

1 AMENDMENT TO HOUSE BILL 3486

2 AMENDMENT NO. _____. Amend House Bill 3486 by replacing
3 the title with the following:

4 "AN ACT in relation to employment."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 1. Short title. This Act may be cited as the
8 Victims' Economic Security and Safety Act.

9 Section 5. Findings. The General Assembly finds and
10 declares the following:

11 (1) Domestic and sexual violence affects many
12 persons without regard to age, race, educational level,
13 socioeconomic status, religion, or occupation.

14 (2) Domestic and sexual violence has a devastating
15 effect on individuals, families, communities and the
16 workplace.

17 (3) Domestic violence crimes account for
18 approximately 15% of total crime costs in the United
19 States each year.

20 (4) Violence against women has been reported to be
21 the leading cause of physical injury to women. Such

1 violence has a devastating impact on women's physical and
2 emotional health and financial security.

3 (5) According to recent government surveys, from
4 1993 through 1998 the average annual number of violent
5 victimizations committed by intimate partners was
6 1,082,110, 87% of which were committed against women.

7 (6) Female murder victims were substantially more
8 likely than male murder victims to have been killed by an
9 intimate partner. About one-third of female murder
10 victims, and about 4% of male murder victims, were killed
11 by an intimate partner.

12 (7) According to recent government estimates,
13 approximately 987,400 rapes occur annually in the United
14 States, 89% of the rapes are perpetrated against female
15 victims.

16 (8) Approximately 10,200,000 people have been
17 stalked at some time in their lives. Four out of every 5
18 stalking victims are women. Stalkers harass and terrorize
19 their victims by spying on the victims, standing outside
20 their places of work or homes, making unwanted phone
21 calls, sending or leaving unwanted letters or items, or
22 vandalizing property.

23 (9) Employees in the United States who have been
24 victims of domestic violence, dating violence, sexual
25 assault, or stalking too often suffer adverse
26 consequences in the workplace as a result of their
27 victimization.

28 (10) Victims of domestic violence, dating violence,
29 sexual assault, and stalking face the threat of job loss
30 and loss of health insurance as a result of the illegal
31 acts of the perpetrators of violence.

32 (11) The prevalence of domestic violence, dating
33 violence, sexual assault, stalking, and other violence
34 against women at work is dramatic. Approximately 11% of

1 all rapes occur in the workplace. About 50,500
2 individuals, 83% of whom are women, were raped or
3 sexually assaulted in the workplace each year from 1992
4 through 1996. Half of all female victims of violent
5 workplace crimes know their attackers. Nearly one out of
6 10 violent workplace incidents is committed by partners
7 or spouses.

8 (12) Homicide is the leading cause of death for
9 women on the job. Husbands, boyfriends, and ex-partners
10 commit 15% of workplace homicides against women.

11 (13) Studies indicate that as much as 74% of
12 employed battered women surveyed were harassed at work by
13 their abusive partners.

14 (14) According to a 1998 report of the U.S. General
15 Accounting Office, between one-fourth and one-half of
16 domestic violence victims surveyed in 3 studies reported
17 that the victims lost a job due, at least in part, to
18 domestic violence.

19 (15) Women who have experienced domestic violence
20 or dating violence are more likely than other women to be
21 unemployed, to suffer from health problems that can
22 affect employability and job performance, to report lower
23 personal income, and to rely on welfare.

24 (16) Abusers frequently seek to control their
25 partners by actively interfering with their ability to
26 work, including preventing their partners from going to
27 work, harassing their partners at work, limiting the
28 access of their partners to cash or transportation, and
29 sabotaging the child care arrangements of their partners.

30 (17) More than one-half of women receiving welfare
31 have been victims of domestic violence as adults and
32 between one-fourth and one-third reported being abused in
33 the last year.

34 (18) Sexual assault, whether occurring in or out of

1 the workplace, can impair an employee's work performance,
2 require time away from work, and undermine the employee's
3 ability to maintain a job. Almost 50% of sexual assault
4 survivors lose their jobs or are forced to quit in the
5 aftermath of the assaults.

6 (19) More than one-fourth of stalking victims
7 report losing time from work due to the stalking and 7%
8 never return to work.

9 (20) (A) According to the National Institute of
10 Justice, crime costs an estimated \$450,000,000,000
11 annually in medical expenses, lost earnings, social
12 service costs, pain, suffering, and reduced quality of
13 life for victims, which harms the Nation's productivity
14 and drains the Nation's resources. (B) Violent crime
15 accounts for \$426,000,000,000 per year of this amount.
16 (C) Rape exacts the highest costs per victim of any
17 criminal offense, and accounts for \$127,000,000,000 per
18 year of the amount described in subparagraph (A).

19 (21) The Bureau of National Affairs has estimated
20 that domestic violence costs United States employers
21 between \$3,000,000,000 and \$5,000,000,000 annually in
22 lost time and productivity. Other reports have estimated
23 that domestic violence costs United States employers
24 \$13,000,000,000 annually.

25 (22) United States medical costs for domestic
26 violence have been estimated to be \$31,000,000,000 per
27 year.

28 (23) Ninety-four percent of corporate security and
29 safety directors at companies nationwide rank domestic
30 violence as a high security concern.

31 (24) Forty-nine percent of senior executives
32 recently surveyed said domestic violence has a harmful
33 effect on their company's productivity, 47% said domestic
34 violence negatively affects attendance, and 44% said

1 domestic violence increases health care costs.

2 (25) Employees, including individuals participating
3 in welfare to work programs, may need to take time during
4 business hours to:

5 (A) obtain orders of protection;

6 (B) seek medical or legal assistance,
7 counseling, or other services; or

8 (C) look for housing in order to escape from
9 domestic violence.

10 Section 10. Definitions. In this Act, except as otherwise
11 expressly provided:

12 (1) "Commerce" includes trade, traffic, commerce,
13 transportation, or communication; and "industry or
14 activity affecting commerce" means any activity,
15 business, or industry in commerce or in which a labor
16 dispute would hinder or obstruct commerce or the free
17 flow of commerce, and includes "commerce" and any
18 "industry affecting commerce".

19 (2) "Course of conduct" means a course of
20 repeatedly maintaining a visual or physical proximity to
21 a person or conveying oral or written threats, including
22 threats conveyed through electronic communications, or
23 threats implied by conduct.

24 (3) "Department" means the Department of Labor.

25 (4) "Director" means the Director of Labor.

26 (5) "Domestic or sexual violence" means domestic
27 violence, sexual assault, or stalking.

28 (6) "Domestic violence" includes acts or threats of
29 violence, not including acts of self defense, as defined
30 in subdivision (3) of Section 103 of the Illinois
31 Domestic Violence Act of 1986, or engaging in any course
32 of conduct directed at a specific person that would cause
33 a reasonable person to suffer substantial emotional

1 distress or to fear bodily injury, sexual assault, or
2 death to the person, or the person's family or household
3 member, if the conduct causes the specific person to have
4 such distress or fear.

5 (7) "Electronic communications" includes
6 communications via telephone, mobile phone, computer,
7 e-mail, video recorder, fax machine, telex, or pager.

8 (8) "Employ" includes to suffer or permit to work.

9 (9) Employee.

10 (A) In general. "Employee" means any person
11 employed by an employer.

12 (B) Basis. "Employee" includes a person
13 employed as described in subparagraph (A) on a full
14 or part-time basis, for a fixed time period, on a
15 temporary basis, pursuant to a detail, as an
16 independent contractor, or as a participant in a
17 work assignment as a condition of receipt of federal
18 or State income-based public assistance.

19 (10) "Employer":

20 (A) means any person engaged in commerce or in
21 any industry or activity affecting commerce who
22 employs 25 or more individuals; and

23 (B) includes any person acting directly or
24 indirectly in the interest of an employer in
25 relation to an employee, and includes a public
26 agency, but does not include any labor organization
27 (other than when acting as an employer) or anyone
28 acting in the capacity of officer or agent of such
29 labor organization.

30 (11) "Employment benefits" means all benefits
31 provided or made available to employees by an employer,
32 including group life insurance, health insurance,
33 disability insurance, sick leave, annual leave,
34 educational benefits, and pensions, regardless of whether

1 such benefits are provided by a practice or written
2 policy of an employer or through an "employee benefit
3 plan". "Employee benefit plan" or "plan" means an
4 employee welfare benefit plan or an employee pension
5 benefit plan or a plan which is both an employee welfare
6 benefit plan and an employee pension benefit plan.

7 (12) "Family or household member" means spouses,
8 former spouses, parents, son or daughter, and persons
9 jointly residing or formerly residing in the same
10 dwelling unit.

11 (13) "Parent" means the biological parent of an
12 employee or an individual who stood in loco parentis to
13 an employee when the employee was a son or daughter. "Son
14 or daughter" means a biological, adopted, or foster
15 child, a stepchild, a legal ward, or a child of a person
16 standing in loco parentis, who is under 18 years of age,
17 or is 18 years of age or older and incapable of self-care
18 because of a mental or physical disability.

19 (14) "Perpetrator" means an individual who commits
20 or is alleged to have committed any act or threat of
21 domestic or sexual violence.

22 (15) "Person" means an individual, partnership,
23 association, corporation, business trust, legal
24 representative, or any organized group of persons.

25 (16) "Public agency" means the Government of the
26 State or political subdivision thereof; any agency of the
27 State, or of a political subdivision of the State; or any
28 governmental agency.

29 (17) "Public assistance" includes cash, food
30 stamps, medical assistance, housing assistance, and other
31 benefits provided on the basis of income by a public
32 agency or public employer.

33 (18) "Reduced work schedule" means a work schedule
34 that reduces the usual number of hours per workweek, or

1 hours per workday, of an employee.

2 (19) "Repeatedly" means on 2 or more occasions.

3 (20) "Sexual assault" means any conduct proscribed
4 by the Criminal Code of 1961 in Sections 12-13, 12-14,
5 12-14.1, 12-15, and 12-16, including both assaults
6 committed by perpetrators who are strangers to the victim
7 and assaults committed by perpetrators who are known or
8 related by blood or marriage to the victim.

9 (21) "Stalking" means any conduct proscribed by the
10 Criminal Code of 1961 in Sections 12-7.3 and 12-7.4, or
11 engaging in any course of conduct directed at a specific
12 person that would cause a reasonable person to suffer
13 substantial emotional distress or to fear bodily injury,
14 sexual assault, or death to the person, or the person's
15 family or household member, if the conduct causes the
16 specific person to have such distress or fear.

17 (22) "Victim" or "survivor" means an individual who
18 has been subjected to domestic or sexual violence.

19 (23) "Victim services organization" means a
20 nonprofit, nongovernmental organization that provides
21 assistance to victims of domestic or sexual violence or
22 to advocates for such victims, including a rape crisis
23 center, an organization carrying out a domestic violence
24 program, an organization operating a shelter or providing
25 counseling services, or a legal services organization or
26 other organization providing assistance through the legal
27 process.

28 Section 15. Purposes. The purposes of this Act are:

29 (1) to promote the State's interest in reducing
30 domestic violence, dating violence, sexual assault, and
31 stalking by enabling victims of domestic or sexual
32 violence to maintain the financial independence necessary
33 to leave abusive situations, achieve safety, and minimize

1 the physical and emotional injuries from domestic or
2 sexual violence, and to reduce the devastating economic
3 consequences of domestic or sexual violence to employers
4 and employees;

5 (2) to promote the State's interest in ensuring
6 that employees who are victims of domestic or sexual
7 violence and employees with a family or household member
8 who is a victim of domestic or sexual violence can
9 recover from and cope with the effects of such violence,
10 and participate in criminal and civil justice processes,
11 without fear of adverse economic consequences from their
12 employers;

13 (3) to ensure that applicants and recipients of
14 public assistance who are victims of domestic or sexual
15 violence and applicants and recipients of public
16 assistance with a family or household member who is a
17 victim of domestic or sexual violence can recover from
18 and cope with the effects of such violence, and
19 participate in criminal and civil justice processes,
20 without fear of adverse economic consequences with
21 respect to public assistance;

22 (4) to address the failure of existing laws to
23 protect the employment rights of employees who are
24 victims of domestic or sexual violence and employees with
25 a family or household member who is a victim of domestic
26 or sexual violence, by protecting the civil and economic
27 rights of those employees, and by furthering the equal
28 opportunity of women for economic self-sufficiency and
29 employment free from discrimination;

30 (5) to accomplish the purposes described in
31 paragraphs (1) through (4) by:

32 (A) entitling employed victims of domestic or
33 sexual violence to take leave to seek medical help,
34 legal assistance, counseling, safety planning, and

1 other assistance without penalty from their
2 employers;

3 (B) entitling employees with a family or
4 household member who is a victim of domestic or
5 sexual violence to take leave to seek medical help,
6 legal assistance, counseling, safety planning, and
7 other assistance for the employee or the family or
8 household member who is a victim without penalty
9 from their employers; and

10 (C) prohibiting employers from discriminating
11 against actual or perceived victims of domestic or
12 sexual violence, in a manner that accommodates the
13 legitimate interests of employers and protects the
14 safety of all persons in the workplace.

15 Section 20. Entitlement to leave due to domestic or
16 sexual violence.

17 (a) Leave requirement.

18 (1) Basis. An employee who is a victim of domestic
19 or sexual violence or has a family or household member
20 who is a victim of domestic or sexual violence whose
21 interests are not adverse to the employee as it relates
22 to the domestic or sexual violence may take leave from
23 work to address domestic or sexual violence by:

24 (A) seeking medical attention for, or
25 recovering from, physical or psychological injuries
26 caused by domestic or sexual violence to the
27 employee or the employee's family or household
28 member;

29 (B) obtaining services from a victim services
30 organization for the employee or the employee's
31 family or household member;

32 (C) obtaining psychological or other
33 counseling for the employee or the employee's family

1 or household member;

2 (D) participating in safety planning,
3 temporarily or permanently relocating, or taking
4 other actions to increase the safety of the employee
5 or the employee's family or household member from
6 future domestic or sexual violence or ensure
7 economic security; or

8 (E) seeking legal assistance or remedies to
9 ensure the health and safety of the employee or the
10 employee's family or household member, including
11 preparing for or participating in any civil or
12 criminal legal proceeding related to or derived from
13 domestic or sexual violence.

14 (2) Period. Subject to subsection (c), an employee
15 shall be entitled to a total of 12 workweeks of leave
16 during any 12-month period. This Act does not create a
17 right for an employee to take unpaid leave that exceeds
18 the unpaid leave time allowed under, or is in addition to
19 the unpaid leave time permitted by, the federal Family
20 and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

21 (3) Schedule. Leave described in paragraph (1) may
22 be taken intermittently or on a reduced work schedule.

23 (b) Notice. The employee shall provide the employer with
24 at least 48 hours' advance notice of the employee's intention
25 to take the leave, unless providing such notice is not
26 practicable. When an unscheduled absence occurs, the employer
27 may not take any action against the employee if the employee,
28 within a reasonable period after the absence, provides
29 certification under subsection (c).

30 (c) Certification.

31 (1) In general. The employer may require the
32 employee to provide certification to the employer that:

33 (A) the employee or the employee's family or
34 household member is a victim of domestic or sexual

1 violence; and

2 (B) the leave is for one of the purposes
3 enumerated in paragraph (a)(1).

4 The employee shall provide such certification to the
5 employer within a reasonable period after the employer
6 requests certification.

7 (2) Contents. An employee may satisfy the
8 certification requirement of paragraph (1) by providing
9 to the employer:

10 (A) a sworn statement of the employee;

11 (B) documentation from an employee, agent, or
12 volunteer of a victim services organization, an
13 attorney, a member of the clergy, or a medical or
14 other professional from whom the employee or the
15 employee's family or household member has sought
16 assistance in addressing domestic or sexual violence
17 and the effects of the violence;

18 (C) a police or court record; or

19 (D) other corroborating evidence.

20 (d) Confidentiality. All information provided to the
21 employer pursuant to subsection (b) or (c), including a
22 statement of the employee or any other documentation, record,
23 or corroborating evidence, and the fact that the employee has
24 requested or obtained leave pursuant to this Section, shall
25 be retained in the strictest confidence by the employer,
26 except to the extent that disclosure is:

27 (1) requested or consented to in writing by the
28 employee; or

29 (2) otherwise required by applicable federal or
30 State law.

31 (e) Employment and benefits.

32 (1) Restoration to position.

33 (A) In general. Any employee who takes leave
34 under this Section for the intended purpose of the

1 leave shall be entitled, on return from such leave:

2 (i) to be restored by the employer to the
3 position of employment held by the employee
4 when the leave commenced; or

5 (ii) to be restored to an equivalent
6 position with equivalent employment benefits,
7 pay, and other terms and conditions of
8 employment.

9 (B) Loss of benefits. The taking of leave
10 under this Section shall not result in the loss of
11 any employment benefit accrued prior to the date on
12 which the leave commenced.

13 (C) Limitations. Nothing in this subsection
14 shall be construed to entitle any restored employee
15 to:

16 (i) the accrual of any seniority or
17 employment benefits during any period of leave;
18 or

19 (ii) any right, benefit, or position of
20 employment other than any right, benefit, or
21 position to which the employee would have been
22 entitled had the employee not taken the leave.

23 (D) Construction. Nothing in this paragraph
24 shall be construed to prohibit an employer from
25 requiring an employee on leave under this Section to
26 report periodically to the employer on the status
27 and intention of the employee to return to work.

28 (2) Maintenance of health benefits.

29 (A) Coverage. Except as provided in
30 subparagraph (B), during any period that an employee
31 takes leave under this Section, the employer shall
32 maintain coverage for the employee and any family or
33 household member under any group health plan for the
34 duration of such leave at the level and under the

1 conditions coverage would have been provided if the
2 employee had continued in employment continuously
3 for the duration of such leave.

4 (B) Failure to return from leave. The employer
5 may recover the premium that the employer paid for
6 maintaining coverage for the employee and the
7 employee's family or household member under such
8 group health plan during any period of leave under
9 this Section if:

10 (i) the employee fails to return from
11 leave under this Section after the period of
12 leave to which the employee is entitled has
13 expired; and

14 (ii) the employee fails to return to work
15 for a reason other than:

16 (I) the continuation, recurrence, or
17 onset of domestic or sexual violence that
18 entitles the employee to leave pursuant to
19 this Section; or

20 (II) other circumstances beyond the
21 control of the employee.

22 (C) Certification.

23 (i) Issuance. An employer may require an
24 employee who claims that the employee is unable
25 to return to work because of a reason described
26 in subclause (I) or (II) of subparagraph
27 (B)(ii) to provide, within a reasonable period
28 after making the claim, certification to the
29 employer that the employee is unable to return
30 to work because of that reason.

31 (ii) Contents. An employee may satisfy
32 the certification requirement of clause (i) by
33 providing to the employer:

34 (I) a sworn statement of the

1 employee;

2 (II) documentation from an employee,
3 agent, or volunteer of a victim services
4 organization, an attorney, a member of the
5 clergy, or a medical or other professional
6 from whom the employee has sought
7 assistance in addressing domestic or
8 sexual violence and the effects of that
9 violence;

10 (III) a police or court record; or

11 (IV) other corroborating evidence.

12 (D) Confidentiality. All information provided
13 to the employer pursuant to subparagraph (C),
14 including a statement of the employee or any other
15 documentation, record, or corroborating evidence,
16 and the fact that the employee is not returning to
17 work because of a reason described in subclause (I)
18 or (II) of subparagraph (B)(ii) shall be retained in
19 the strictest confidence by the employer, except to
20 the extent that disclosure is:

21 (i) requested or consented to in writing
22 by the employee; or

23 (ii) otherwise required by applicable
24 federal or State law.

25 (f) Prohibited acts.

26 (1) Interference with rights.

27 (A) Exercise of rights. It shall be unlawful
28 for any employer to interfere with, restrain, or
29 deny the exercise of or the attempt to exercise any
30 right provided under this Section.

31 (B) Employer discrimination. It shall be
32 unlawful for any employer to discharge or harass any
33 individual, or otherwise discriminate against any
34 individual with respect to compensation, terms,

1 conditions, or privileges of employment of the
2 individual (including retaliation in any form or
3 manner) because the individual:

4 (i) exercised any right provided under
5 this Section; or

6 (ii) opposed any practice made unlawful
7 by this Section.

8 (C) Public agency sanctions. It shall be
9 unlawful for any public agency to deny, reduce, or
10 terminate the benefits of, otherwise sanction, or
11 harass any individual, or otherwise discriminate
12 against any individual with respect to the amount,
13 terms, or conditions of public assistance of the
14 individual (including retaliation in any form or
15 manner) because the individual:

16 (i) exercised any right provided under
17 this Section; or

18 (ii) opposed any practice made unlawful
19 by this Section.

20 (2) Interference with proceedings or inquiries. It
21 shall be unlawful for any person to discharge or in any
22 other manner discriminate (as described in subparagraph
23 (B) or (C) of paragraph (1)) against any individual
24 because such individual:

25 (A) has filed any charge, or has instituted or
26 caused to be instituted any proceeding, under or
27 related to this Section;

28 (B) has given, or is about to give, any
29 information in connection with any inquiry or
30 proceeding relating to any right provided under this
31 Section; or

32 (C) has testified, or is about to testify, in
33 any inquiry or proceeding relating to any right
34 provided under this Section.

1 Section 25. Existing leave usable for addressing domestic
2 or sexual violence. An employee who is entitled to take paid
3 or unpaid leave (including family, medical, sick, annual,
4 personal, or similar leave) from employment, pursuant to
5 federal, State, or local law, a collective bargaining
6 agreement, or an employment benefits program or plan, may
7 elect to substitute any period of such leave for an
8 equivalent period of leave provided under Section 20.

9 Section 30. Victims' employment sustainability;
10 prohibited discriminatory acts.

11 (a) An employer shall not fail to hire, refuse to hire,
12 discharge, or harass any individual, otherwise discriminate
13 against any individual with respect to the compensation,
14 terms, conditions, or privileges of employment of the
15 individual, or retaliate against an individual in any form or
16 manner, and a public agency shall not deny, reduce, or
17 terminate the benefits of, otherwise sanction, or harass any
18 individual, otherwise discriminate against any individual
19 with respect to the amount, terms, or conditions of public
20 assistance of the individual, or retaliate against an
21 individual in any form or manner, because:

22 (1) the individual involved:

23 (A) is or is perceived to be a victim of
24 domestic or sexual violence or has a family or
25 household member who is or is perceived to be a
26 victim of domestic or sexual violence;

27 (B) attended, participated in, prepared for,
28 or requested leave to attend, participate in, or
29 prepare for a criminal or civil court proceeding
30 relating to an incident of domestic or sexual
31 violence of which the individual or a family or
32 household member of the individual was a victim; or

33 (C) requested an adjustment to a job

1 structure, workplace facility, or work requirement,
2 including a transfer, reassignment, or modified
3 schedule, leave, a changed telephone number or
4 seating assignment, installation of a lock, or
5 implementation of a safety procedure in response to
6 actual or threatened domestic or sexual violence,
7 regardless of whether the request was granted; or

8 (2) the workplace is disrupted or threatened by the
9 action of a person whom the individual states has
10 committed or threatened to commit domestic or sexual
11 violence against the individual or the individual's
12 family or household member.

13 (b) In this Section:

14 (1) "Discriminate", used with respect to the terms,
15 conditions, or privileges of employment or with respect
16 to the terms or conditions of public assistance, includes
17 not making a reasonable accommodation to the known
18 limitations resulting from circumstances relating to
19 being a victim of domestic or sexual violence or a family
20 or household member being a victim of domestic or sexual
21 violence of an otherwise qualified individual:

22 (A) who is:

23 (i) an applicant or employee of the
24 employer (including a public agency); or

25 (ii) an applicant for or recipient of
26 public assistance from a public agency; and

27 (B) who is:

28 (i) a victim of domestic or sexual
29 violence; or

30 (ii) with a family or household member
31 who is a victim of domestic or sexual violence
32 whose interests are not adverse to the
33 individual in subparagraph (A) as it relates to
34 the domestic or sexual violence;

1 unless the employer or public agency can demonstrate that
2 the accommodation would impose an undue hardship on the
3 operation of the employer or public agency.

4 (2) "Qualified individual" means:

5 (A) in the case of an applicant or employee
6 described in paragraph (1)(A)(i), an individual who,
7 but for being a victim of domestic or sexual
8 violence or with a family or household member who is
9 a victim of domestic or sexual violence, can perform
10 the essential functions of the employment position
11 that such individual holds or desires; or

12 (B) in the case of an applicant or recipient
13 described in paragraph (1)(A)(ii), an individual
14 who, but for being a victim of domestic or sexual
15 violence or with a family or household member who is
16 a victim of domestic or sexual violence, can satisfy
17 the essential requirements of the program providing
18 the public assistance that the individual receives
19 or desires.

20 (3) "Reasonable accommodation" may include an
21 adjustment to a job structure, workplace facility, or
22 work requirement, including a transfer, reassignment, or
23 modified schedule, leave, a changed telephone number or
24 seating assignment, installation of a lock, or
25 implementation of a safety procedure, in response to
26 actual or threatened domestic or sexual violence.

27 (4) Undue hardship.

28 (A) In general. "Undue hardship" means an
29 action requiring significant difficulty or expense,
30 when considered in light of the factors set forth in
31 subparagraph (B).

32 (B) Factors to be considered. In determining
33 whether a reasonable accommodation would impose an
34 undue hardship on the operation of an employer or

1 public agency, factors to be considered include:

2 (i) the nature and cost of the reasonable
3 accommodation needed under this Section;

4 (ii) the overall financial resources of
5 the facility involved in the provision of the
6 reasonable accommodation, the number of persons
7 employed at such facility, the effect on
8 expenses and resources, or the impact otherwise
9 of such accommodation on the operation of the
10 facility;

11 (iii) the overall financial resources of
12 the employer or public agency, the overall size
13 of the business of an employer or public agency
14 with respect to the number of employees of the
15 employer or public agency, and the number,
16 type, and location of the facilities of an
17 employer or public agency; and

18 (iv) the type of operation of the
19 employer or public agency, including the
20 composition, structure, and functions of the
21 workforce of the employer or public agency, the
22 geographic separateness of the facility from
23 the employer or public agency, and the
24 administrative or fiscal relationship of the
25 facility to the employer or public agency.

26 Section 35. Enforcement.

27 (a) Department of Labor.

28 (1) The Director or his or her authorized
29 representative shall administer and enforce the
30 provisions of this Act. Any employee or a representative
31 of employees who believes his or her rights under this
32 Act have been violated may, within 3 years after the
33 alleged violation occurs, file a complaint with the

1 Department requesting a review of the alleged violation.
2 A copy of the complaint shall be sent to the person who
3 allegedly committed the violation, who shall be the
4 respondent. Upon receipt of a complaint, the Director
5 shall cause such investigation to be made as he or she
6 deems appropriate. The investigation shall provide an
7 opportunity for a public hearing at the request of any
8 party to the review to enable the parties to present
9 information relating to the alleged allegation. The
10 parties shall be given written notice of the time and
11 place of the hearing at least 7 days before the hearing.
12 Upon receiving the report of the investigation, the
13 Director shall make findings of fact. If the Director
14 finds that a violation did occur, he or she shall issue a
15 decision incorporating his or her findings and requiring
16 the party committing the violation to take such
17 affirmative action to abate the violation as the Director
18 deems appropriate, including:

19 (A) damages equal to the amount of wages,
20 salary, employment benefits, public assistance, or
21 other compensation denied or lost to such individual
22 by reason of the violation, and the interest on that
23 amount calculated at the prevailing rate;

24 (B) compensatory damages, including damages
25 for future pecuniary losses, emotional pain,
26 suffering, inconvenience, mental anguish, loss of
27 enjoyment or life, and other nonpecuniary losses;

28 (C) such equitable relief as may be
29 appropriate, including but not limited to hiring,
30 reinstatement, promotion, and reasonable
31 accommodations; and

32 (D) reasonable attorney's fees, reasonable
33 expert witness fees, and other costs of the action
34 to be paid by the respondent to a prevailing

1 employee.

2 If the Director finds that there was no violation,
3 he or she shall issue an order denying the complaint. An
4 order issued by the Director under this Section shall be
5 final and subject to judicial review under the
6 Administrative Review Law.

7 (2) The Director shall adopt rules necessary to
8 administer and enforce this Act in accordance with the
9 Illinois Administrative Procedure Act. The Director shall
10 have the powers and the parties shall have the rights
11 provided in the Illinois Administrative Procedure Act for
12 contested cases, including, but not limited to,
13 provisions for depositions, subpoena power and
14 procedures, and discovery and protective order
15 procedures.

16 (3) Intervention. The Attorney General of Illinois
17 may intervene on behalf of the Department if the
18 Department certifies that the case is of general public
19 importance. Upon such intervention the court may award
20 such relief as is authorized to be granted to an employee
21 who has filed a complaint or whose representative has
22 filed a complaint under this Section.

23 (b) Employer liability under other laws. Nothing in this
24 Section shall be construed to limit the liability of an
25 employer or public agency to an individual, for harm suffered
26 relating to the individual's experience of domestic or sexual
27 violence, pursuant to any other federal or State law,
28 including a law providing for a legal remedy.

29 (c) Refusal to pay damages. Any employer who has been
30 ordered by the Director of Labor or the court to pay damages
31 under this Section and who fails to do so within 15 days
32 after the order is entered is liable to pay a penalty of 1%
33 per calendar day to the employee for each day of delay in
34 paying the damages to the employee.

1 Section 40. Notification. Every employer covered by this
2 Act shall post and keep posted, in conspicuous places on the
3 premises of the employer where notices to employees are
4 customarily posted, a notice, to be prepared or approved by
5 the Director of Labor, summarizing the requirements of this
6 Act and information pertaining to the filing of a charge. The
7 Director shall furnish copies of summaries and rules to
8 employers upon request without charge.

9 Section 45. Effect on other laws and employment
10 benefits.

11 (a) More protective laws, agreements, programs, and
12 plans. Nothing in this Act shall be construed to supersede
13 any provision of any federal, State, or local law, collective
14 bargaining agreement, or employment benefits program or plan
15 that provides:

16 (1) greater leave benefits for victims of domestic
17 or sexual violence than the rights established under this
18 Act; or

19 (2) leave benefits for a larger population of
20 victims of domestic or sexual violence (as defined in
21 such law, agreement, program, or plan) than the victims
22 of domestic or sexual violence covered under this Act.

23 (b) Less protective laws, agreements, programs, and
24 plans. The rights established for employees who are victims
25 of domestic or sexual violence and employees with a family or
26 household member who is a victim of domestic or sexual
27 violence under this Act shall not be diminished by any
28 federal, State or local law, collective bargaining agreement,
29 or employment benefits program or plan.

30 Section 905. Severability. If any provision of this Act
31 or the application of such provision to any person or
32 circumstance is held to be in violation of the Unites States

1 Constitution or Illinois Constitution, the remainder of the
2 provisions of this Act and the application of those
3 provisions to any person or circumstance shall not be
4 affected.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.".