
SENATE BILL 5329

State of Washington

57th Legislature

2001 Regular Session

By Senators Costa, Fairley, Hargrove, Kline, Gardner, Eide, Kohl-Welles and Prentice

Read first time 01/19/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to leave from employment for crime victims;
2 amending RCW 7.68.020; adding new sections to chapter 7.68 RCW;
3 creating a new section; prescribing penalties; and providing an
4 effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. The legislature finds
7 that an employee who is a crime victim must often take leave from work
8 in order to participate in legal proceedings, obtain medical treatment,
9 and obtain other necessary services arising from the crime. The
10 legislature also finds that the demands of the workplace, the needs of
11 the criminal justice system, and the needs of crime victims must be
12 balanced in order to have economic security and a well-functioning
13 society. The legislature therefore finds that it is in the public
14 interest to provide reasonable leave from employment for crime victims.

15 **Sec. 2.** RCW 7.68.020 and 1997 c 249 s 1 are each amended to read
16 as follows:

1 The following words and phrases as used in this chapter have the
2 meanings set forth in this section unless the context otherwise
3 requires.

4 (1) "Department" means the department of labor and industries.

5 (2) "Criminal act" means an act committed or attempted in this
6 state which is punishable as a felony or gross misdemeanor under the
7 laws of this state, or an act committed outside the state of Washington
8 against a resident of the state of Washington which would be
9 compensable had it occurred inside this state; and the crime occurred
10 in a state which does not have a crime victims compensation program,
11 for which the victim is eligible as set forth in the Washington
12 compensation law, or an act of terrorism as defined in 18 U.S.C. Sec.
13 2331, as it exists on May 2, 1997, committed outside of the United
14 States against a resident of the state of Washington, except as
15 follows:

16 (a) The operation of a motor vehicle, motorcycle, train, boat, or
17 aircraft in violation of law does not constitute a "criminal act"
18 unless:

19 (i) The injury or death was intentionally inflicted;

20 (ii) The operation thereof was part of the commission of another
21 non-vehicular criminal act as defined in this section;

22 (iii) The death or injury was the result of the operation of a
23 motor vehicle after July 24, 1983, and a preponderance of the evidence
24 establishes that the death was the result of vehicular homicide under
25 RCW 46.61.520, or a conviction of vehicular assault under RCW
26 46.61.522, has been obtained: PROVIDED, That in cases where a probable
27 criminal defendant has died in perpetration of vehicular assault or,
28 because of physical or mental infirmity or disability the perpetrator
29 is incapable of standing trial for vehicular assault, the department
30 may, by a preponderance of the evidence, establish that a vehicular
31 assault had been committed and authorize benefits; or

32 (iv) Injury or death caused by a driver in violation of RCW
33 46.61.502;

34 (b) Neither an acquittal in a criminal prosecution nor the absence
35 of any such prosecution is admissible in any claim or proceeding under
36 this chapter as evidence of the noncriminal character of the acts
37 giving rise to such claim or proceeding, except as provided for in
38 subsection (2)(a)(iii) of this section;

1 (c) Evidence of a criminal conviction arising from acts which are
2 the basis for a claim or proceeding under this chapter is admissible in
3 such claim or proceeding for the limited purpose of proving the
4 criminal character of the acts; and

5 (d) Acts which, but for the insanity or mental irresponsibility of
6 the perpetrator, would constitute criminal conduct are deemed to be
7 criminal conduct within the meaning of this chapter.

8 (3) "Victim" means a person who suffers bodily injury or death as
9 a proximate result of a criminal act of another person, the victim's
10 own good faith and reasonable effort to prevent a criminal act, or his
11 good faith effort to apprehend a person reasonably suspected of
12 engaging in a criminal act. For purposes of being eligible for leave
13 from employment under section 3 of this act, "victim" includes a person
14 who has been harassed or followed by a person stalking in violation of
15 RCW 9A.46.110, a survivor of a homicide victim who was an immediate
16 family member, and a parent of a child who has been subject to sexual
17 abuse. For the purposes of receiving benefits pursuant to this
18 chapter, "victim" is interchangeable with "employee" or "workman" as
19 defined in chapter 51.08 RCW as now or hereafter amended.

20 (4) "Employer" shall have the same meaning as defined in RCW
21 51.08.070.

22 (5) "Sexual abuse" means a violation of chapter 9.68 or 9A.44 RCW.

23 (6) "Child," "accredited school," "dependent," "beneficiary,"
24 "average monthly wage," "director," "injury," "invalid," "permanent
25 partial disability," and "permanent total disability" have the meanings
26 assigned to them in chapter 51.08 RCW as now or hereafter amended.

27 ~~((+5))~~ (7) "Gainfully employed" means engaging on a regular and
28 continuous basis in a lawful activity from which a person derives a
29 livelihood.

30 ~~((+6))~~ (8) "Private insurance" means any source of recompense
31 provided by contract available as a result of the claimed injury or
32 death at the time of such injury or death, or which becomes available
33 any time thereafter.

34 ~~((+7))~~ (9) "Public insurance" means any source of recompense
35 provided by statute, state or federal, available as a result of the
36 claimed injury or death at the time of such injury or death, or which
37 becomes available any time thereafter.

1 NEW SECTION. **Sec. 3.** REQUIRED LEAVE. (1) An employer must grant
2 reasonable and necessary leave from work, with or without pay, for an
3 employee to:

4 (a) Prepare for and attend court proceedings;

5 (b) Receive medical treatment; or

6 (c) Obtain necessary services to remedy a crisis caused by domestic
7 violence, sexual assault, sexual abuse, stalking, or the homicide of an
8 immediate family member.

9 (2) The leave must be needed because the employee is a victim of a
10 criminal act, has been harassed or followed by a stalker in violation
11 of RCW 9A.46.110, is a survivor of a homicide victim who was an
12 immediate family member, or is a parent of a child who has been subject
13 to sexual abuse.

14 (3) A written request for leave must be provided to the employer at
15 least seven days in advance of the leave, but a shorter notice may be
16 sufficient if it is reasonable under the circumstances.

17 (4) An employer is not required to grant leave under this section
18 if:

19 (a) The employer would sustain undue hardship from the employee's
20 absence;

21 (b) The requested leave is not communicated to the employer within
22 a reasonable time under the circumstances; or

23 (c) The requested leave is impractical, unreasonable, or
24 unnecessary based upon the facts then made known to the employer.

25 NEW SECTION. **Sec. 4.** EMPLOYEE BENEFITS. The taking of leave
26 under section 3 of this act shall not result in the loss of any
27 benefits for the employee that accrued before the date on which the
28 leave commenced. The employer may not sanction an employee for
29 exercising the right to take leave under section 3 of this act.

30 NEW SECTION. **Sec. 5.** ADDITIONAL RIGHTS--REMEDIES--COLLECTIVE
31 BARGAINING OBLIGATIONS AND RIGHTS NOT DIMINISHED. (1) The rights
32 provided in this act are in addition to any other rights provided by
33 law.

34 (2) Nothing in this act shall be construed to discourage employers
35 from adopting policies that provide greater leave rights to employees
36 who are crime victims than those required by this act.

1 (3) Nothing in this act shall be construed to diminish an
2 employer's obligation to comply with any collective bargaining
3 agreement or any employment benefit program or plan that provides
4 greater leave rights to employees than the rights provided by this act.

5 NEW SECTION. **Sec. 6.** COMPLAINT--CONTENTS--NOTICE--INVESTIGATION.

6 (1) An employee who believes that an employer has violated any
7 provision of this act may file a complaint with the department within
8 ninety days of the alleged violation. The contents of the complaint
9 shall be the same as is required for a complaint filed under RCW
10 49.78.140.

11 (2) Upon receipt of a complaint, the department shall forward
12 written notice of the complaint to the employer.

13 (3) The department may investigate any complaint filed within the
14 required time frame. If the department determines that a violation of
15 this chapter has occurred, it may issue a notice of infraction.

16 NEW SECTION. **Sec. 7.** NOTICES OF INFRACTIONS--APPEALS. Notices of
17 infractions and appeals to contest notices of infractions issued under
18 this act are subject to the same requirements as provided in RCW
19 49.78.150 through 49.78.180.

20 NEW SECTION. **Sec. 8.** PENALTIES. An employer found to have
21 committed an infraction of this act may be subject to a fine of up to
22 two hundred dollars for the first infraction. An employer that
23 continues to violate the provisions of this chapter may be subject to
24 a fine of up to one thousand dollars for each infraction.

25 NEW SECTION. **Sec. 9.** POSTER REQUIRED. The department shall
26 include notice of the provisions of this act in the next reprinting of
27 employment posters printed under RCW 49.78.200.

28 NEW SECTION. **Sec. 10.** Captions used in this act are not any part
29 of the law.

30 NEW SECTION. **Sec. 11.** Sections 1 and 3 through 9 of this act are
31 each added to chapter 7.68 RCW.

1 NEW SECTION. **Sec. 12.** EFFECTIVE DATE. This act takes effect
2 September 1, 2001.

--- END ---