

HB4036



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4036

by Rep. Camille Y. Lilly

SYNOPSIS AS INTRODUCED:

820 ILCS 180/10
820 ILCS 180/20

Amends the Victims' Economic Security and Safety Act. Provides that all employees, not only those working for an employer having more than 49 employees, covered by the Act are entitled to a total of 12 workweeks of leave during any 12-month period.

LRB099 09474 JLS 29682 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Victims' Economic Security and Safety Act is
5 amended by changing Sections 10 and 20 as follows:

6 (820 ILCS 180/10)

7 Sec. 10. Definitions. In this Act, except as otherwise
8 expressly provided:

9 (1) "Commerce" includes trade, traffic, commerce,
10 transportation, or communication; and "industry or
11 activity affecting commerce" means any activity, business,
12 or industry in commerce or in which a labor dispute would
13 hinder or obstruct commerce or the free flow of commerce,
14 and includes "commerce" and any "industry affecting
15 commerce".

16 (2) "Course of conduct" means a course of repeatedly
17 maintaining a visual or physical proximity to a person or
18 conveying oral or written threats, including threats
19 conveyed through electronic communications, or threats
20 implied by conduct.

21 (3) "Department" means the Department of Labor.

22 (4) "Director" means the Director of Labor.

23 (5) "Domestic or sexual violence" means domestic

1 violence, sexual assault, or stalking.

2 (6) "Domestic violence" means abuse, as defined in
3 Section 103 of the Illinois Domestic Violence Act of 1986,
4 by a family or household member, as defined in Section 103
5 of the Illinois Domestic Violence Act of 1986.

6 (7) "Electronic communications" includes
7 communications via telephone, mobile phone, computer,
8 e-mail, video recorder, fax machine, telex, or pager, or
9 any other electronic communication, as defined in Section
10 12-7.5 of the Criminal Code of 2012.

11 (8) "Employ" includes to suffer or permit to work.

12 (9) Employee.

13 (A) In general. "Employee" means any person
14 employed by an employer.

15 (B) Basis. "Employee" includes a person employed
16 as described in subparagraph (A) on a full or part-time
17 basis, or as a participant in a work assignment as a
18 condition of receipt of federal or State income-based
19 public assistance.

20 (10) "Employer" means any of the following: (A) the
21 State or any agency of the State; (B) any unit of local
22 government or school district; or (C) any person that
23 employs at least one employee ~~15 employees~~.

24 (11) "Employment benefits" means all benefits provided
25 or made available to employees by an employer, including
26 group life insurance, health insurance, disability

1 insurance, sick leave, annual leave, educational benefits,
2 pensions, and profit-sharing, regardless of whether such
3 benefits are provided by a practice or written policy of an
4 employer or through an "employee benefit plan". "Employee
5 benefit plan" or "plan" means an employee welfare benefit
6 plan or an employee pension benefit plan or a plan which is
7 both an employee welfare benefit plan and an employee
8 pension benefit plan.

9 (12) "Family or household member", for employees with a
10 family or household member who is a victim of domestic or
11 sexual violence, means a spouse, parent, son, daughter,
12 other person related by blood or by present or prior
13 marriage, other person who shares a relationship through a
14 son or daughter, and persons jointly residing in the same
15 household.

16 (13) "Parent" means the biological parent of an
17 employee or an individual who stood in loco parentis to an
18 employee when the employee was a son or daughter. "Son or
19 daughter" means a biological, adopted, or foster child, a
20 stepchild, a legal ward, or a child of a person standing in
21 loco parentis, who is under 18 years of age, or is 18 years
22 of age or older and incapable of self-care because of a
23 mental or physical disability.

24 (14) "Perpetrator" means an individual who commits or
25 is alleged to have committed any act or threat of domestic
26 or sexual violence.

1 (15) "Person" means an individual, partnership,
2 association, corporation, business trust, legal
3 representative, or any organized group of persons.

4 (16) "Public agency" means the Government of the State
5 or political subdivision thereof; any agency of the State,
6 or of a political subdivision of the State; or any
7 governmental agency.

8 (17) "Public assistance" includes cash, food stamps,
9 medical assistance, housing assistance, and other benefits
10 provided on the basis of income by a public agency or
11 public employer.

12 (18) "Reduced work schedule" means a work schedule that
13 reduces the usual number of hours per workweek, or hours
14 per workday, of an employee.

15 (19) "Repeatedly" means on 2 or more occasions.

16 (20) "Sexual assault" means any conduct proscribed by
17 the Criminal Code of 1961 or the Criminal Code of 2012 in
18 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
19 12-13, 12-14, 12-14.1, 12-15, and 12-16.

20 (21) "Stalking" means any conduct proscribed by the
21 Criminal Code of 1961 or the Criminal Code of 2012 in
22 Sections 12-7.3, 12-7.4, and 12-7.5.

23 (22) "Victim" or "survivor" means an individual who has
24 been subjected to domestic or sexual violence.

25 (23) "Victim services organization" means a nonprofit,
26 nongovernmental organization that provides assistance to

1 victims of domestic or sexual violence or to advocates for
2 such victims, including a rape crisis center, an
3 organization carrying out a domestic violence program, an
4 organization operating a shelter or providing counseling
5 services, or a legal services organization or other
6 organization providing assistance through the legal
7 process.

8 (Source: P.A. 96-635, eff. 8-24-09; 96-1551, eff. 7-1-11;
9 97-1150, eff. 1-25-13.)

10 (820 ILCS 180/20)

11 Sec. 20. Entitlement to leave due to domestic or sexual
12 violence.

13 (a) Leave requirement.

14 (1) Basis. An employee who is a victim of domestic or
15 sexual violence or has a family or household member who is
16 a victim of domestic or sexual violence whose interests are
17 not adverse to the employee as it relates to the domestic
18 or sexual violence may take unpaid leave from work to
19 address domestic or sexual violence by:

20 (A) seeking medical attention for, or recovering
21 from, physical or psychological injuries caused by
22 domestic or sexual violence to the employee or the
23 employee's family or household member;

24 (B) obtaining services from a victim services
25 organization for the employee or the employee's family

1 or household member;

2 (C) obtaining psychological or other counseling
3 for the employee or the employee's family or household
4 member;

5 (D) participating in safety planning, temporarily
6 or permanently relocating, or taking other actions to
7 increase the safety of the employee or the employee's
8 family or household member from future domestic or
9 sexual violence or ensure economic security; or

10 (E) seeking legal assistance or remedies to ensure
11 the health and safety of the employee or the employee's
12 family or household member, including preparing for or
13 participating in any civil or criminal legal
14 proceeding related to or derived from domestic or
15 sexual violence.

16 (2) Period. Subject to subsection (c), an employee
17 ~~working for an employer that employs at least 50 employees~~
18 shall be entitled to a total of 12 workweeks of leave
19 during any 12-month period. ~~Subject to subsection (c), an~~
20 ~~employee working for an employer that employs at least 15~~
21 ~~but not more than 49 employees shall be entitled to a total~~
22 ~~of 8 workweeks of leave during any 12-month period.~~ The
23 total number of workweeks to which an employee is entitled
24 shall not decrease during the relevant 12-month period.
25 This Act does not create a right for an employee to take
26 unpaid leave that exceeds the unpaid leave time allowed

1 under, or is in addition to the unpaid leave time permitted
2 by, the federal Family and Medical Leave Act of 1993 (29
3 U.S.C. 2601 et seq.).

4 (3) Schedule. Leave described in paragraph (1) may be
5 taken intermittently or on a reduced work schedule.

6 (b) Notice. The employee shall provide the employer with at
7 least 48 hours' advance notice of the employee's intention to
8 take the leave, unless providing such notice is not
9 practicable. When an unscheduled absence occurs, the employer
10 may not take any action against the employee if the employee,
11 upon request of the employer and within a reasonable period
12 after the absence, provides certification under subsection
13 (c).

14 (c) Certification.

15 (1) In general. The employer may require the employee
16 to provide certification to the employer that:

17 (A) the employee or the employee's family or
18 household member is a victim of domestic or sexual
19 violence; and

20 (B) the leave is for one of the purposes enumerated
21 in paragraph (a) (1).

22 The employee shall provide such certification to the
23 employer within a reasonable period after the employer
24 requests certification.

25 (2) Contents. An employee may satisfy the
26 certification requirement of paragraph (1) by providing to

1 the employer a sworn statement of the employee, and upon
2 obtaining such documents the employee shall provide:

3 (A) documentation from an employee, agent, or
4 volunteer of a victim services organization, an
5 attorney, a member of the clergy, or a medical or other
6 professional from whom the employee or the employee's
7 family or household member has sought assistance in
8 addressing domestic or sexual violence and the effects
9 of the violence;

10 (B) a police or court record; or

11 (C) other corroborating evidence.

12 (d) Confidentiality. All information provided to the
13 employer pursuant to subsection (b) or (c), including a
14 statement of the employee or any other documentation, record,
15 or corroborating evidence, and the fact that the employee has
16 requested or obtained leave pursuant to this Section, shall be
17 retained in the strictest confidence by the employer, except to
18 the extent that disclosure is:

19 (1) requested or consented to in writing by the
20 employee; or

21 (2) otherwise required by applicable federal or State
22 law.

23 (e) Employment and benefits.

24 (1) Restoration to position.

25 (A) In general. Any employee who takes leave under
26 this Section for the intended purpose of the leave

1 shall be entitled, on return from such leave:

2 (i) to be restored by the employer to the
3 position of employment held by the employee when
4 the leave commenced; or

5 (ii) to be restored to an equivalent position
6 with equivalent employment benefits, pay, and
7 other terms and conditions of employment.

8 (B) Loss of benefits. The taking of leave under
9 this Section shall not result in the loss of any
10 employment benefit accrued prior to the date on which
11 the leave commenced.

12 (C) Limitations. Nothing in this subsection shall
13 be construed to entitle any restored employee to:

14 (i) the accrual of any seniority or employment
15 benefits during any period of leave; or

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

20 (D) Construction. Nothing in this paragraph shall
21 be construed to prohibit an employer from requiring an
22 employee on leave under this Section to report
23 periodically to the employer on the status and
24 intention of the employee to return to work.

25 (2) Maintenance of health benefits.

26 (A) Coverage. Except as provided in subparagraph

1 (B), during any period that an employee takes leave
2 under this Section, the employer shall maintain
3 coverage for the employee and any family or household
4 member under any group health plan for the duration of
5 such leave at the level and under the conditions
6 coverage would have been provided if the employee had
7 continued in employment continuously for the duration
8 of such leave.

9 (B) Failure to return from leave. The employer may
10 recover the premium that the employer paid for
11 maintaining coverage for the employee and the
12 employee's family or household member under such group
13 health plan during any period of leave under this
14 Section if:

15 (i) the employee fails to return from leave
16 under this Section after the period of leave to
17 which the employee is entitled has expired; and

18 (ii) the employee fails to return to work for a
19 reason other than:

20 (I) the continuation, recurrence, or onset
21 of domestic or sexual violence that entitles
22 the employee to leave pursuant to this Section;
23 or

24 (II) other circumstances beyond the
25 control of the employee.

26 (C) Certification.

1 (i) Issuance. An employer may require an
2 employee who claims that the employee is unable to
3 return to work because of a reason described in
4 subclause (I) or (II) of subparagraph (B)(ii) to
5 provide, within a reasonable period after making
6 the claim, certification to the employer that the
7 employee is unable to return to work because of
8 that reason.

9 (ii) Contents. An employee may satisfy the
10 certification requirement of clause (i) by
11 providing to the employer:

12 (I) a sworn statement of the employee;

13 (II) documentation from an employee,
14 agent, or volunteer of a victim services
15 organization, an attorney, a member of the
16 clergy, or a medical or other professional from
17 whom the employee has sought assistance in
18 addressing domestic or sexual violence and the
19 effects of that violence;

20 (III) a police or court record; or

21 (IV) other corroborating evidence.

22 (D) Confidentiality. All information provided to
23 the employer pursuant to subparagraph (C), including a
24 statement of the employee or any other documentation,
25 record, or corroborating evidence, and the fact that
26 the employee is not returning to work because of a

1 reason described in subclause (I) or (II) of
2 subparagraph (B)(ii) shall be retained in the
3 strictest confidence by the employer, except to the
4 extent that disclosure is:

5 (i) requested or consented to in writing by the
6 employee; or

7 (ii) otherwise required by applicable federal
8 or State law.

9 (f) Prohibited acts.

10 (1) Interference with rights.

11 (A) Exercise of rights. It shall be unlawful for
12 any employer to interfere with, restrain, or deny the
13 exercise of or the attempt to exercise any right
14 provided under this Section.

15 (B) Employer discrimination. It shall be unlawful
16 for any employer to discharge or harass any individual,
17 or otherwise discriminate against any individual with
18 respect to compensation, terms, conditions, or
19 privileges of employment of the individual (including
20 retaliation in any form or manner) because the
21 individual:

22 (i) exercised any right provided under this
23 Section; or

24 (ii) opposed any practice made unlawful by
25 this Section.

26 (C) Public agency sanctions. It shall be unlawful

1 for any public agency to deny, reduce, or terminate the
2 benefits of, otherwise sanction, or harass any
3 individual, or otherwise discriminate against any
4 individual with respect to the amount, terms, or
5 conditions of public assistance of the individual
6 (including retaliation in any form or manner) because
7 the individual:

8 (i) exercised any right provided under this
9 Section; or

10 (ii) opposed any practice made unlawful by
11 this Section.

12 (2) Interference with proceedings or inquiries. It
13 shall be unlawful for any person to discharge or in any
14 other manner discriminate (as described in subparagraph
15 (B) or (C) of paragraph (1)) against any individual because
16 such individual:

17 (A) has filed any charge, or has instituted or
18 caused to be instituted any proceeding, under or
19 related to this Section;

20 (B) has given, or is about to give, any information
21 in connection with any inquiry or proceeding relating
22 to any right provided under this Section; or

23 (C) has testified, or is about to testify, in any
24 inquiry or proceeding relating to any right provided
25 under this Section.

26 (Source: P.A. 96-635, eff. 8-24-09.)