
SENATE BILL 5900

State of Washington 60th Legislature 2007 Regular Session

By Senators Regala, Haugen, Shin, Kline, Keiser, Spanel and Delvin

Read first time 02/06/2007. Referred to Committee on Labor,
Commerce, Research & Development.

1 AN ACT Relating to increasing the safety of victims of domestic
2 violence, sexual assault, or stalking by ensuring leave from
3 employment; adding a new chapter to Title 49 RCW; prescribing
4 penalties; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature makes the following
7 findings:

8 (1) It is in the public interest to reduce domestic violence,
9 sexual assault, and stalking by enabling victims to maintain the
10 financial independence necessary to leave abusive situations, achieve
11 safety, and minimize physical and emotional injuries, and to reduce the
12 devastating economic consequences of domestic violence, sexual assault,
13 and stalking to employers and employees. Victims of domestic violence,
14 sexual assault, and stalking should be able to recover from and cope
15 with the effects of such violence and participate in criminal and civil
16 justice processes without fear of adverse economic consequences.

17 (2) One of the best predictors of whether a victim of domestic
18 violence, sexual assault, or stalking will be able to stay away from an

1 abuser is his or her degree of economic independence. However,
2 domestic violence, sexual assault, and stalking often negatively impact
3 the victim's ability to maintain employment.

4 (3) An employee who is a victim of domestic violence, sexual
5 assault, or stalking, or an employee whose family member is a victim,
6 must often take leave from work due to injuries, court proceedings, or
7 safety concerns requiring legal protection.

8 (4) Thus, it is in the public interest to provide reasonable leave
9 from employment for employees who are victims of domestic violence,
10 sexual assault, or stalking, or for employees whose family members are
11 victims, to participate in legal proceedings, receive medical
12 treatment, or obtain other necessary services.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

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

16 (2) "Director" means the director of the department of labor and
17 industries.

18 (3) "Employer" has the same meaning as defined in RCW 49.12.005.

19 (4) "Employee" has the same meaning as defined in RCW 49.12.005.

20 (5) "Domestic violence" has the same meaning as set forth in RCW
21 26.50.010.

22 (6) "Sexual assault" has the same meaning as set forth in RCW
23 70.125.030.

24 (7) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

25 (8) "Family member" means any individual whose relationship to the
26 employee can be classified as a child, spouse, parent, parent-in-law,
27 grandparent, or person with whom the employee has a dating
28 relationship.

29 (9) "Child," "spouse," "parent," "parent-in-law," and "grandparent"
30 have the same meaning as set forth in RCW 49.12.265.

31 (10) "Dating relationship" has the same meaning as set forth in RCW
32 26.50.010.

33 (11) "Reduced leave schedule" has the same meaning as set forth in
34 RCW 49.78.020.

35 NEW SECTION. **Sec. 3.** An employee may take reasonable leave from
36 work or a reduced leave schedule, with or without pay, to:

1 (1) Seek legal or law enforcement assistance or remedies to ensure
2 the health and safety of the employee or employee's family members,
3 including but not limited to preparing for or participating in any
4 civil or criminal legal proceeding related to or derived from domestic
5 violence, sexual assault, or stalking;

6 (2) Seek medical attention for physical or mental injuries caused
7 by domestic violence, sexual assault, or stalking, or to attend to
8 medical treatment for a victim who is the employee's family member;

9 (3) Obtain, or assist a family member in obtaining, services from
10 a domestic violence shelter, rape crisis center, or other social
11 services program for relief from domestic violence, sexual assault, or
12 stalking;

13 (4) Obtain, or assist a family member in obtaining, psychological
14 counseling related to an experience of domestic violence, sexual
15 assault, or stalking; or

16 (5) Participate in safety planning, temporarily or permanently
17 relocate, or take other actions to increase the safety of the employee
18 or employee's family members from future domestic violence, sexual
19 assault, or stalking.

20 NEW SECTION. **Sec. 4.** (1) As a condition of taking time off for
21 any purpose set forth in section 3 of this act, an employee shall give
22 an employer reasonable advance notice of the employee's intention to
23 take time off, unless advance notice is not feasible.

24 (2) When an employee requires leave under section 3 of this act and
25 is not able to provide advance notice, an employer may not take any
26 action against the employee if the employee, at the employer's request
27 and within a reasonable time after the absence, provides verification
28 to the employer that:

29 (a) The employee or employee's family member is a victim of
30 domestic violence, sexual assault, or stalking; and

31 (b) The leave taken was for one of the purposes described in
32 section 3 of this act.

33 (3) An employee may satisfy the verification requirement of this
34 section by providing the employer with any one of the following:

35 (a) A police report indicating that the employee or employee's
36 family member was a victim of domestic violence, sexual assault, or
37 stalking;

1 (b) A court order protecting or separating the employee or
2 employee's family member from the perpetrator of the act of domestic
3 violence, sexual assault, or stalking, or other evidence from the court
4 or the prosecuting attorney that the employee or employee's family
5 member appeared in court; or

6 (c) Documentation from an advocate for victims of domestic
7 violence, sexual assault, or stalking, an attorney, a member of the
8 clergy, or a medical or other professional, from whom the employee or
9 employee's family member sought assistance in addressing domestic
10 violence, sexual assault, or stalking and the effects of the violence.
11 The provision of documentation under this section does not waive or
12 diminish the confidential or privileged nature of communications
13 between a victim of domestic violence, sexual assault, or stalking with
14 one or more of the abovenamed individuals pursuant to RCW 5.60.060,
15 70.123.075, 70.123.076, or 70.125.065.

16 (4) If the victim of domestic violence, sexual assault, or stalking
17 is the employee's family member, verification of the familial
18 relationship between the employee and the victim may include, but is
19 not limited to, a statement from the employee, a birth certificate, a
20 court document, or other similar documentation.

21 (5) An employee who is absent from work pursuant to section 3 of
22 this act may elect to use the employee's accrued paid vacation time,
23 personal leave time, sick leave time, compensatory time off that is
24 otherwise available to the employee, or unpaid leave time, unless
25 otherwise provided by a collective bargaining agreement.

26 (6) An employee is required to provide only the information
27 enumerated in subsection (2) of this section to establish that the
28 employee's leave is protected under this chapter. An employee is not
29 required to produce or discuss any information with the employer that
30 is beyond the scope of subsection (2) of this section, or that would
31 compromise the employee's safety or the safety of the employee's family
32 member in any way, and an employer is prohibited from mandating any
33 such disclosure.

34 (7) To the extent allowed by law, an employer shall maintain the
35 confidentiality of all information provided by the employee under this
36 section, including the fact that the employee or employee's family
37 member is a victim of domestic violence, sexual assault, or stalking,
38 that the employee has requested or obtained leave under this chapter,

1 and any written or oral statement, documentation, record, or
2 corroborating evidence provided by the employee. Information given by
3 an employee shall not be disclosed by an employer unless:

- 4 (a) Requested or consented to by the employee;
- 5 (b) Ordered by a court or administrative agency; or
- 6 (c) Otherwise required by applicable federal or state law.

7 NEW SECTION. **Sec. 5.** (1) Taking leave under this chapter shall
8 not result in the loss of any pay or benefits to the employee that
9 accrued before the date on which the leave commenced. No employer
10 shall discharge, threaten to discharge, demote, deny a promotion,
11 sanction, discipline, retaliate, harass, or otherwise discriminate
12 against an employee with respect to compensation, terms, conditions, or
13 privileges of employment because the employee exercised the right to
14 take leave under of this chapter.

15 (2) Upon an employee's return, an employer shall either:

16 (a) Restore the employee to the position of employment held by the
17 employee when the leave commenced; or

18 (b) Restore the employee to an equivalent position with equivalent
19 employment benefits, pay, and other terms and conditions of employment.

20 (3) Any employee who is discharged, threatened with discharge,
21 demoted, denied a promotion, sanctioned, disciplined, harassed, or in
22 any other manner discriminated or retaliated against in the terms and
23 conditions of employment by his or her employer because the employee
24 has taken time off for a purpose set forth in section 3 of this act is
25 entitled to reimbursement of lost wages and work benefits.

26 (4) To the extent allowed by law, an employer shall maintain
27 coverage under any group health plan for an employee who takes leave
28 under this chapter. The coverage must be maintained, for the duration
29 of such leave, at the level and under the conditions coverage would
30 have been provided if the employee had not taken leave under this
31 chapter.

32 NEW SECTION. **Sec. 6.** (1) The rights provided in this chapter are
33 in addition to any other rights provided by state and federal law.

34 (2) Nothing in this chapter shall be construed to discourage
35 employers from adopting policies that provide greater leave rights to

1 employees who are victims of domestic violence, sexual assault, or
2 stalking than those required by this chapter.

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

8 (4) No employer, employment agency, labor union, or other person
9 shall discharge, expel, or otherwise discriminate against any person
10 because he or she has filed a complaint, testified, or assisted in any
11 proceeding under this chapter.

12 NEW SECTION. **Sec. 7.** Upon complaint by an employee, the director
13 shall investigate to determine if there has been compliance with this
14 chapter and the rules adopted under this chapter. If the investigation
15 indicates that a violation may have occurred, a hearing must be held in
16 accordance with chapter 34.05 RCW. The director shall issue a written
17 determination including his or her findings after the hearing. A
18 judicial appeal from the director's determination may be taken in
19 accordance with chapter 34.05 RCW, with the prevailing party entitled
20 to recover reasonable costs and attorneys' fees.

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

26 NEW SECTION. **Sec. 9.** (1) Any employee denied leave by an employer
27 in willful violation of this chapter may file a civil action against
28 the employer to enforce this chapter and recover actual damages,
29 compensatory damages, and costs, including reasonable attorneys' fees.

30 (2) The remedy provided by this section is in addition to any
31 common law remedy or other remedy that may be available to an employee
32 denied leave by an employer in violation of this chapter.

33 (3) An employee is not required to exhaust administrative remedies
34 before filing a civil action to enforce this chapter.

1 NEW SECTION. **Sec. 10.** The department shall include notice of the
2 provisions of this chapter in the next reprinting of employment posters
3 under RCW 49.78.340. Employers must post this notice as required in
4 RCW 49.78.340.

5 NEW SECTION. **Sec. 11.** District attorney and victim/witness
6 offices are encouraged to make information regarding this chapter
7 available for distribution at their offices.

8 NEW SECTION. **Sec. 12.** The director shall, in accordance with
9 chapter 34.05 RCW, adopt rules necessary for the administration of this
10 chapter.

11 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
12 constitute a new chapter in Title 49 RCW.

13 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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