
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 375 Session of
2003

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FEBRUARY 24, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 24, 2003

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,
16 effectiveness, absenteeism and employee turnover in the

1 workplace.

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

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

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

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

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

22 Section 3. Definitions.

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

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

29 (1) Attempting to cause or intentionally, knowingly or
30 recklessly causing bodily injury, serious bodily injury,

1 rape, involuntary deviate sexual intercourse, sexual assault,
2 statutory sexual assault, aggravated indecent assault,
3 indecent assault or incest with or without a deadly weapon.

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

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

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

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

19 "Eligible employee." An individual who:

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

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

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

28 "Employer." Any of the following:

29 (1) The Commonwealth or an agency or instrumentality of
30 the Commonwealth.

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

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

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

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

10 Section 4. Leave requirement.

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

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

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

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

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

27 Section 5. Relationship to paid leave.

28 (a) General rule.--If an employer provides paid leave for
29 fewer than 30 days, the additional days to attain the 30 days of
30 leave required under this act shall be provided either with or

1 without compensation.

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

7 Section 6. Requirement of notice.

8 (a) General rule.--

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

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

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

21 Section 7. Certification.

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

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

29 (1) Police report indicating that the employee was a
30 victim of domestic violence.

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

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

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

11 Section 8. Employment and benefits protection.

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

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

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

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

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

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

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

29 (d) Status report.--Nothing in this section shall be
30 construed to prohibit an employer from requiring an employee on

1 leave to report periodically to the employer on the status and
2 intention of the employee to return to work.

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

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

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

17 Section 9. Violations.

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

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

24 Section 10. Penalties.

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

29 (b) Monetary losses.--An employer who violates the
30 provisions of this act shall be liable for damages sustained by

1 the employee as a direct result of the violation.

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

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

9 Section 11. Right of action.

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

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

18 Section 12. Statute of limitation.

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

23 Section 13. Effective date.

24 This act shall take effect in 90 days.