
Commerce & Labor Committee

SSB 5900

Brief Description: Increasing the safety of victims of domestic violence, sexual assault, or stalking by ensuring leave from employment.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Regala, Haugen, Shin, Kline, Keiser, Spanel and Delvin).

Brief Summary of Substitute Bill

- Requires employers to provide reasonable leave to employees who are victims of domestic violence, sexual assault, or stalking, or whose family members are victims.

Hearing Date: 2/26/08

Staff: Joan Elgee (786-7106).

Background:

Under federal and state family leave laws, larger employers must grant family leave to employees who meet certain requirements. Family leave may be taken for the birth and care of a child, the placement of a child for adoption or foster care, and for the employee's own or a family member's serious health condition. Beginning in October 2009, paid family leave will be available for certain employees for the birth and care of a child or placement of a child for adoption.

The state family care law applies to nearly all employers. Under this law, employees may use sick leave and other paid time off to care for: (1) a child with a health condition that requires treatment or supervision; or (2) certain family members with a serious health or emergency conditions.

Individuals who voluntarily leave work because of domestic violence or stalking are entitled to unemployment benefits under some circumstances.

Summary of Bill:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Findings and Declaration: The Legislature finds that it is in the public interest to reduce domestic violence, sexual assault, and stalking by enabling victims to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize physical and emotional injuries, and to reduce the devastating economic consequences of these crimes to employers and employees.

Leave: An employee may take reasonable leave or leave on a reduced leave schedule for specified activities related to an employee or family member being a victim of domestic violence, sexual assault, or stalking. These activities are to:

- seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's family member;
- seek treatment by a health care provider for physical or mental injuries or to attend treatment for a family member;
- obtain, or assist a family member in obtaining, services from a domestic violence shelter, rape crisis center, or other social services program;
- obtain, or assist a family member in obtaining, mental health counseling related to an incident in which the employee or the employee's family member was a victim; or
- participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or family member.

The leave is with or without pay. The employee may choose to use available paid vacation time, personal leave time, sick leave, compensatory time, or unpaid leave time.

A "family member" is a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship. A "dating relationship" is a social relationship of a romantic nature.

"Domestic violence," "sexual assault," and "stalking" are defined by reference to existing definitions in various laws.

Eligibility: Any employee working for an employer of one or more persons, including a public employer, is eligible for the leave.

Notice/Verification: An employee must give an employer reasonable advance notice of leave unless advance notice is not feasible. When an employee requests leave and is not able to provide advance notice, the employer may require that the employee require verification. Verification must be provided in a timely manner. If advance notice is not feasible, verification must be provided within a reasonable period during or after the leave. Verification may be provided by:

- a police report indicating that the employee or family member was a victim;
- a court order protecting or separating the employee or family member from the perpetrator, or other evidence from the court or prosecuting attorney that the employee or family member appeared in court;
- documentation from an advocate for victims, an attorney, a clergy member, or a medical or other professional from whom the employee or family member sought assistance; or
- an employee's written statement that the employee or the family member is a victim and that the leave was taken for a permitted purpose.

Verification of familial status may be made by a statement from the employee, a birth certificate, a court document, or other similar documentation.

Confidentiality: An employee is not required to produce or discuss any information with the employer beyond the scope of the verification, or that would compromise the employee's or family member's safety. To the extent allowed by law, an employer must maintain the confidentiality of all notice and verification information unless requested or consented to by the employee, ordered by a court or administrative agency, or otherwise required by law.

Job Protection: Upon return from leave, an employer must restore the employee to his or her former position or a position with equivalent benefits, pay, and other terms and conditions of employment. An employer must also maintain coverage under any health insurance plan to the extent allowed by law.

Relationship to Other Laws: The leave rights are in addition to other rights. Nothing in the provisions is to discourage employers from adopting greater leave rights for victims or to diminish an employer's obligation to comply with any collective bargaining agreement, or any benefit program or plan that provides greater leave rights.

Administrative Remedy: The Department of Labor and Industries (Department) must investigate complaints that the law has been violated. An employer may be fined up to \$500 for the first infraction and \$1,000 for a subsequent infraction within three years of a previous infraction. The Director of the Department may also order the employer to restore the employee to his or her former position or an equivalent position.

Civil Remedy: Regardless of whether the employee complained to the Department and regardless of any finding under an administrative action, an employee injured by a violation has a civil cause of action to enjoin further violations and to recover actual damages, reasonable attorneys' fees, and costs.

Discrimination: It is a violation to discriminate against an employee for exercising his or her rights, filing a complaint, or participating or assisting in another employee's attempt to exercise rights under the provisions.

Publicity: The Department must include notice of the provisions in the next reprinting of employment posters and employers must post the notice. Prosecuting attorney and victim/witness offices are encouraged to make information about the provisions available for distribution.

Rules Authority: The bill requires the Department to adopt necessary rules.

Appropriation: None.

Fiscal Note: Requested on 2/20/08.

Effective Date: The bill contains an emergency clause and takes effect immediately.