

AN ACT concerning employment.

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

Section 5. The Victims' Economic Security and Safety Act is amended by changing Sections 10, 20, 25, 30, and 45 as follows:

(820 ILCS 180/10)

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

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

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

(2.5) "Crime of violence" means any conduct proscribed by Articles 9, 11, 12, 26.5, 29D, and 33A of the Criminal

Code of 2012 or a similar provision of the Criminal Code of 1961, in addition to conduct proscribed by Articles of the Criminal Code of 2012 referenced in other definitions in this Section.

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

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

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

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

(7) "Electronic communications" includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, pager, online platform (including, but not limited to, any public-facing website, web application, digital application, or social network), or any other electronic communication, as defined in Section 12-7.5 of the Criminal Code of 2012.

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

(9) Employee.

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

(B) Basis. "Employee" includes a person employed as described in subparagraph (A) on a full or

part-time basis, or as a participant in a work assignment as a condition of receipt of federal or State income-based public assistance.

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

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

(12) "Family or household member", for employees with a family or household member who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence, means a spouse or party to a civil union, parent, grandparent, child, grandchild, sibling, or any son, daughter, other person related by blood or by present or prior marriage or civil union, other person who shares a relationship through a child, or any other

individual whose close association with the employee is the equivalent of a family relationship as determined by the employee son or daughter, and persons jointly residing in the same household.

(12.5) "Gender violence" means:

(A) one or more acts of violence or aggression satisfying the elements of any criminal offense under the laws of this State that are committed, at least in part, on the basis of a person's actual or perceived sex or gender, regardless of whether the acts resulted in criminal charges, prosecution, or conviction;

(B) a physical intrusion or physical invasion of a sexual nature under coercive conditions satisfying the elements of any criminal offense under the laws of this State, regardless of whether the intrusion or invasion resulted in criminal charges, prosecution, or conviction;
or

(C) a threat of an act described in item (A) or (B) causing a realistic apprehension that the originator of the threat will commit the act.

(13) (Blank). ~~"Parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age, or is 18~~

~~years of age or older and incapable of self-care because of a mental or physical disability.~~

(14) "Perpetrator" means an individual who commits or is alleged to have committed any act or threat of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence.

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

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

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

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

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

(20) "Sexual assault" means any conduct proscribed by: (i) Article 11 of the Criminal Code of 2012 except Sections 11-35 and 11-45; (ii) Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 2012; or (iii) a similar provision of the Criminal Code of 1961.

(20.5) "Sexual violence" means sexual assault.

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

(22) "Victim" or "survivor" means an individual who has been subjected to domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence. "Victim" also includes any person described as a victim, as defined under Section 2 of the Crime Victims Compensation Act.

(23) "Victim services organization" means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

(Source: P.A. 101-221, eff. 1-1-20.)

(820 ILCS 180/20)

Sec. 20. Entitlement to leave due to domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence.

(a) Leave requirement.

(1) Basis. An employee who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence or an employee who has a family or household member who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence whose interests are not adverse to the employee as it relates to the domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence may take unpaid leave from work if the employee or employee's family or household member is experiencing an incident of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence or to address domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence by:

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence to the employee or the employee's family or household member;

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

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

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence.

(2) Period. Subject to subsection (c), an employee working for an employer that employs at least 50 employees shall be entitled to a total of 12 workweeks of leave during any 12-month period. Subject to subsection (c), an employee working for an employer that employs at least 15 but not more than 49 employees shall be entitled to a total of 8 workweeks of leave during any 12-month period. Subject to subsection (c), an employee working for an employer that employs at least one but not more than 14 employees shall be entitled to a total of 4 workweeks of leave during any 12-month period. The total number of workweeks to which an employee is entitled shall not

decrease during the relevant 12-month period. This Act does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

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

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

(c) Certification.

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

(A) the employee or the employee's family or household member is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence; and

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

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

(2) Contents. An employee may satisfy the certification requirement of paragraph (1) by providing to the employer a sworn statement of the employee, and if the employee has possession of such document, the employee shall provide one of the following documents ~~upon obtaining such documents the employee shall provide:~~

(A) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence and the effects of the violence;

(B) a police or court record; or

(C) other corroborating evidence.

The employee shall choose which document to submit, and the employer shall not request or require more than one document to be submitted during the same 12-month period leave is requested or taken if the reason for leave is related to the same incident or incidents of violence or the same perpetrator or perpetrators of the violence.

(d) Confidentiality. All information provided to the

employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this Section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

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

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

(e) Employment and benefits.

(1) Restoration to position.

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

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

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

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

(C) Limitations. Nothing in this subsection shall

be construed to entitle any restored employee to:

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

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

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

(2) Maintenance of health benefits.

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

(B) Failure to return from leave. The employer may recover the premium that the employer paid for maintaining coverage for the employee and the employee's family or household member under such group

health plan during any period of leave under this Section if:

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

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

(I) the continuation, recurrence, or onset of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence that entitles the employee to leave pursuant to this Section; or

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

(C) Certification.

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

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

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee has sought assistance in addressing domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence and the effects of that violence;

(III) a police or court record; or

(IV) other corroborating evidence.

The employee shall choose which document to submit, and the employer shall not request or require more than one document to be submitted.

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

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

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

(f) Prohibited acts.

(1) Interference with rights.

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

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

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

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

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

the individual:

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

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

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

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

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

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

(Source: P.A. 101-221, eff. 1-1-20.)

(820 ILCS 180/25)

Sec. 25. Existing leave usable for addressing domestic violence, sexual violence, ~~or~~ gender violence, or any criminal violence. An employee who is entitled to take paid or unpaid

leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to federal, State, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under Section 20. The employer may not require the employee to substitute available paid or unpaid leave for leave provided under Section 20.

(Source: P.A. 101-221, eff. 1-1-20.)

(820 ILCS 180/30)

Sec. 30. Victims' employment sustainability; prohibited discriminatory acts.

(a) An employer shall not fail to hire, refuse to hire, discharge, constructively discharge, or harass any individual, otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, or retaliate against an individual in any form or manner, and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual, or retaliate against an individual in any form or manner, because:

(1) the individual involved:

(A) is or is perceived to be a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any criminal violence;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic violence, sexual violence, ~~or~~ gender violence, or any criminal violence of which the individual or a family or household member of the individual was a victim, or requested or took leave for any other reason provided under Section 20;

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure in response to actual or threatened domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence, regardless of whether the request was granted; or

(D) is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence,

sexual violence, ~~or~~ gender violence, or any other crime of violence against the individual or the individual's family or household member.

(b) In this Section:

(1) "Discriminate", used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public assistance, includes not making a reasonable accommodation to the known limitations resulting from circumstances relating to being a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any criminal violence or a family or household member being a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence of an otherwise qualified individual:

(A) who is:

(i) an applicant or employee of the employer (including a public agency); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(B) who is:

(i) or is perceived to be a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence; or

(ii) with a family or household member who is or is perceived to be a victim of domestic violence, sexual violence, ~~or~~ gender violence, or

any other crime of violence whose interests are not adverse to the individual in subparagraph (A) as it relates to the domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

A reasonable accommodation must be made in a timely fashion. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable.

(2) "Qualified individual" means:

(A) in the case of an applicant or employee described in paragraph (1)(A)(i), an individual who, but for being a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence or with a family or household member who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(A)(ii), an individual who, but for being a victim of domestic violence, sexual

violence, ~~or~~ gender violence, or any other crime of violence or with a family or household member who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) "Reasonable accommodation" may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, or assistance in documenting domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence that occurs at the workplace or in work-related settings, or any other reasonable accommodation in response to actual or threatened domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence.

(4) Undue hardship.

(A) In general. "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered. In determining whether a reasonable accommodation would impose an

undue hardship on the operation of an employer or public agency, factors to be considered include:

(i) the nature and cost of the reasonable accommodation needed under this Section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

(c) An employer subject to Section 21 of the Workplace

Violence Prevention Act shall not violate any provisions of the Workplace Violence Prevention Act.

(d) Confidentiality. All information provided to the employer pursuant to this Section including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained an accommodation pursuant to this Section shall be retained in the strictest confidence by the employer, except to the extent that disclosure is:

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

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

(Source: P.A. 101-221, eff. 1-1-20.)

(820 ILCS 180/45)

Sec. 45. Effect on other laws and employment benefits.

(a) More protective laws, agreements, programs, and plans. Nothing in this Act shall be construed to supersede any provision of any federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides:

(1) greater leave benefits for victims of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence than the rights established under this Act; or

(2) leave benefits for a larger population of victims of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence (as defined in such law, agreement, program, or plan) than the victims of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence covered under this Act.

(b) Less protective laws, agreements, programs, and plans. The rights established for employees who are victims of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence and employees with a family or household member who is a victim of domestic violence, sexual violence, ~~or~~ gender violence, or any other crime of violence under this Act shall not be diminished by any federal, State or local law, collective bargaining agreement, or employment benefits program or plan.

(Source: P.A. 101-221, eff. 1-1-20.)