

SENATE BILL REPORT

SB 5900

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 27, 2007

Title: An act relating to increasing the safety of victims of domestic violence, sexual assault, or stalking by ensuring leave from employment.

Brief Description: Increasing the safety of victims of domestic violence, sexual assault, or stalking by ensuring leave from employment.

Sponsors: Senators Regala, Haugen, Shin, Kline, Keiser, Spanel and Delvin.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/15/07, 2/27/07 [DPS, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5900 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Murray and Prentice.

Minority Report: That it be referred without recommendation.

Signed by Senators Hewitt and Holmquist.

Staff: Kathleen Buchli (786-7488)

Background: The Family Leave Act allows an employee a total of twelve work-weeks of leave during any twelve-month period for the birth or placement of a child, to care for a family member with a serious health condition, or because the employee has a serious health condition. Leave taken under the Family Leave Act may be taken intermittently and may be unpaid. Employers may not discriminate against employees taking family leave and are subject to penalties of up to \$1,000 for violations of the Family Leave Act.

An employee may receive unemployment compensation if he or she must leave work because of domestic violence or stalking.

Summary of Bill (Recommended Substitute): An employee may take reasonable leave or a reduced leave schedule from work if he or she, or a family member, is a victim of domestic violence, sexual assault, or stalking. An employee may take such leave with or without pay to: seek legal or law enforcement assistance, seek medical attention for physical or mental

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injuries, obtain services from a domestic violence shelter or rape crisis center, obtain psychological counseling, or participate in safety planning.

An employee taking leave due to domestic violence, sexual assault, or stalking must give his or her employer reasonable advance notice of the intent to take time off unless advance notice is not feasible.

Employers may not discharge or discriminate against employees for taking leave due to domestic violence, sexual assault, or stalking. Employees may not lose pay or benefits that accrued before leave commenced. When an employee returns to work, the employee must be restored to the position of employment held before leave commenced or be restored to an equivalent position with equivalent employment benefits, pay, and other terms of employment.

Employers who violate the provisions of this bill are subject to a fine of up to \$500 for the first infraction. Additional violations may result in a fine of up to \$1,000 for each subsequent infraction committed within three years. These employers may also be ordered to restore the employee to the position of employment held before leave commenced, or an equivalent position. Employees who are denied leave may recover actual and compensatory damages, costs, and attorneys' fees.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Substitute): The methods by which an employee provides verification of the need for leave due to domestic violence, sexual assault, or stalking are changed to allow verification through a written statement. Findings made by the Director of the Department of Labor and Industries, under investigations made under the bill, are not binding in a civil action. The fines an employer may be subject to are changed to \$500 for the first violation and \$1,000 for each subsequent violation committed within three years of a previous infraction. An employer who violates the bill may be ordered to restore the employee to the position of employment held before leave commenced or restore the employee to an equivalent position.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: PRO: Economic self-sufficiency helps women to leave domestic violence situations. The bill protects victims' employment and promotes economic self-sufficiency. Thirty-four states provide this type of leave and the state provides this leave to its employees. Victims face many barriers when seeking help. One of these barriers is economic and is preventable if the employer is supportive. Many victims have dropped out of court cases or therapy if they must work; this is especially true of low-income women. An open-ended leave system is needed because it is hard to predetermine the amount of leave needed by each employee's circumstance.

OTHER: Small business has concerns that the penalty section is too vague. It is not clear what constitutes an infraction under the bill. The verification provisions are too broad and the definition of family members needs to be narrowed. Time frames, requirements that the employees check in with the employers, and provisions dealing with ensuring the safety of other employees need to be added.

Persons Testifying: PRO: Christi Hurt, Washington Coalition of Sexual Assault Programs; Grace Huang, Washington State Coalition Against Domestic Violence; Ramona Danny, citizen; Kathleen Barnard, Attorney, Schwerin Campbell Barnard and Iglitzin.

OTHER: Carolyn Logue, National Federation of Independent Business.

Signed in, Unable to Testify & Submitted Written Testimony: OTHER: Kris Tefft, Association of Washington Business.