

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 24

Session of
2001

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JANUARY 23, 2001

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 5, 2001

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

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

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

(3) The infliction of false imprisonment pursuant to 18
Pa.C.S. § 2903 (relating to false imprisonment).

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

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

"Eligible employee." An individual who has been employed for
at least 12 months by the employer with respect to whom leave
under this act is requested and who has been employed for at
least 1,250 hours of service with such employer during the
previous 12-month period.

"Employer." Any business that employs 50 or more employees
for each working day during each of 20 or more calendar work
weeks in the current or preceding calendar year.

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

"Victim of domestic violence." A person who is subjected to

1 domestic violence by a perpetrator.

2 Section 4. Leave requirement.

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

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

8 (2) To attend to legal proceedings related to
9 victimization by an act of domestic violence. Legal
10 proceedings under this paragraph shall include matters
11 arising under 23 Pa.C.S. Ch. 61 (relating to protection from
12 abuse) and other related matters arising under 23 Pa.C.S.
13 (relating to domestic relations).

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

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

19 Section 5. Relationship to paid leave.

20 (a) General rule.--If an employer provides paid leave for
21 fewer than 30 days, the additional days to attain the 30 days of
22 leave required under this act shall be provided either with or
23 without compensation.

24 (b) Other leave.--An eligible employee may elect or an
25 employer may require the employee to substitute any accrued paid
26 vacation leave, personal leave or family leave of the employee
27 for all or any part of the 30-day leave period provided under
28 this act.

29 Section 6. Requirement of notice.

30 (a) General rule.--

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

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

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

13 Section 7. Certification.

14 (a) General rule.--An employer may require certification of
15 a request for leave under the provisions of this act. The
16 certification may be provided by law enforcement or legal
17 records. The eligible employee shall provide, in a timely
18 manner, a copy of such certification to the employer.

19 (b) Form.--Certification shall be sufficient in the form of
20 the following:

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

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

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

30 (c) Confidentiality.--To the extent allowed by law,

1 employers shall maintain the confidentiality of any employee
2 requesting leave under this act.

3 Section 8. Employment and benefits protection.

4 (a) General rule.--Any eligible employee who takes leave
5 shall on return from leave be entitled to:

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

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

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

14 (c) Restored employee.--Nothing in this act shall be
15 construed to entitle any restored employee to:

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

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

22 (d) Status report.--Nothing in this section shall be
23 construed to prohibit any employer from requiring any employee
24 on leave to report periodically to the employer on the status
25 and intention of the employee to return to work.

26 (e) Maintain coverage.--During any period when the eligible
27 employee takes leave, the employer shall maintain coverage under
28 any group health plan for the duration of such leave at the same
29 level and under the same conditions that would have been
30 provided if the employee had continued in employment

1 continuously for the duration of such leave. However, the
2 employer may recover the premium that the employer paid for
3 maintaining coverage for the employee under such group health
4 plan during any period of unpaid leave if:

5 (1) The employee fails to return from leave after the
6 period of leave to which the employee is entitled has
7 expired, except where the employee fails to return to work on
8 account of having relocated to a new temporary or permanent
9 place of residence for reasons of personal safety.

10 (2) The employee fails to return to work for a reason
11 other than continuance or recurrence of domestic violence or
12 other circumstances beyond the control of the employee.

13 Section 9. Violations.

14 (a) General rule.--No employer may interfere with, restrain
15 or deny the exercise of or the attempt to exercise any right
16 provided under this act.

17 (b) Discrimination.--No employer may discharge or in any
18 other manner discriminate against an individual for opposing any
19 practice made unlawful by this act.

20 Section 10. Penalties.

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

25 (b) Monetary losses.--Any employer who violates the
26 provisions of this act shall be liable for damages equal to any
27 actual monetary losses sustained by the employee as a direct
28 result of the violation up to 30 days of wages or salary for the
29 employee.

30 (c) Equitable relief.--Any employer who violates the

1 provisions of this act shall be liable for such equitable relief
2 as may be appropriate, including employment reinstatement and
3 promotion.

4 Section 11. Right of action.

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

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

13 Section 12. Limitation.

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

18 Section 13. Effective date.

19 This act shall take effect ~~in 60 days~~ JULY 1, 2001.

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