
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-4753.1/02

ATTY/TYPIST: KB:seg

BRIEF DESCRIPTION:

2 **ESSB 5329** - H AMD
3 By Representative

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. The legislature
8 finds that an employee who is a crime victim must often take leave from
9 work in order to participate in legal proceedings, obtain medical
10 treatment, and obtain other necessary services arising from the crime.
11 The legislature also finds that the demands of the workplace, the needs
12 of the criminal justice system, and the needs of crime victims must be
13 balanced in order to have economic security and a well-functioning
14 society. The legislature therefore finds that it is in the public
15 interest to provide reasonable leave from employment for crime victims.

16 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
17 section apply throughout this act unless the context clearly requires
18 otherwise.

19 (1) "Employer" means an employer as defined in RCW 51.08.070 that
20 had fifty or more full-time equivalent employees in the previous year.

21 (2) "Necessary services" means services to which an employee is
22 referred by a medical doctor.

23 (3) "Reduced leave schedule" means leave taken for fewer than an
24 employee's usual number of hours or days per workweek.

25 (4) "Sexual abuse" means a violation of chapter 9.68 or 9A.44 RCW.

26 (5) "Undue hardship" means significant difficulty or expense when
27 considered in light of:

28 (a) The nature and cost of the requested leave;

29 (b) The number of persons employed by the employer;

30 (c) The impact of the leave on the operation of the employer's
31 business; and

32 (d) The type of operation of the employer, including the
33 composition, structure, and functions of the work force of the
34 employer.

1 (6) "Victim" means a person who suffers bodily injury or death as
2 a proximate result of a criminal act of another person, the victim's
3 own good faith and reasonable effort to prevent a criminal act, or his
4 or her good faith effort to apprehend a person reasonably suspected of
5 engaging in a criminal act. "Victim" includes a person who has been
6 harassed or followed by a person stalking in violation of RCW
7 9A.46.110, a survivor of a homicide victim who was an immediate family
8 member, and a parent of a child who has been subject to sexual abuse.

9 NEW SECTION. **Sec. 3.** REQUIRED LEAVE. (1) An employer must grant
10 reasonable and necessary leave from work, with or without pay, for an
11 employee to:

12 (a) Prepare for and attend court proceedings;

13 (b) Receive medical treatment; or

14 (c) Obtain necessary services to remedy a crisis caused by domestic
15 violence, sexual assault, sexual abuse, stalking, or the homicide of an
16 immediate family member.

17 (2) The leave must be needed because the employee is a victim of a
18 criminal act, has been harassed or followed by a stalker in violation
19 of RCW 9A.46.110, is a survivor of a homicide victim who was an
20 immediate family member, or is a parent of a child who has been subject
21 to sexual abuse.

22 (3) A written request for leave must be provided to the employer at
23 least seven days in advance of the leave, but a shorter notice may be
24 sufficient if it is reasonable under the circumstances.

25 (4) The leave may be taken on a reduced leave schedule subject to
26 the approval of the employer.

27 (5) An employer may determine whether other types of leave apply to
28 any leave taken under this act so long as the applicable collective
29 bargaining agreement or employer policy, if any, does not bar the
30 employer from making such a determination.

31 (6) An employer is not required to grant leave under this section
32 if:

33 (a) The employer would sustain undue hardship from the employee's
34 absence;

35 (b) The requested leave is not communicated to the employer within
36 a reasonable time under the circumstances;

37 (c) The requested leave is impractical, unreasonable, or
38 unnecessary based upon the facts then made known to the employer; or

1 (d) The criminal act has not been reported to a local police
2 department or sheriff's office.

3 (7) Nothing in this section requires more than six weeks of leave
4 during any twelve-month period. Leaves of any length taken under this
5 act shall not be used to determine whether the employee's status is
6 exempt or nonexempt for purposes of chapter 49.46 RCW. Furthermore,
7 all other terms and conditions in this act and chapter 49.46 RCW in
8 general shall be given the same meaning as comparable federal statutes
9 and regulations, except to the extent that chapter 49.46 RCW or any
10 rule adopted in accordance with chapter 34.05 RCW by the department of
11 labor and industries interpreting and applying chapter 49.46 RCW is
12 expressly contrary to federal statutes or regulations.

13 NEW SECTION. **Sec. 4.** EMPLOYEE BENEFITS. The taking of leave
14 under section 3 of this act shall not result in the loss of any
15 benefits, other than leave applicable to leave taken under section 3 of
16 this act, for the employee that accrued before the date on which the
17 leave commenced. The employer may not sanction an employee for
18 exercising the right to take leave under section 3 of this act.

19 NEW SECTION. **Sec. 5.** ADDITIONAL RIGHTS--REMEDIES--COLLECTIVE
20 BARGAINING OBLIGATIONS AND RIGHTS NOT DIMINISHED. (1) Nothing in this
21 act shall be construed to discourage employers from adopting policies
22 that provide greater leave rights to employees who are crime victims
23 than those required by this act.

24 (2) Nothing in this act shall be construed to diminish an
25 employer's obligation to comply with any collective bargaining
26 agreement or any employment benefit program or plan that provides
27 greater leave rights to employees than the rights provided by this act.

28 NEW SECTION. **Sec. 6.** COMPLAINT--CONTENTS--NOTICE--INVESTIGATION.
29 (1) An employee who believes that an employer has violated any
30 provision of this act may file a complaint with the department within
31 ninety days of the alleged violation. The contents of the complaint
32 shall be the same as is required for a complaint filed under RCW
33 49.78.140.

34 (2) Upon receipt of a complaint, the department shall forward
35 written notice of the complaint to the employer.

1 (3) The department may investigate any complaint filed within the
2 required time frame. If the department determines that a violation of
3 this chapter has occurred, it may issue a notice of infraction.

4 (4) The legislature declares that the public policies articulated
5 in this act depend on the procedures established in this section. No
6 civil or criminal action may be maintained relying on the public
7 policies articulated in this act without complying with the procedures
8 in this section. To that end, all civil actions and civil causes of
9 action for such injuries and all jurisdiction of the courts of this
10 state over such causes are hereby abolished, except as provided in this
11 section.

12 NEW SECTION. **Sec. 7.** NOTICES OF INFRACTIONS--APPEALS. Notices of
13 infractions and appeals to contest notices of infractions issued under
14 this act are subject to the same requirements as provided in RCW
15 49.78.150 through 49.78.180.

16 NEW SECTION. **Sec. 8.** PENALTIES. An employer found to have
17 committed an infraction of this act may be subject to a fine of up to
18 two hundred dollars for the first infraction. An employer that
19 continues to violate the provisions of this chapter may be subject to
20 a fine of up to one thousand dollars for each infraction.

21 NEW SECTION. **Sec. 9.** POSTER REQUIRED. The department shall
22 include notice of the provisions of this act in the next reprinting of
23 employment posters printed under RCW 49.78.200.

24 NEW SECTION. **Sec. 10.** RULES. The director shall, in accordance
25 with chapter 34.05 RCW, adopt rules necessary to the administration of
26 this chapter.

27 NEW SECTION. **Sec. 11.** Captions used in this act are not any part
28 of the law.

29 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act are each
30 added to chapter 49.12 RCW.

31 NEW SECTION. **Sec. 13.** EFFECTIVE DATE. This act takes effect
32 January 1, 2003, or for individual employers with collective bargaining

1 agreements, upon the expiration of their current agreements, whichever
2 is later."

3 Correct the title.

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