
SUBSTITUTE SENATE BILL 6204

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Labor & Workforce Development (originally sponsored by Senators Fairley, Costa, Kline and Kohl-Welles)

Read first time 02/04/2000.

1 AN ACT Relating to victims of violence; amending RCW 49.78.005,
2 49.78.020, 49.78.070, and 49.78.080; adding a new section to chapter
3 49.78 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Domestic violence, harassment, sex offenses,
6 and violent offenses continue to be pervasive in our society. Victims
7 of violence may be fired from or forced to quit their employment to
8 take time off to obtain medical care or legal assistance. It is in the
9 public interest that victims of violence be able to secure their
10 personal safety, minimize their physical and emotional injuries,
11 maintain their financial independence, and reduce the sometimes
12 devastating economic consequences of such violence. For these reasons,
13 it is the intent of the legislature that victims of violence be
14 entitled to take reasonable leave to seek medical treatment, prepare
15 for and attend court proceedings, and obtain other relevant services.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.78 RCW
17 to read as follows:

1 (1)(a) An employee who is a victim of violence shall be entitled to
2 leave for one or more of the following purposes: (i) To receive
3 medical treatment; (ii) to prepare for and attend court proceedings; or
4 (iii) to obtain services to remedy a crisis resulting from domestic
5 violence, harassment, a sex offense, or a violent offense.

6 (b) The leave required by this subsection (1) may be unpaid.

7 (2)(a) An employee who is a victim of violence shall be entitled to
8 use his or her accrued personal leave, sick leave, and vacation leave,
9 if any, for the purposes set forth in subsection (1) of this section.

10 (b) An employer shall grant leave under this subsection (2) subject
11 only to the usual terms and conditions under which personal leave, sick
12 leave, and vacation leave are granted. These terms and conditions may
13 include, by way of example and not limitation, payment of wages,
14 continuation of benefits, or authorization.

15 (3) Neither subsection (1) nor (2) of this section is violated if
16 the request for leave is not communicated to the employer within a
17 reasonable time under the circumstances.

18 (4) Leave taken under subsection (1) or (2) of this section may be
19 taken on a reduced leave schedule subject to the approval of the
20 employer.

21 **Sec. 3.** RCW 49.78.005 and 1997 c 16 s 1 are each amended to read
22 as follows:

23 (1) Except as provided in subsection (2) of this section, the
24 department shall cease to administer and enforce this chapter beginning
25 on July 27, 1997, and until the earlier of the following dates:

26 (a) The effective date of the repeal of the federal family and
27 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6);
28 or

29 (b) July 1st of the year following the year in which amendments to
30 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
31 P.L. 103-3, 107 Stat. 6) take effect that provide less family leave
32 than is provided under RCW 49.78.030. In determining whether the
33 federal law provides the same or more leave, the department shall only
34 consider whether (i) the total period of leave allowed under the
35 amended federal law is twelve or more workweeks in a twenty-four month
36 period, and (ii) the types of leave authorized under the amended
37 federal law are similar to the types authorized in this chapter.

1 (2)(a) An employee's right under RCW 49.78.070(1)(b) to be returned
2 to a workplace within twenty miles of the employee's workplace when
3 leave commenced shall remain in effect.

4 (b) An employee's rights under section 2 of this act shall remain
5 in effect. For an employee who exercises any right provided under
6 section 2 of this act, the employee's rights under RCW 49.78.070 and
7 49.78.080 shall also remain in effect.

8 (c) The family leave required by 29 U.S.C. ((29-2612)) Sec. 2612
9 (a)(1)(A) and (B) of the federal family and medical leave act of 1993
10 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) shall be in addition to any
11 leave for sickness or temporary disability because of pregnancy or
12 childbirth.

13 (d) The department shall enforce this subsection under RCW
14 49.78.140 through 49.78.190, except that an initial notice of
15 infraction related to an employee's rights under RCW 49.78.070 shall
16 state that the employer has thirty days in which to take corrective
17 action. No infraction or penalty may be assessed if the employer
18 complies with the requirements of the initial notice of infraction
19 related to an employee's rights under RCW 49.78.070.

20 **Sec. 4.** RCW 49.78.020 and 1996 c 178 s 14 are each amended to read
21 as follows:

22 Unless the context clearly requires otherwise, the definitions in
23 this section apply throughout this chapter.

24 (1) "Child" means a biological or adopted child, or a stepchild,
25 living with the employee.

26 (2) "Department" means the department of labor and industries.

27 (3) "Domestic violence" means domestic violence as defined in RCW
28 26.50.010.

29 (4) "Employee" means a person other than an independent contractor
30 employed by an employer on a continuous basis for the previous fifty-
31 two weeks for at least thirty-five hours per week.

32 ~~((4))~~ (5) "Employer" means: (a) Any person, firm, corporation,
33 partnership, business trust, legal representative, or other business
34 entity which engages in any business, industry, profession, or activity
35 in this state and includes any unit of local government including, but
36 not limited to, a county, city, town, municipal corporation, quasi-
37 municipal corporation, or political subdivision, which (i) employed a
38 daily average of one hundred or more employees during the last calendar

1 quarter at the place where the employee requesting leave reports for
2 work, or (ii) employed a daily average of one hundred or more employees
3 during the last calendar quarter within a twenty mile radius of the
4 place where the employee requesting leave reports for work, where the
5 employer maintains a central hiring location and customarily transfers
6 employees among workplaces; and (b) the state, state institutions, and
7 state agencies.

8 ~~((+5))~~ (6) "Family leave" means leave from employment to care for
9 a newborn or newly adopted child under the age of six or a child under
10 eighteen years old with a terminal health condition, as provided in RCW
11 49.78.030.

12 ~~((+6))~~ (7) "Harassment" means harassment as defined in RCW
13 9A.46.060.

14 (8) "Health care provider" means a person licensed as a physician
15 under chapter 18.71 RCW or an osteopathic physician and surgeon under
16 chapter 18.57 RCW.

17 ~~((+7))~~ (9) "Parent" means a biological or adoptive parent, or a
18 stepparent.

19 ~~((+8))~~ (10) "Reduced leave schedule" means leave scheduled for
20 fewer than an employee's usual number of hours or days per workweek.

21 ~~((+9))~~ (11) "Sex offense" means a sex offense as defined in RCW
22 9.94A.030.

23 (12) "Terminal health condition" means a condition caused by
24 injury, disease, or illness, that, within reasonable medical judgment,
25 is incurable and will produce death within the period of leave to which
26 the employee is entitled.

27 (13) "Victim" means a person:

28 (a) Who has sustained emotional, psychological, physical, or
29 financial injury as a direct result of violence; and

30 (b) Who is: (i) Obtaining or receiving medical treatment; (ii)
31 pursuing legal protection or remedies; or (iii) seeking certification
32 as a program participant under RCW 40.24.030.

33 (14) "Violent offense" means a violent offense as defined in RCW
34 9.94A.030.

35 **Sec. 5.** RCW 49.78.070 and 1989 1st ex.s. c 11 s 7 are each amended
36 to read as follows:

37 (1) Subject to subsection (2) of this section, an employee who
38 exercises any right provided under RCW 49.78.030 or section 2 of this

1 act shall be entitled, upon return from leave or during any reduced
2 leave schedule:

3 (a) To the same position held by the employee when the leave
4 commenced; or

5 (b) To a position with equivalent benefits and pay at a workplace
6 within twenty miles of the employee's workplace when leave commenced;
7 or

8 (c) If the employer's circumstances have so changed that the
9 employee cannot be reinstated to the same position, or a position of
10 equivalent pay and benefits, the employee shall be reinstated in any
11 other position which is vacant and for which the employee is qualified.

12 (2) The entitlement under subsection (1) of this section is subject
13 to bona fide changes in compensation or work duties, and does not apply
14 if:

15 (a) The employee's position is eliminated by a bona fide
16 restructuring, or reduction-in-force;

17 (b) The employee's workplace is permanently or temporarily shut
18 down for at least thirty days;

19 (c) The employee's workplace is moved to a location at least sixty
20 miles from the location of the workplace when leave commenced;

21 (d) An employee on family leave takes another job; or

22 (e) The employee fails to provide timely notice of family leave as
23 required under RCW 49.78.040, or fails to return on the established
24 ending date of leave.

25 **Sec. 6.** RCW 49.78.080 and 1989 1st ex.s. c 11 s 8 are each amended
26 to read as follows:

27 (1) The taking of leave under this chapter shall not result in the
28 loss of any benefit, including seniority or pension rights, accrued
29 before the date on which the leave commenced.

30 (2) Nothing in this chapter shall be construed to require the
31 employer to grant benefits, including seniority or pension rights,
32 during any period of leave.

33 (3) All policies applied during the period of leave to the
34 classification of employees to which the employee on leave belongs
35 shall apply to the employee on leave.

36 (4) During any period of leave taken under RCW 49.78.030 or section
37 2 of this act, if the employee is not eligible for any employer
38 contribution to medical or dental benefits under an applicable

1 collective bargaining agreement or employer policy during any period of
2 leave, an employer shall allow the employee to continue, at his or her
3 own expense, medical or dental insurance coverage, including any spouse
4 and dependent coverage, in accordance with state or federal law. The
5 premium to be paid by the employee shall not exceed one hundred two
6 percent of the applicable premium for the leave period.

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