



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5425

Introduced 2/5/2010, by Rep. Charles E. Jefferson

SYNOPSIS AS INTRODUCED:

New Act

Creates the Employees Leave to Attend Criminal Proceedings Act. Requires employers who employ 6 or more people to allow an employee to take unpaid leave to attend a criminal proceeding if the employee was a victim of certain crimes or is in the immediate family of the victim of such crimes. Provides that employers who violate these provisions are deemed to be engaging in an unlawful employment practice. Requires employees to give notice to employers when the employees need to leave work to attend a criminal proceeding. Permits an employer to limit the amount of leave an employee may take to attend a criminal proceeding if the leave creates an undue hardship to the employer's business.

LRB096 19354 RLC 34745 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Employees Leave to Attend Criminal Proceedings Act.

6 Section 5. Definitions. In this Act:

7 "Covered employer" means an employer who employs 6 or more
8 people in this State for each working day during each of 20 or
9 more calendar workweeks in the year in which an eligible
10 employee takes leave to attend a criminal proceeding or in the
11 year immediately preceding the year in which an eligible
12 employee takes leave to attend a criminal proceeding.

13 "Crime victim" has the meaning ascribed to it in paragraph
14 (a) of Section 3 of the Rights of Crime Victims and Witnesses
15 Act and includes a member of the immediate family of the
16 person.

17 "Criminal proceeding" means any proceeding relating to a
18 violent crime as defined in paragraph (c) of Section 3 of the
19 Rights of Crime Victims and Witnesses Act and includes a
20 juvenile proceeding under the Juvenile Court Act of 1987 or any
21 other proceeding at which a crime victim has a right to be
22 present.

23 "Eligible employee" means an employee who:

1 (1) worked an average of more than 25 hours per week
2 for a covered employer for at least 180 days immediately
3 before the date the employee takes leave to attend a
4 criminal proceeding; and

5 (2) is a crime victim.

6 "Immediate family" means spouse, domestic partner, father,
7 mother, sibling, child, stepchild and grandparent.

8 "Undue hardship" means a significant difficulty and
9 expense to a business and includes consideration of the size of
10 the covered employer's business and the covered employer's
11 critical need for the employee.

12 Section 10. Allowing employees to attend criminal
13 proceedings.

14 (a) Except as provided in the Victims' Economic Security
15 and Safety Act and in subsection (b) of this Section, a covered
16 employer shall allow an eligible employee to take leave from
17 employment to attend a criminal proceeding.

18 (b) A covered employer may limit the amount of leave an
19 eligible employee takes to attend a criminal proceeding if the
20 employee's leave creates an undue hardship to the covered
21 employer's business.

22 (c) An eligible employee may notify the prosecuting
23 attorney if taking leave to attend a criminal proceeding would
24 cause undue hardship to the covered employer. The prosecuting
25 attorney shall then notify the court or hearing body. The court

1 or hearing body must take the schedule of the employee into
2 consideration when scheduling a criminal proceeding.

3 (d) Except as provided in subsections (e) and (f) of this
4 Section, and unless otherwise provided by the terms of an
5 agreement between the eligible employee and the covered
6 employer, a collective bargaining agreement or an employer
7 policy, a covered employer is not required to grant leave with
8 pay under this Act to an eligible employee to attend a criminal
9 proceeding.

10 (e) An eligible employee who takes leave to attend a
11 criminal proceeding may use any paid accrued vacation leave
12 during the period of leave or may use any other paid leave that
13 is offered by the covered employer in lieu of vacation leave
14 during the period of leave.

15 (f) Subject to the terms of any agreement between the
16 eligible employee and the covered employer or the terms of a
17 collective bargaining agreement or an employer policy, the
18 covered employer may determine the order in which accrued leave
19 is to be used when more than one type of accrued leave is
20 available to the employee.

21 Section 15. Notice of intent to take leave to attend a
22 criminal proceeding.

23 An eligible employee shall give the covered employer:

24 (1) reasonable notice of the employee's intention to
25 take leave to attend a criminal proceeding; and

1 (2) copies of any notices of scheduled criminal
2 proceedings that the employee receives from a law
3 enforcement agency under Section 4.5 of the Rights of Crime
4 Victims and Witnesses Act.

5 All records kept by a covered employer regarding an
6 eligible employee's leave under this Act or notices received
7 under clause (1) of this Section are subject to the laws
8 relating to confidentiality.

9 Section 20. Denying leave to attend a criminal proceeding
10 to an eligible employee. A covered employer who denies leave to
11 an eligible employee or who discharges, threatens to discharge,
12 intimidates or coerces the employee because the employee takes
13 leave to attend a criminal proceeding commits an unlawful
14 employment practice and may file a civil action in circuit
15 court and obtain relief as provided in Section 25.

16 Section 25. Aggrieved party; actions.

17 (a) Any person claiming to be aggrieved by an unlawful
18 practice specified in subsection (b) of this Section may file a
19 civil action in circuit court. In any action under this
20 subsection, the court may order injunctive relief and such
21 other equitable relief as may be appropriate, including but not
22 limited to reinstatement or the hiring of employees with or
23 without back pay. A court may order back pay in an action under
24 this subsection only for the 2-year period immediately

1 preceding the filing of a complaint with the Director of Labor,
2 or if a complaint was not filed before the action was
3 commenced, the 2-year period immediately preceding the filing
4 of the action. In any action under this subsection, the court
5 may allow the prevailing party costs and reasonable attorney's
6 fees at trial and on appeal. Except as provided in subsection
7 (c) of this Section:

8 (1) the judge shall determine the facts in an action
9 under this subsection; and

10 (2) upon any appeal of a judgment in an action under
11 this subsection, the Appellate Court shall review the
12 judgment pursuant to the standard established by Supreme
13 Court rules.

14 (b) An action may be brought under subsection (a) of this
15 Section for a violation of Section 20 of this Act.

16 (c) In any action under subsection (a) of this Section
17 alleging a violation of Section 20 of this Act:

18 (1) the court may award, in addition to the relief
19 authorized under subsection (a) of this Section,
20 compensatory damages or \$200, whichever is greater, and
21 punitive damages;

22 (2) at the request of any party, the action shall be
23 tried to a jury;

24 (3) upon appeal of any judgment finding a violation,
25 the Appellate Court shall review the judgment pursuant to
26 the standard established by Supreme Court rules; and

1 (4) any attorney's fee agreement shall be subject to
2 approval by the court.

3 (d) In any action under subsection (a) of this Section
4 alleging a violation of Section 20 of this Act, the court may
5 award, in addition to the relief authorized under subsection
6 (a) of this Section, compensatory damages or \$250, whichever is
7 greater.

8 Section 97. Severability. The provisions of this Act are
9 severable under Section 1.31 of the Statute on Statutes.