



Rep. Michael W. Tryon

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LRB099 06293 JLS 34003 a

1 AMENDMENT TO HOUSE BILL 1626

2 AMENDMENT NO. _____. Amend House Bill 1626 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 Section 20 as follows:

6 (820 ILCS 180/20)

7 Sec. 20. Entitlement to leave due to domestic or sexual
8 violence.

9 (a) Leave requirement.

10 (1) Basis. An employee who has been employed by the
11 employer for at least 90 days and who is a victim of
12 domestic or sexual violence or has a family or household
13 member who is a victim of domestic or sexual violence whose
14 interests are not adverse to the employee as it relates to
15 the domestic or sexual violence may take unpaid leave from
16 work to address domestic or sexual violence by:

1 (A) seeking medical attention for, or recovering
2 from, physical or psychological injuries caused by
3 domestic or sexual violence to the employee or the
4 employee's family or household member;

5 (B) obtaining services from a victim services
6 organization for the employee or the employee's family
7 or household member;

8 (C) obtaining psychological or other counseling
9 for the employee or the employee's family or household
10 member;

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

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

22 (2) Period. Subject to subsection (c), an employee
23 working for an employer that employs at least 50 employees
24 shall be entitled to a total of 12 workweeks of leave
25 during any 12-month period. Subject to subsection (c), an
26 employee working for an employer that employs at least 15

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

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

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

20 (c) Certification.

21 (1) In general. The ~~employer may require the~~ employee
22 must ~~to~~ provide certification to the employer that:

23 (A) the employee or the employee's family or
24 household member is a victim of domestic or sexual
25 violence; and

26 (B) the leave is for one of the purposes enumerated

1 in paragraph (a) (1).

2 The employee shall provide such certification to the
3 employer within a reasonable period after the employer
4 requests certification.

5 (2) Contents. An employee may satisfy the
6 certification requirement of paragraph (1) by providing to
7 the employer a sworn statement of the employee, and upon
8 obtaining such documents the employee shall provide:

9 (A) documentation from an employee, agent, or
10 volunteer of a victim services organization, an
11 attorney, a member of the clergy, or a medical or other
12 professional from whom the employee or the employee's
13 family or household member has sought assistance in
14 addressing domestic or sexual violence and the effects
15 of the violence;

16 (B) a police or court record; or

17 (C) other corroborating evidence.

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

25 (1) requested or consented to in writing by the
26 employee; or

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

3 (e) Employment and benefits.

4 (1) Restoration to position.

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

8 (i) to be restored by the employer to the
9 position of employment held by the employee when
10 the leave commenced; or

11 (ii) to be restored to an equivalent position
12 with equivalent employment benefits, pay, and
13 other terms and conditions of employment.

14 (B) Loss of benefits. The taking of leave under
15 this Section shall not result in the loss of any
16 employment benefit accrued prior to the date on which
17 the leave commenced.

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

20 (i) the accrual of any seniority or employment
21 benefits during any period of leave; or

22 (ii) any right, benefit, or position of
23 employment other than any right, benefit, or
24 position to which the employee would have been
25 entitled had the employee not taken the leave.

26 (D) Construction. Nothing in this paragraph shall

1 be construed to prohibit an employer from requiring an
2 employee on leave under this Section to report
3 periodically to the employer on the status and
4 intention of the employee to return to work.

5 (2) Maintenance of health benefits.

6 (A) Coverage. Except as provided in subparagraph
7 (B), during any period that an employee takes leave
8 under this Section, the employer shall maintain
9 coverage for the employee and any family or household
10 member under any group health plan for the duration of
11 such leave at the level and under the conditions
12 coverage would have been provided if the employee had
13 continued in employment continuously for the duration
14 of such leave.

15 (B) Failure to return from leave. The employer may
16 recover the premium that the employer paid for
17 maintaining coverage for the employee and the
18 employee's family or household member under such group
19 health plan during any period of leave under this
20 Section if:

21 (i) the employee fails to return from leave
22 under this Section after the period of leave to
23 which the employee is entitled has expired; and

24 (ii) the employee fails to return to work for a
25 reason other than:

26 (I) the continuation, recurrence, or onset

1 of domestic or sexual violence that entitles
2 the employee to leave pursuant to this Section;
3 or

4 (II) other circumstances beyond the
5 control of the employee.

6 (C) Certification.

7 (i) Issuance. An employer may require an
8 employee who claims that the employee is unable to
9 return to work because of a reason described in
10 subclause (I) or (II) of subparagraph (B) (ii) to
11 provide, within a reasonable period after making
12 the claim, certification to the employer that the
13 employee is unable to return to work because of
14 that reason.

15 (ii) Contents. An employee may satisfy the
16 certification requirement of clause (i) by
17 providing to the employer:

18 (I) a sworn statement of the employee;

19 (II) documentation from an employee,
20 agent, or volunteer of a victim services
21 organization, an attorney, a member of the
22 clergy, or a medical or other professional from
23 whom the employee has sought assistance in
24 addressing domestic or sexual violence and the
25 effects of that violence;

26 (III) a police or court record; or

1 (IV) other corroborating evidence.

2 (D) Confidentiality. All information provided to
3 the employer pursuant to subparagraph (C), including a
4 statement of the employee or any other documentation,
5 record, or corroborating evidence, and the fact that
6 the employee is not returning to work because of a
7 reason described in subclause (I) or (II) of
8 subparagraph (B)(ii) shall be retained in the
9 strictest confidence by the employer, except to the
10 extent that disclosure is:

11 (i) requested or consented to in writing by the
12 employee; or

13 (ii) otherwise required by applicable federal
14 or State law.

15 (f) Prohibited acts.

16 (1) Interference with rights.

17 (A) Exercise of rights. It shall be unlawful for
18 any employer to interfere with, restrain, or deny the
19 exercise of or the attempt to exercise any right
20 provided under this Section.

21 (B) Employer discrimination. It shall be unlawful
22 for any employer to discharge or harass any individual,
23 or otherwise discriminate against any individual with
24 respect to compensation, terms, conditions, or
25 privileges of employment of the individual (including
26 retaliation in any form or manner) because the

1 individual:

2 (i) exercised any right provided under this
3 Section; or

4 (ii) opposed any practice made unlawful by
5 this Section.

6 (C) Public agency sanctions. It shall be unlawful
7 for any public agency to deny, reduce, or terminate the
8 benefits of, otherwise sanction, or harass any
9 individual, or otherwise discriminate against any
10 individual with respect to the amount, terms, or
11 conditions of public assistance of the individual
12 (including retaliation in any form or manner) because
13 the individual:

14 (i) exercised any right provided under this
15 Section; or

16 (ii) opposed any practice made unlawful by
17 this Section.

18 (2) Interference with proceedings or inquiries. It
19 shall be unlawful for any person to discharge or in any
20 other manner discriminate (as described in subparagraph
21 (B) or (C) of paragraph (1)) against any individual because
22 such individual:

23 (A) has filed any charge, or has instituted or
24 caused to be instituted any proceeding, under or
25 related to this Section;

26 (B) has given, or is about to give, any information

1 in connection with any inquiry or proceeding relating
2 to any right provided under this Section; or

3 (C) has testified, or is about to testify, in any
4 inquiry or proceeding relating to any right provided
5 under this Section.

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