

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2602**

60th Legislature  
2008 Regular Session

Passed by the House March 8, 2008  
Yeas 93 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate March 4, 2008  
Yeas 49 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2602** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2602**

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AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Commerce & Labor (originally sponsored by Representatives Kessler, Dickerson, Williams, O'Brien, Hurst, Lantz, Moeller, Hasegawa, Pedersen, Ormsby, VanDeWege, Conway, Goodman, Hudgins, Santos, Campbell, Upthegrove, Chase, Darneille, Barlow, Green, and Simpson)

READ FIRST TIME 02/06/08.

1            AN ACT Relating to increasing the safety and economic security of  
2 victims of domestic violence, sexual assault, or stalking; amending RCW  
3 7.69.030; adding a new chapter to Title 49 RCW; and declaring an  
4 emergency.

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

6            NEW SECTION.    **Sec. 1.**    (1) It is in the public interest to reduce  
7 domestic violence, sexual assault, and stalking by enabling victims to  
8 maintain the financial independence necessary to leave abusive  
9 situations, achieve safety, and minimize physical and emotional  
10 injuries, and to reduce the devastating economic consequences of  
11 domestic violence, sexual assault, and stalking to employers and  
12 employees. Victims of domestic violence, sexual assault, and stalking  
13 should be able to recover from and cope with the effects of such  
14 violence and participate in criminal and civil justice processes  
15 without fear of adverse economic consequences.

16            (2) One of the best predictors of whether a victim of domestic  
17 violence, sexual assault, or stalking will be able to stay away from an  
18 abuser is his or her degree of economic independence.    However,

1 domestic violence, sexual assault, and stalking often negatively impact  
2 victims' ability to maintain employment.

3 (3) An employee who is a victim of domestic violence, sexual  
4 assault, or stalking, or an employee whose family member is a victim,  
5 must often take leave from work due to injuries, court proceedings, or  
6 safety concerns requiring legal protection.

7 (4) Thus, it is in the public interest to provide reasonable leave  
8 from employment for employees who are victims of domestic violence,  
9 sexual assault, or stalking, or for employees whose family members are  
10 victims, to participate in legal proceedings, receive medical  
11 treatment, or obtain other necessary services.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Child," "spouse," "parent," "parent-in-law," "grandparent,"  
15 and "sick leave and other paid time off" have the same meanings as in  
16 RCW 49.12.265.

17 (2) "Dating relationship" has the same meaning as in RCW 26.50.010.

18 (3) "Department," "director," "employer," and "employee" have the  
19 same meanings as in RCW 49.12.005.

20 (4) "Domestic violence" has the same meaning as in RCW 26.50.010.

21 (5) "Family member" means any individual whose relationship to the  
22 employee can be classified as a child, spouse, parent, parent-in-law,  
23 grandparent, or person with whom the employee has a dating  
24 relationship.

25 (6) "Intermittent leave" and "reduced leave schedule" have the same  
26 meanings as in RCW 49.78.020.

27 (7) "Sexual assault" has the same meaning as in RCW 70.125.030.

28 (8) "Stalking" has the same meaning as in RCW 9A.46.110.

29 NEW SECTION. **Sec. 3.** An employee may take reasonable leave from  
30 work, intermittent leave, or leave on a reduced leave schedule, with  
31 or without pay, to:

32 (1) Seek legal or law enforcement assistance or remedies to ensure  
33 the health and safety of the employee or employee's family members  
34 including, but not limited to, preparing for, or participating in, any  
35 civil or criminal legal proceeding related to or derived from domestic  
36 violence, sexual assault, or stalking;

1 (2) Seek treatment by a health care provider for physical or mental  
2 injuries caused by domestic violence, sexual assault, or stalking, or  
3 to attend to health care treatment for a victim who is the employee's  
4 family member;

5 (3) Obtain, or assist a family member in obtaining, services from  
6 a domestic violence shelter, rape crisis center, or other social  
7 services program for relief from domestic violence, sexual assault, or  
8 stalking;

9 (4) Obtain, or assist a family member in obtaining, mental health  
10 counseling related to an incident of domestic violence, sexual assault,  
11 or stalking, in which the employee or the employee's family member was  
12 a victim of domestic violence, sexual assault, or stalking; or

13 (5) Participate in safety planning, temporarily or permanently  
14 relocate, or take other actions to increase the safety of the employee  
15 or employee's family members from future domestic violence, sexual  
16 assault, or stalking.

17 NEW SECTION. **Sec. 4.** (1) As a condition of taking leave for any  
18 purpose described in section 3 of this act, an employee shall give an  
19 employer advance notice of the employee's intention to take leave. The  
20 timing of the notice shall be consistent with the employer's stated  
21 policy for requesting such leave, if the employer has such a policy.  
22 When advance notice cannot be given because of an emergency or  
23 unforeseen circumstances due to domestic violence, sexual assault, or  
24 stalking, the employee or his or her designee must give notice to the  
25 employer no later than the end of the first day that the employee takes  
26 such leave.

27 (2) When an employee requests leave under section 3 of this act the  
28 employer may require that the request be supported by verification  
29 that:

30 (a) The employee or employee's family member is a victim of  
31 domestic violence, sexual assault, or stalking; and

32 (b) The leave taken was for one of the purposes described in  
33 section 3 of this act.

34 (3) If an employer requires verification, verification must be  
35 provided in a timely manner. In the event that advance notice of the  
36 leave cannot be given because of an emergency or unforeseen  
37 circumstances due to domestic violence, sexual assault, or stalking,

1 and the employer requires verification, verification must be provided  
2 to the employer within a reasonable time period during or after the  
3 leave.

4 (4) An employee may satisfy the verification requirement of this  
5 section by providing the employer with one or more of the following:

6 (a) A police report indicating that the employee or employee's  
7 family member was a victim of domestic violence, sexual assault, or  
8 stalking;

9 (b) A court order protecting or separating the employee or  
10 employee's family member from the perpetrator of the act of domestic  
11 violence, sexual assault, or stalking, or other evidence from the court  
12 or the prosecuting attorney that the employee or employee's family  
13 member appeared, or is scheduled to appear, in court in connection with  
14 an incident of domestic violence, sexual assault, or stalking;

15 (c) Documentation that the employee or the employee's family member  
16 is a victim of domestic violence, sexual assault, or stalking, from any  
17 of the following persons from whom the employee or employee's family  
18 member sought assistance in addressing the domestic violence, sexual  
19 assault, or stalking: An advocate for victims of domestic violence,  
20 sexual assault, or stalking; an attorney; a member of the clergy; or a  
21 medical or other professional. The provision of documentation under  
22 this section does not waive or diminish the confidential or privileged  
23 nature of communications between a victim of domestic violence, sexual  
24 assault, or stalking with one or more of the individuals named in this  
25 subsection (4)(c) pursuant to RCW 5.60.060, 70.123.075, 70.123.076, or  
26 70.125.065; or

27 (d) An employee's written statement that the employee or the  
28 employee's family member is a victim of domestic violence, sexual  
29 assault, or stalking and that the leave taken was for one of the  
30 purposes described in section 3 of this act.

31 (5) If the victim of domestic violence, sexual assault, or stalking  
32 is the employee's family member, verification of the familial  
33 relationship between the employee and the victim may include, but is  
34 not limited to, a statement from the employee, a birth certificate, a  
35 court document, or other similar documentation.

36 (6) An employee who is absent from work pursuant to section 3 of  
37 this act may elect to use the employee's sick leave and other paid time  
38 off, compensatory time, or unpaid leave time.

1 (7) An employee is required to provide only the information  
2 enumerated in subsection (2) of this section to establish that the  
3 employee's leave is protected under this chapter. An employee is not  
4 required to produce or discuss any information with the employer that  
5 is beyond the scope of subsection (2) of this section, or that would  
6 compromise the employee's safety or the safety of the employee's family  
7 member in any way, and an employer is prohibited from requiring any  
8 such disclosure.

9 (8)(a) Except as provided in (b) of this subsection, an employer  
10 shall maintain the confidentiality of all information provided by the  
11 employee under this section, including the fact that the employee or  
12 employee's family member is a victim of domestic violence, sexual  
13 assault, or stalking, that the employee has requested or obtained leave  
14 under this chapter, and any written or oral statement, documentation,  
15 record, or corroborating evidence provided by the employee.

16 (b) Information given by an employee may be disclosed by an  
17 employer only if:

- 18 (i) Requested or consented to by the employee;
- 19 (ii) Ordered by a court or administrative agency; or
- 20 (iii) Otherwise required by applicable federal or state law.

21 NEW SECTION. **Sec. 5.** (1) The taking of leave under section 3 of  
22 this act may not result in the loss of any pay or benefits to the  
23 employee that accrued before the date on which the leave commenced.

24 (2) Upon an employee's return, an employer shall either:

25 (a) Restore the employee to the position of employment held by the  
26 employee when the leave commenced; or

27 (b) Restore the employee to an equivalent position with equivalent  
28 employment benefits, pay, and other terms and conditions of employment.

29 (3)(a) This section does not apply if the employment from which the  
30 individual takes leave is with a staffing company and the individual is  
31 assigned on a temporary basis to perform work at or services for  
32 another organization to support or supplement the other organization's  
33 workforces, or to provide assistance in special work situations such  
34 as, but not limited to, employee absences, skill shortages, seasonal  
35 workloads, or to perform special assignments or projects, all under the  
36 direction and supervision of the organization to which the individual  
37 is assigned.

1 (b) This section does not apply if an employee was hired for a  
2 specific term or only to perform work on a discrete project, the  
3 employment term or project is over, and the employer would not  
4 otherwise have continued to employ the employee.

5 (4) To the extent allowed by law, an employer shall maintain  
6 coverage under any health insurance plan for an employee who takes  
7 leave under section 3 of this act. The coverage must be maintained for  
8 the duration of the leave at the level and under the conditions  
9 coverage would have been provided if the employee had not taken the  
10 leave.

11 NEW SECTION. **Sec. 6.** (1) The rights provided in this act are in  
12 addition to any other rights provided by state and federal law.

13 (2) Nothing in this chapter shall be construed to discourage  
14 employers from adopting policies that provide greater leave rights to  
15 employees who are victims of domestic violence, sexual assault, or  
16 stalking than those required by this act.

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

21 NEW SECTION. **Sec. 7.** Upon complaint by an employee, the director  
22 shall investigate to determine if there has been compliance with this  
23 chapter and the rules adopted under this chapter. If the investigation  
24 indicates that a violation has occurred, the director shall issue a  
25 notice of infraction. Appeal from the director's decision is governed  
26 by chapter 34.05 RCW.

27 NEW SECTION. **Sec. 8.** Any finding, determination, conclusion,  
28 declaration, or notice of infraction made for the purposes of enforcing  
29 this chapter by the director or by an appeal tribunal, administrative  
30 law judge, or reviewing officer is neither conclusive nor binding in  
31 any civil action filed pursuant to section 12 of this act or in any  
32 other common law or civil action, regardless of whether the prior  
33 action was between the same or related parties or involved the same  
34 facts.

1        NEW SECTION.    **Sec. 9.** (1) If an employer is found to have  
2 committed an infraction under section 7 of this act, the director may  
3 impose upon the employer a fine of up to five hundred dollars for the  
4 first infraction and a fine of up to one thousand dollars for each  
5 subsequent infraction committed within three years of a previous  
6 infraction.

7        (2) The director may also order an employer found to have committed  
8 an infraction under section 7 of this act to comply with section 5(2)  
9 of this act.

10       NEW SECTION.    **Sec. 10.** (1) Except as provided in subsection (2) of  
11 this section, information contained in the department's complaint files  
12 and records of employees under this chapter is confidential and shall  
13 not be open to public inspection.

14        (2) Except as limited by state or federal statute or regulations:

15        (a) The information in subsection (1) of this section may be  
16 provided to public employees in the performance of their official  
17 duties; and

18        (b) A complainant or a representative of a complainant, be it an  
19 individual or an organization, may review a complaint file or receive  
20 specific information therefrom upon the presentation of the signed  
21 authorization of the complainant.

22       NEW SECTION.    **Sec. 11.** No employer may discharge, threaten to  
23 discharge, demote, deny a promotion to, sanction, discipline, retaliate  
24 against, harass, or otherwise discriminate against an employee with  
25 respect to compensation, terms, conditions, or privileges of employment  
26 because the employee:

27        (1) Exercised rights under section 3 of this act;

28        (2) Filed or communicated to the employer an intent to file a  
29 complaint under section 7 or 12 of this act; or

30        (3) Participated or assisted, as a witness or otherwise, in another  
31 employee's attempt to exercise rights under section 3, 7, or 12 of this  
32 act.

33       NEW SECTION.    **Sec. 12.** (1) Any employee deeming herself or himself  
34 injured by any act in violation of this chapter shall have a civil  
35 action in a court of competent jurisdiction to enjoin further



1 violations, or to recover the actual damages sustained by the person,  
2 or both, together with the cost of suit including reasonable attorneys'  
3 fees.

4 (2) The remedy provided by this section is in addition to any  
5 common law remedy or other remedy that may be available to an employee.

6 (3) An employee is not required to exhaust administrative remedies  
7 before filing a civil action to enforce this chapter.

8 NEW SECTION. **Sec. 13.** The department shall include notice of the  
9 provisions of this chapter in the next reprinting of employment posters  
10 printed under RCW 49.78.340. Employers shall post this notice as  
11 required in RCW 49.78.340.

12 NEW SECTION. **Sec. 14.** Prosecuting attorney and victim/witness  
13 offices are encouraged to make information regarding this chapter  
14 available for distribution at their offices.

15 NEW SECTION. **Sec. 15.** The director shall adopt rules as necessary  
16 to implement this chapter.

17 **Sec. 16.** RCW 7.69.030 and 2004 c 120 s 8 are each amended to read  
18 as follows:

19 There shall be a reasonable effort made to ensure that victims,  
20 survivors of victims, and witnesses of crimes have the following  
21 rights, which apply to any criminal court and/or juvenile court  
22 proceeding:

23 (1) With respect to victims of violent or sex crimes, to receive,  
24 at the time of reporting the crime to law enforcement officials, a  
25 written statement of the rights of crime victims as provided in this  
26 chapter. The written statement shall include the name, address, and  
27 telephone number of a county or local crime victim/witness program, if  
28 such a crime victim/witness program exists in the county;

29 (2) To be informed by local law enforcement agencies or the  
30 prosecuting attorney of the final disposition of the case in which the  
31 victim, survivor, or witness is involved;

32 (3) To be notified by the party who issued the subpoena that a  
33 court proceeding to which they have been subpoenaed will not occur as  
34 scheduled, in order to save the person an unnecessary trip to court;

1 (4) To receive protection from harm and threats of harm arising out  
2 of cooperation with law enforcement and prosecution efforts, and to be  
3 provided with information as to the level of protection available;

4 (5) To be informed of the procedure to be followed to apply for and  
5 receive any witness fees to which they are entitled;

6 (6) To be provided, whenever practical, a secure waiting area  
7 during court proceedings that does not require them to be in close  
8 proximity to defendants and families or friends of defendants;

9 (7) To have any stolen or other personal property expeditiously  
10 returned by law enforcement agencies or the superior court when no  
11 longer needed as evidence. When feasible, all such property, except  
12 weapons, currency, contraband, property subject to evidentiary  
13 analysis, and property of which ownership is disputed, shall be  
14 photographed and returned to the owner within ten days of being taken;

15 (8) To be provided with appropriate employer intercession services  
16 to ensure that employers of victims, survivors of victims, and  
17 witnesses of crime will cooperate with the criminal justice process in  
18 order to minimize an employee's loss of pay and other benefits  
19 resulting from court appearance;

20 (9) To access to immediate medical assistance and not to be  
21 detained for an unreasonable length of time by a law enforcement agency  
22 before having such assistance administered. However, an employee of  
23 the law enforcement agency may, if necessary, accompany the person to  
24 a medical facility to question the person about the criminal incident  
25 if the questioning does not hinder the administration of medical  
26 assistance. Victims of domestic violence, sexual assault, or stalking,  
27 as defined in section 2 of this act, shall be notified of their right  
28 to reasonable leave from employment under chapter 49. . . . RCW  
29 (sections 1 through 15 of this act);

30 (10) With respect to victims of violent and sex crimes, to have a  
31 crime victim advocate from a crime victim/witness program, or any other  
32 support person of the victim's choosing, present at any prosecutorial  
33 or defense interviews with the victim, and at any judicial proceedings  
34 related to criminal acts committed against the victim. This subsection  
35 applies if practical and if the presence of the crime victim advocate  
36 or support person does not cause any unnecessary delay in the  
37 investigation or prosecution of the case. The role of the crime victim  
38 advocate is to provide emotional support to the crime victim;

1 (11) With respect to victims and survivors of victims, to be  
2 physically present in court during trial, or if subpoenaed to testify,  
3 to be scheduled as early as practical in the proceedings in order to be  
4 physically present during trial after testifying and not to be excluded  
5 solely because they have testified;

6 (12) With respect to victims and survivors of victims, to be  
7 informed by the prosecuting attorney of the date, time, and place of  
8 the trial and of the sentencing hearing for felony convictions upon  
9 request by a victim or survivor;

10 (13) To submit a victim impact statement or report to the court,  
11 with the assistance of the prosecuting attorney if requested, which  
12 shall be included in all presentence reports and permanently included  
13 in the files and records accompanying the offender committed to the  
14 custody of a state agency or institution;

15 (14) With respect to victims and survivors of victims, to present  
16 a statement personally or by representation, at the sentencing hearing  
17 for felony convictions;

18 (15) With respect to victims and survivors of victims, to entry of  
19 an order of restitution by the court in all felony cases, even when the  
20 offender is sentenced to confinement, unless extraordinary  
21 circumstances exist which make restitution inappropriate in the court's  
22 judgment; and

23 (16) With respect to victims and survivors of victims, to present  
24 a statement in person, via audio or videotape, in writing or by  
25 representation at any hearing conducted regarding an application for  
26 pardon or commutation of sentence.

27 NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act  
28 constitute a new chapter in Title 49 RCW.

29 NEW SECTION. **Sec. 18.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately.

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