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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 441**      Session of  
2007

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INTRODUCED BY ORIE, PUNT, COSTA, KITCHEN, FONTANA, TARTAGLIONE,  
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RAFFERTY AND WONDERLING, MARCH 14, 2007

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REFERRED TO LABOR AND INDUSTRY, MARCH 14, 2007

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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 productivity,  
16 effectiveness, absenteeism and employee turnover in the  
17 workplace.

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

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

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

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

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

### 21 Section 3. Definitions.

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

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

28 (1) Attempting to cause or intentionally, knowingly or  
29 recklessly causing bodily injury, serious bodily injury,  
30 rape, involuntary deviate sexual intercourse, sexual assault,

1 statutory sexual assault, aggravated indecent assault,  
2 indecent assault or incest with or without a deadly weapon.

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

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

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

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

18 "Eligible employee." An individual who:

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

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

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

27 "Employer." Any of the following:

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

30 (2) A political subdivision or an agency or

1 instrumentality of a political subdivision.

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

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

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

9 Section 4. Leave requirement.

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

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

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

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

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

26 Section 5. Relationship to paid leave.

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

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

6 Section 6. Requirement of notice.

7 (a) General rule.--

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

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

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

20 Section 7. Certification.

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

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

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

30 (2) A court order protecting or separating the employee

1 from the perpetrator of an act of domestic violence against  
2 the employee.

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

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

10 Section 8. Employment and benefits protection.

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

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

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

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

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

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

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

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

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

3 (e) Maintain coverage.--During any period when the eligible  
4 employee takes leave, the employer shall maintain coverage under  
5 any group health plan for the duration of such leave at the same  
6 level and under the same conditions that would have been  
7 provided if the employee had continued in employment  
8 continuously for the duration of such leave. However, the  
9 employer may recover the premium that the employer paid for  
10 maintaining coverage for the employee under such group health  
11 plan during any period of unpaid leave if:

12 (1) The employee fails to return from leave after the  
13 period of leave to which the employee is entitled has  
14 expired, except where the employee fails to return to work on  
15 account of having relocated to a new temporary or permanent  
16 place of residence for reasons of personal safety.

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

20 Section 9. Violations.

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

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

27 Section 10. Penalties.

28 (a) Lost compensation.--Any employer who violates the  
29 provisions of this act shall be liable for damages equal to any  
30 wages, salary, employment benefits or other compensation denied

1 or lost to an eligible employee by reason of the violation.

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

7 (c) Equitable relief.--Any employer who violates the  
8 provisions of this act shall be liable for such equitable relief  
9 as may be appropriate, including employment reinstatement and  
10 promotion.

11 (d) Fine.--Any employer who violates the provisions of this  
12 act shall be subject to a civil fine of \$500 for each  
13 infraction. The Attorney General shall enforce this subsection.  
14 Section 11. Right of action.

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

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

23 Section 12. Limitation.

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

28 Section 13. Effective date.

29 This act shall take effect July 1, 2007.