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ENGROSSED SUBSTITUTE SENATE BILL 5329

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State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions  
(originally sponsored by Senators Costa, Fairley, Hargrove, Kline,  
Gardner, Eide, Kohl-Welles and Prentice)

READ FIRST TIME 02/22/01.

1 AN ACT Relating to leave from employment for crime victims; adding  
2 new sections to chapter 49.12 RCW; creating a new section; prescribing  
3 penalties; and providing an effective date.

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

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

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

17 (1) "Employer" has the same meaning as defined in RCW 51.08.070.

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

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

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

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

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

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

10 (d) The type of operation of the employer, including the  
11 composition, structure, and functions of the work force of the  
12 employer.

13 (5) "Victim" means a person who suffers bodily injury or death as  
14 a proximate result of a criminal act of another person, the victim's  
15 own good faith and reasonable effort to prevent a criminal act, or his  
16 or her good faith effort to apprehend a person reasonably suspected of  
17 engaging in a criminal act. "Victim" includes a person who has been  
18 harassed or followed by a person stalking in violation of RCW  
19 9A.46.110, a survivor of a homicide victim who was an immediate family  
20 member, and a parent of a child who has been subject to sexual abuse.

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

24 (a) Prepare for and attend court proceedings;

25 (b) Receive medical treatment; or

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

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

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

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

1 (5) An employer is not required to grant leave under this section  
2 if:

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

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

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

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

11 (6) Nothing in this section requires more than six weeks of leave  
12 during any twelve-month period.

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 for the employee that accrued before the date on which the  
16 leave commenced. The employer may not sanction an employee for  
17 exercising the right to take leave under section 3 of this act.

18 NEW SECTION. **Sec. 5.** ADDITIONAL RIGHTS--REMEDIES--COLLECTIVE  
19 BARGAINING OBLIGATIONS AND RIGHTS NOT DIMINISHED. (1) The rights  
20 provided in this act are in addition to any other rights provided by  
21 law.

22 (2) Nothing in this act shall be construed to discourage employers  
23 from adopting policies that provide greater leave rights to employees  
24 who are crime victims than those required by this act.

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

29 NEW SECTION. **Sec. 6.** COMPLAINT--CONTENTS--NOTICE--INVESTIGATION.  
30 (1) An employee who believes that an employer has violated any  
31 provision of this act may file a complaint with the department within  
32 ninety days of the alleged violation. The contents of the complaint  
33 shall be the same as is required for a complaint filed under RCW  
34 49.78.140.

35 (2) Upon receipt of a complaint, the department shall forward  
36 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 NEW SECTION. **Sec. 7.** NOTICES OF INFRACTIONS--APPEALS. Notices of  
5 infractions and appeals to contest notices of infractions issued under  
6 this act are subject to the same requirements as provided in RCW  
7 49.78.150 through 49.78.180.

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

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

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

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

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

23 NEW SECTION. **Sec. 13.** EFFECTIVE DATE. This act takes effect  
24 September 1, 2002.

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