OF THE FOLLOWING REASONS:

6 (I) FOR THE ELIGIBLE EMPLOYEE TO SECURE MEDICAL
7 TREATMENT TO RECOVER FROM INJURIES SUFFERED AS A RESULT
8 OF DOMESTIC VIOLENCE;

9 (II) FOR THE ELIGIBLE EMPLOYEE TO ATTEND TO LEGAL
10 PROCEEDINGS RELATING TO DOMESTIC VIOLENCE INVOLVING THE
11 ELIGIBLE EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S MINOR CHILD;

12 (III) FOR THE ELIGIBLE EMPLOYEE TO RELOCATE TO A NEW
13 TEMPORARY OR PERMANENT RESIDENCE FOR REASONS RELATED TO
14 DOMESTIC VIOLENCE;

15 (IV) FOR THE ELIGIBLE EMPLOYEE TO OBTAIN COUNSELING
16 OR ADVOCACY SERVICES; OR

17 (V) FOR THE ELIGIBLE EMPLOYEE TO ASSIST THEIR MINOR
18 CHILD WHO IS A VICTIM OF DOMESTIC VIOLENCE IN ANY OF THE
19 ACTIONS IN SUBPARAGRAPHS (I) THROUGH (IV).

20 (2) EXCEPT AS PROVIDED IN SUBSECTION (C), AN ELIGIBLE
21 EMPLOYEE SHALL BE ENTITLED TO A TOTAL OF 30 DAYS OF LEAVE
22 DURING ANY 12-MONTH PERIOD. THIS ACT SHALL NOT CREATE A RIGHT
23 FOR AN ELIGIBLE EMPLOYEE TO TAKE UNPAID LEAVE THAT EXCEEDS
24 THE UNPAID LEAVE TIME ALLOWED UNDER, NOR IS IT IN ADDITION TO
25 THE UNPAID LEAVE TIME PERMITTED BY, THE FAMILY AND MEDICAL
26 LEAVE ACT OF 1993(PUBLIC LAW 103-3, 29 U.S.C. 2601 ET SEQ.).

27 (3) AN ELIGIBLE EMPLOYEE SHALL MAKE A REASONABLE EFFORT
28 TO SCHEDULE MATTERS DESCRIBED IN PARAGRAPH (1) SO AS NOT TO
29 UNDULY DISRUPT THE OPERATIONS OF THE EMPLOYER.

30 (B) NOTICE.--

1 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), AN ELIGIBLE
2 EMPLOYEE SHALL PROVIDE THE EMPLOYER WITH AT LEAST FIVE DAYS'
3 ADVANCE NOTICE OF THE ELIGIBLE EMPLOYEE'S INTENTION TO TAKE
4 LEAVE PURSUANT TO SUBSECTION (A).

5 (2) AN ELIGIBLE EMPLOYEE SHALL PROVIDE NOTICE TO THE
6 EMPLOYER AS SOON AS PRACTICABLE IF NOTICE IN ACCORDANCE WITH
7 PARAGRAPH (1) IS NOT POSSIBLE DUE TO ANY OF THE FOLLOWING:

8 (I) THE SAFETY OF THE ELIGIBLE EMPLOYEE OR THE
9 ELIGIBLE EMPLOYEE'S MINOR CHILD;

10 (II) THE SCHEDULING OF ANY LEGAL PROCEEDING; OR

11 (III) THE AVAILABILITY OF COUNSELING OR ADVOCACY
12 SERVICES.

13 (3) WHEN AN UNSCHEDULED ABSENCE OCCURS, THE EMPLOYER MAY
14 NOT TAKE ANY ACTION AGAINST AN ELIGIBLE EMPLOYEE IF THE
15 ELIGIBLE EMPLOYEE, WITHIN A REASONABLE PERIOD AFTER THE
16 ABSENCE, PROVIDES CERTIFICATION UNDER SUBSECTION (C).

17 (C) CERTIFICATION.--

18 (1) AN EMPLOYER MAY REQUIRE AN ELIGIBLE EMPLOYEE TO
19 PROVIDE CERTIFICATION TO THE EMPLOYER THAT:

20 (I) THE ELIGIBLE EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S
21 MINOR CHILD IS A VICTIM OF DOMESTIC VIOLENCE; AND

22 (II) THE LEAVE IS REQUESTED FOR ONE OF THE PURPOSES
23 ENUMERATED IN SUBSECTION (A)(1).

24 (2) THE ELIGIBLE EMPLOYEE SHALL PROVIDE THE
25 CERTIFICATION TO THE EMPLOYER WITHIN A REASONABLE PERIOD
26 AFTER THE EMPLOYER REQUESTS CERTIFICATION.

27 (3) AN ELIGIBLE EMPLOYEE MAY SATISFY THE CERTIFICATION
28 REQUIREMENT OF PARAGRAPH (1) BY PROVIDING TO THE EMPLOYER ONE
29 OF THE FOLLOWING:

30 (I) A POLICE REPORT INDICATING THAT THE ELIGIBLE

1 EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S MINOR CHILD WAS A
2 VICTIM OF DOMESTIC VIOLENCE;

3 (II) A COURT ORDER PROTECTING OR SEPARATING THE
4 ELIGIBLE EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S MINOR CHILD
5 FROM THE PERPETRATOR;

6 (III) A SIGNED STATEMENT FROM A MEDICAL
7 PROFESSIONAL, THERAPIST, CLERGY MEMBER, COUNSELOR,
8 DOMESTIC VIOLENCE COUNSELOR OR DOMESTIC VIOLENCE ADVOCATE
9 AFFIRMING THAT THE ELIGIBLE EMPLOYEE OR THE ELIGIBLE
10 EMPLOYEE'S MINOR CHILD IS UNDERGOING COUNSELING FOR
11 PHYSICAL OR MENTAL INJURIES RESULTING FROM DOMESTIC
12 VIOLENCE;

13 (IV) A SIGNED STATEMENT FROM A VICTIM AND WITNESS
14 ADVOCATE OR OTHER COURT PERSONNEL AFFIRMING THAT THE
15 ELIGIBLE EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S MINOR CHILD
16 IS INVOLVED IN LEGAL PROCEEDINGS RELATING TO DOMESTIC
17 VIOLENCE; OR

18 (V) A SIGNED STATEMENT FROM A POLICE OFFICER, VICTIM
19 AND WITNESS ADVOCATE OR OTHER COURT PERSONNEL, MEDICAL
20 PROFESSIONAL, THERAPIST, CLERGY MEMBER, COUNSELOR,
21 DOMESTIC VIOLENCE COUNSELOR OR DOMESTIC VIOLENCE ADVOCATE
22 AFFIRMING THAT THE ELIGIBLE EMPLOYEE OR THE ELIGIBLE
23 EMPLOYEE'S MINOR CHILD HAS ONGOING SAFETY CONCERNS THAT
24 WARRANT ABSENCE FROM WORK.

25 (D) CONFIDENTIALITY.--ALL INFORMATION PROVIDED TO THE
26 EMPLOYER PURSUANT TO SUBSECTION (B) OR (C), INCLUDING THE FACT
27 THAT THE ELIGIBLE EMPLOYEE HAS REQUESTED OR OBTAINED LEAVE
28 PURSUANT TO THIS SECTION, SHALL BE RETAINED IN THE STRICTEST
29 CONFIDENCE BY THE EMPLOYER, EXCEPT TO THE EXTENT THAT DISCLOSURE
30 IS:

1 (1) REQUESTED OR CONSENTED TO IN WRITING BY THE ELIGIBLE
2 EMPLOYEE; OR

3 (2) OTHERWISE REQUIRED BY APPLICABLE FEDERAL OR STATE
4 LAW.

5 (E) EMPLOYMENT AND BENEFITS PROTECTION.--

6 (1) THE FOLLOWING SHALL APPLY:

7 (I) AN ELIGIBLE EMPLOYEE WHO TAKES LEAVE PURSUANT TO
8 SUBSECTION (A) SHALL, ON RETURN FROM SUCH LEAVE, BE
9 ENTITLED TO:

10 (A) RESTORATION TO THE POSITION HELD BY THE
11 ELIGIBLE EMPLOYEE WHEN LEAVE COMMENCED; OR

12 (B) RESTORATION TO AN EQUIVALENT POSITION WITH
13 EQUIVALENT EMPLOYMENT BENEFITS, PAY AND OTHER TERMS
14 AND CONDITIONS OF EMPLOYMENT.

15 (II) THE TAKING OF LEAVE PURSUANT TO SUBSECTION (A)
16 SHALL NOT RESULT IN THE LOSS OF ANY EMPLOYMENT BENEFITS
17 ACCRUED PRIOR TO THE DATE ON WHICH THE LEAVE COMMENCED.

18 (III) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED
19 TO ENTITLE ANY RESTORED ELIGIBLE EMPLOYEE TO:

20 (A) THE ACCRUAL OF ANY SENIORITY OR EMPLOYMENT
21 BENEFITS DURING ANY PERIOD OF LEAVE; OR

22 (B) ANY RIGHT, BENEFIT OR POSITION OR EMPLOYMENT
23 OTHER THAN ANY RIGHT, BENEFIT OR POSITION TO WHICH
24 THE RESTORED EMPLOYEE WOULD HAVE BEEN ENTITLED TO HAD
25 THE RESTORED EMPLOYEE NOT TAKEN THE LEAVE.

26 (IV) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
27 PROHIBIT AN EMPLOYER FROM REQUIRING AN ELIGIBLE EMPLOYEE
28 ON LEAVE PURSUANT TO SUBSECTION (A) TO REPORT
29 PERIODICALLY TO THE EMPLOYER ON THE STATUS AND INTENTION
30 OF THE EMPLOYEE TO RETURN TO WORK.

(2) THE FOLLOWING SHALL APPLY:

(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II), DURING ANY PERIOD THAT AN ELIGIBLE EMPLOYEE TAKES LEAVE PURSUANT TO SUBSECTION (A), THE EMPLOYER SHALL MAINTAIN COVERAGE UNDER A GROUP HEALTH PLAN FOR THE DURATION OF THE LEAVE AT THE SAME LEVEL AND UNDER THE SAME CONDITIONS THAT WOULD HAVE BEEN PROVIDED IF THE ELIGIBLE EMPLOYEE'S EMPLOYMENT HAD NOT BEEN INTERRUPTED BY THE LEAVE.

(II) THE EMPLOYER MAY RECOVER THE PREMIUM PAID BY THAT EMPLOYER FOR MAINTAINING COVERAGE FOR AN ELIGIBLE EMPLOYEE FROM AN ELIGIBLE EMPLOYEE WHO DOES NOT RETURN TO WORK AFTER THE LEAVE EXPIRES UNLESS:

(A) THE ELIGIBLE EMPLOYEE IS UNABLE TO RETURN TO WORK ON ACCOUNT OF HAVING RELOCATED TO A NEW TEMPORARY OR PERMANENT PLACE OF RESIDENCE FOR REASONS RELATING TO THE SECURITY OF THE ELIGIBLE EMPLOYEE OR THE ELIGIBLE EMPLOYEE'S MINOR CHILD; OR

(B) THE ELIGIBLE EMPLOYEE IS UNABLE TO RETURN TO WORK BECAUSE OF CONTINUING OR RECURRING DOMESTIC VIOLENCE OR OTHER CIRCUMSTANCES BEYOND THE CONTROL OF THE ELIGIBLE EMPLOYEE.

SECTION 4. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC VIOLENCE.

AN ELIGIBLE EMPLOYEE WHO IS ENTITLED TO TAKE PAID OR UNPAID LEAVE, INCLUDING, FAMILY, MEDICAL, SICK, ANNUAL, PERSONAL OR SIMILAR LEAVE, FROM EMPLOYMENT, PURSUANT TO FEDERAL, STATE OR LOCAL LAW, A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFITS PROGRAM OR PLAN, MAY ELECT TO SUBSTITUTE ANY PERIOD OF SUCH LEAVE FOR AN EQUIVALENT PERIOD OF LEAVE PROVIDED UNDER SECTION 3.

1 SECTION 5. PROHIBITED ACTS.

2 (A) GENERAL RULE.--AN EMPLOYER SHALL NOT INTERFERE WITH,
3 RESTRAIN OR DENY THE EXERCISE OF OR THE ATTEMPTED EXERCISE OF
4 ANY RIGHT PROVIDED BY THIS ACT.

5 (B) DISCRIMINATION.--AN EMPLOYER SHALL NOT DISCRIMINATE
6 AGAINST AN ELIGIBLE EMPLOYEE FOR EXERCISING THE ELIGIBLE
7 EMPLOYEE'S RIGHTS UNDER THIS ACT.

8 SECTION 6. PENALTIES.

9 (A) FINE.--AN EMPLOYER WHO VIOLATES THE PROVISIONS OF THIS
10 ACT SHALL BE SUBJECT TO A FINE OF \$500 FOR EACH VIOLATION.

11 (B) JURISDICTION.--THE ATTORNEY GENERAL OF THE COMMONWEALTH
12 SHALL HAVE JURISDICTION TO INVESTIGATE AND PROSECUTE EMPLOYERS
13 FOR VIOLATIONS OF THIS ACT.

14 SECTION 7. PRIVATE CAUSE OF ACTION.

15 (A) GENERAL RULE.--LEGAL ACTION TO RECOVER DAMAGES OR
16 EQUITABLE RELIEF UNDER THIS ACT MAY BE MAINTAINED AGAINST AN
17 EMPLOYER IN A COURT OF COMPETENT JURISDICTION IN THIS
18 COMMONWEALTH BY AN ELIGIBLE EMPLOYEE.

19 (B) RELIEF.--THE FOLLOWING SHALL APPLY:

20 (1) AN EMPLOYER WHO VIOLATES THE PROVISIONS OF THIS ACT
21 SHALL BE LIABLE FOR DAMAGES EQUAL TO ANY WAGES, SALARY,
22 EMPLOYMENT BENEFITS OR OTHER COMPENSATION DENIED OR LOST TO
23 AN ELIGIBLE EMPLOYEE BY REASON OF A VIOLATION OF THIS ACT.

24 (2) AN EMPLOYER WHO VIOLATES THE PROVISIONS OF THIS ACT
25 SHALL BE LIABLE FOR DAMAGES SUSTAINED BY AN ELIGIBLE EMPLOYEE
26 AS A DIRECT RESULT OF THE VIOLATION OF THIS ACT.

27 (3) AN EMPLOYER WHO VIOLATES THE PROVISIONS OF THIS ACT
28 SHALL BE LIABLE FOR SUCH EQUITABLE RELIEF AS MAY BE
29 APPROPRIATE, INCLUDING REINSTATEMENT AND PROMOTION.

30 (4) THE COURT IN AN ACTION UNDER THIS SUBSECTION MAY, IN

1 ADDITION TO ANY OTHER AWARD, ORDER THE EMPLOYER TO REIMBURSE
2 THE ELIGIBLE EMPLOYEE FOR REASONABLE ATTORNEY AND EXPERT FEES
3 AND OTHER COSTS INCURRED BY THE PLAINTIFF IN BRINGING THE
4 ACTION.

5 SECTION 8. STATUTE OF LIMITATIONS.

6 ANY ACTION BROUGHT UNDER THE PROVISIONS OF THIS ACT SHALL BE
7 COMMENCED NOT LATER THAN ONE YEAR FOLLOWING THE DATE OF THE LAST
8 EVENT CONSTITUTING THE ALLEGED VIOLATION OF THIS ACT.

9 SECTION 40. EFFECTIVE DATE.

10 THIS ACT SHALL TAKE EFFECT IN 90 DAYS.