



Sen. Toi W. Hutchinson

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LRB099 09474 JLS 49280 a

1 AMENDMENT TO HOUSE BILL 4036

2 AMENDMENT NO. _____. Amend House Bill 4036 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Victims' Economic Security and Safety Act
5 is 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

1 maintaining a visual or physical proximity to a person or
2 conveying oral or written threats, including threats
3 conveyed through electronic communications, or threats
4 implied by conduct.

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

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

7 (5) "Domestic or sexual violence" means domestic
8 violence, sexual assault, or stalking.

9 (6) "Domestic violence" means abuse, as defined in
10 Section 103 of the Illinois Domestic Violence Act of 1986,
11 by a family or household member, as defined in Section 103
12 of the Illinois Domestic Violence Act of 1986.

13 (7) "Electronic communications" includes
14 communications via telephone, mobile phone, computer,
15 e-mail, video recorder, fax machine, telex, or pager, or
16 any other electronic communication, as defined in Section
17 12-7.5 of the Criminal Code of 2012.

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

19 (9) Employee.

20 (A) In general. "Employee" means any person
21 employed by an employer.

22 (B) Basis. "Employee" includes a person employed
23 as described in subparagraph (A) on a full or part-time
24 basis, or as a participant in a work assignment as a
25 condition of receipt of federal or State income-based
26 public assistance.

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

5 (11) "Employment benefits" means all benefits provided
6 or made available to employees by an employer, including
7 group life insurance, health insurance, disability
8 insurance, sick leave, annual leave, educational benefits,
9 pensions, and profit-sharing, regardless of whether such
10 benefits are provided by a practice or written policy of an
11 employer or through an "employee benefit plan". "Employee
12 benefit plan" or "plan" means an employee welfare benefit
13 plan or an employee pension benefit plan or a plan which is
14 both an employee welfare benefit plan and an employee
15 pension benefit plan.

16 (12) "Family or household member", for employees with a
17 family or household member who is a victim of domestic or
18 sexual violence, means a spouse, parent, son, daughter,
19 other person related by blood or by present or prior
20 marriage, other person who shares a relationship through a
21 son or daughter, and persons jointly residing in the same
22 household.

23 (13) "Parent" means the biological parent of an
24 employee or an individual who stood in loco parentis to an
25 employee when the employee was a son or daughter. "Son or
26 daughter" means a biological, adopted, or foster child, a

1 stepchild, a legal ward, or a child of a person standing in
2 loco parentis, who is under 18 years of age, or is 18 years
3 of age or older and incapable of self-care because of a
4 mental or physical disability.

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

8 (15) "Person" means an individual, partnership,
9 association, corporation, business trust, legal
10 representative, or any organized group of persons.

11 (16) "Public agency" means the Government of the State
12 or political subdivision thereof; any agency of the State,
13 or of a political subdivision of the State; or any
14 governmental agency.

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

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

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

23 (20) "Sexual assault" means any conduct proscribed by
24 the Criminal Code of 1961 or the Criminal Code of 2012 in
25 Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60,
26 12-13, 12-14, 12-14.1, 12-15, and 12-16.

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

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

6 (23) "Victim services organization" means a nonprofit,
7 nongovernmental organization that provides assistance to
8 victims of domestic or sexual violence or to advocates for
9 such victims, including a rape crisis center, an
10 organization carrying out a domestic violence program, an
11 organization operating a shelter or providing counseling
12 services, or a legal services organization or other
13 organization providing assistance through the legal
14 process.

15 (Source: P.A. 96-635, eff. 8-24-09; 96-1551, eff. 7-1-11;
16 97-1150, eff. 1-25-13.)

17 (820 ILCS 180/20)

18 Sec. 20. Entitlement to leave due to domestic or sexual
19 violence.

20 (a) Leave requirement.

21 (1) Basis. An employee who is a victim of domestic or
22 sexual violence or an employee who has a family or
23 household member who is a victim of domestic or sexual
24 violence whose interests are not adverse to the employee as
25 it relates to the domestic or sexual violence may take

1 unpaid leave from work if the employee or employee's family
2 or household member is experiencing an incident of domestic
3 or sexual violence or to address domestic or sexual
4 violence by:

5 (A) seeking medical attention for, or recovering
6 from, physical or psychological injuries caused by
7 domestic or sexual violence to the employee or the
8 employee's family or household member;

9 (B) obtaining services from a victim services
10 organization for the employee or the employee's family
11 or household member;

12 (C) obtaining psychological or other counseling
13 for the employee or the employee's family or household
14 member;

15 (D) participating in safety planning, temporarily
16 or permanently relocating, or taking other actions to
17 increase the safety of the employee or the employee's
18 family or household member from future domestic or
19 sexual violence or ensure economic security; or

20 (E) seeking legal assistance or remedies to ensure
21 the health and safety of the employee or the employee's
22 family or household member, including preparing for or
23 participating in any civil or criminal legal
24 proceeding related to or derived from domestic or
25 sexual violence.

26 (2) Period. Subject to subsection (c), an employee

1 working for an employer that employs at least 50 employees
2 shall be entitled to a total of 12 workweeks of leave
3 during any 12-month period. Subject to subsection (c), an
4 employee working for an employer that employs at least 15
5 but not more than 49 employees shall be entitled to a total
6 of 8 workweeks of leave during any 12-month period. Subject
7 to subsection (c), an employee working for an employer that
8 employs at least one but not more than 14 employees shall
9 be entitled to a total of 4 workweeks of leave during any
10 12-month period. The total number of workweeks to which an
11 employee is entitled shall not decrease during the relevant
12 12-month period. This Act does not create a right for an
13 employee to take unpaid leave that exceeds the unpaid leave
14 time allowed under, or is in addition to the unpaid leave
15 time permitted by, the federal Family and Medical Leave Act
16 of 1993 (29 U.S.C. 2601 et seq.).

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

19 (b) Notice. The employee shall provide the employer with at
20 least 48 hours' advance notice of the employee's intention to
21 take the leave, unless providing such notice is not
22 practicable. When an unscheduled absence occurs, the employer
23 may not take any action against the employee if the employee,
24 upon request of the employer and within a reasonable period
25 after the absence, provides certification under subsection
26 (c).

1 (c) Certification.

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

4 (A) the employee or the employee's family or
5 household member is a victim of domestic or sexual
6 violence; and

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

9 The employee shall provide such certification to the
10 employer within a reasonable period after the employer
11 requests certification.

12 (2) Contents. An employee may satisfy the
13 certification requirement of paragraph (1) by providing to
14 the employer a sworn statement of the employee, and upon
15 obtaining such documents the employee shall provide:

16 (A) documentation from an employee, agent, or
17 volunteer of a victim services organization, an
18 attorney, a member of the clergy, or a medical or other
19 professional from whom the employee or the employee's
20 family or household member has sought assistance in
21 addressing domestic or sexual violence and the effects
22 of the violence;

23 (B) a police or court record; or

24 (C) other corroborating evidence.

25 (d) Confidentiality. All information provided to the
26 employer pursuant to subsection (b) or (c), including a

1 statement of the employee or any other documentation, record,
2 or corroborating evidence, and the fact that the employee has
3 requested or obtained leave pursuant to this Section, shall be
4 retained in the strictest confidence by the employer, except to
5 the extent that disclosure is:

6 (1) requested or consented to in writing by the
7 employee; or

8 (2) otherwise required by applicable federal or State
9 law.

10 (e) Employment and benefits.

11 (1) Restoration to position.

12 (A) In general. Any employee who takes leave under
13 this Section for the intended purpose of the leave
14 shall be entitled, on return from such leave:

15 (i) to be restored by the employer to the
16 position of employment held by the employee when
17 the leave commenced; or

18 (ii) to be restored to an equivalent position
19 with equivalent employment benefits, pay, and
20 other terms and conditions of employment.

21 (B) Loss of benefits. The taking of leave under
22 this Section shall not result in the loss of any
23 employment benefit accrued prior to the date on which
24 the leave commenced.

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

1 (i) the accrual of any seniority or employment
2 benefits during any period of leave; or

3 (ii) any right, benefit, or position of
4 employment other than any right, benefit, or
5 position to which the employee would have been
6 entitled had the employee not taken the leave.

7 (D) Construction. Nothing in this paragraph shall
8 be construed to prohibit an employer from requiring an
9 employee on leave under this Section to report
10 periodically to the employer on the status and
11 intention of the employee to return to work.

12 (2) Maintenance of health benefits.

13 (A) Coverage. Except as provided in subparagraph
14 (B), during any period that an employee takes leave
15 under this Section, the employer shall maintain
16 coverage for the employee and any family or household
17 member under any group health plan for the duration of
18 such leave at the level and under the conditions
19 coverage would have been provided if the employee had
20 continued in employment continuously for the duration
21 of such leave.

22 (B) Failure to return from leave. The employer may
23 recover the premium that the employer paid for
24 maintaining coverage for the employee and the
25 employee's family or household member under such group
26 health plan during any period of leave under this

1 Section if:

2 (i) the employee fails to return from leave
3 under this Section after the period of leave to
4 which the employee is entitled has expired; and

5 (ii) the employee fails to return to work for a
6 reason other than:

7 (I) the continuation, recurrence, or onset
8 of domestic or sexual violence that entitles
9 the employee to leave pursuant to this Section;
10 or

11 (II) other circumstances beyond the
12 control of the employee.

13 (C) Certification.

14 (i) Issuance. An employer may require an
15 employee who claims that the employee is unable to
16 return to work because of a reason described in
17 subclause (I) or (II) of subparagraph (B)(ii) to
18 provide, within a reasonable period after making
19 the claim, certification to the employer that the
20 employee is unable to return to work because of
21 that reason.

22 (ii) Contents. An employee may satisfy the
23 certification requirement of clause (i) by
24 providing to the employer:

25 (I) a sworn statement of the employee;

26 (II) documentation from an employee,

1 agent, or volunteer of a victim services
2 organization, an attorney, a member of the
3 clergy, or a medical or other professional from
4 whom the employee has sought assistance in
5 addressing domestic or sexual violence and the
6 effects of that violence;

7 (III) a police or court record; or

8 (IV) other corroborating evidence.

9 (D) Confidentiality. All information provided to
10 the employer pursuant to subparagraph (C), including a
11 statement of the employee or any other documentation,
12 record, or corroborating evidence, and the fact that
13 the employee is not returning to work because of a
14 reason described in subclause (I) or (II) of
15 subparagraph (B)(ii) shall be retained in the
16 strictest confidence by the employer, except to the
17 extent that disclosure is:

18 (i) requested or consented to in writing by the
19 employee; or

20 (ii) otherwise required by applicable federal
21 or State law.

22 (f) Prohibited acts.

23 (1) Interference with rights.

24 (A) Exercise of rights. It shall be unlawful for
25 any employer to interfere with, restrain, or deny the
26 exercise of or the attempt to exercise any right

1 provided under this Section.

2 (B) Employer discrimination. It shall be unlawful
3 for any employer to discharge or harass any individual,
4 or otherwise discriminate against any individual with
5 respect to compensation, terms, conditions, or
6 privileges of employment of the individual (including
7 retaliation in any form or manner) because the
8 individual:

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

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

13 (C) Public agency sanctions. It shall be unlawful
14 for any public agency to deny, reduce, or terminate the
15 benefits of, otherwise sanction, or harass any
16 individual, or otherwise discriminate against any
17 individual with respect to the amount, terms, or
18 conditions of public assistance of the individual
19 (including retaliation in any form or manner) because
20 the individual:

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

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

25 (2) Interference with proceedings or inquiries. It
26 shall be unlawful for any person to discharge or in any

1 other manner discriminate (as described in subparagraph
2 (B) or (C) of paragraph (1)) against any individual because
3 such individual:

4 (A) has filed any charge, or has instituted or
5 caused to be instituted any proceeding, under or
6 related to this Section;

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

10 (C) has testified, or is about to testify, in any
11 inquiry or proceeding relating to any right provided
12 under this Section.

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

14 Section 99. Effective date. This Act takes effect January
15 1, 2017."