

AN ACT concerning employment.

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

Section 5. The Victims' Economic Security and Safety Act is amended by changing Sections 5, 10, 15, 20, 25, 30, and 40 as follows:

(820 ILCS 180/5)

Sec. 5. Findings. The General Assembly finds and declares the following:

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

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

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

(4) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(5) According to recent government surveys, from 1993 through 1998 the average annual number of violent

victimizations committed by intimate partners was 1,082,110, 87% of which were committed against women.

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

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

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

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

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

(11) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. Approximately 11% of all rapes occur in the workplace. About 50,500 individuals, 83% of whom are women, were raped or sexually assaulted in the workplace each year from 1992 through 1996. Half of all female victims of violent workplace crimes know their attackers. Nearly one out of 10 violent workplace incidents is committed by partners or spouses.

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

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

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

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

(16) Abusers frequently seek to control their partners

by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

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

(18) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Almost 50% of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

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

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

offense, and accounts for \$127,000,000,000 per year of the amount described in subparagraph (A).

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

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

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

(24) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47% said domestic violence negatively affects attendance, and 44% said domestic violence increases health care costs.

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

(A) obtain orders of protection or civil no contact orders;

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

(C) look for housing in order to escape from

domestic or sexual violence.

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/10)

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

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

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

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

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

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

(6) "Domestic violence" means abuse, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, by a family or household member, as defined in Section 103 of the Illinois Domestic Violence Act of 1986 ~~includes acts~~

~~or threats of violence, not including acts of self defense, as defined in subdivision (3) of Section 103 of the Illinois Domestic Violence Act of 1986, sexual assault, or death to the person, or the person's family or household member, if the conduct causes the specific person to have such distress or fear.~~

(7) "Electronic communications" includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, or pager, or any other electronic communication, as defined in Section 12-7.5 of the Criminal Code of 1961.

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

(9) Employee.

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

(B) Basis. "Employee" includes a person employed as described in subparagraph (A) on a full or part-time basis, or as a participant in a work assignment as a condition of receipt of federal or State income-based public assistance.

(10) "Employer" means any of the following: (A) the State or any agency of the State; (B) any unit of local government or school district; or (C) any person that employs at least 15 ~~50~~ employees.

(11) "Employment benefits" means all benefits provided or made available to employees by an employer, including

group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, ~~and~~ pensions, and profit-sharing, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan". "Employee benefit plan" or "plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan.

(12) "Family or household member", for employees with a family or household member who is a victim of domestic or sexual violence, means a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

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

(14) "Perpetrator" means an individual who commits or is alleged to have committed any act or threat of domestic

or sexual violence.

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

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

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

(18) "Reduced work schedule" means a work schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

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

(20) "Sexual assault" means any conduct proscribed by the Criminal Code of 1961 in Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16.

(21) "Stalking" means any conduct proscribed by the Criminal Code of 1961 in Sections 12-7.3, ~~and~~ 12-7.4, and 12-7.5.

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

(23) "Victim services organization" means a nonprofit, nongovernmental organization that provides assistance to

victims of domestic or sexual violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process.

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/15)

Sec. 15. Purposes. The purposes of this Act are:

(1) to promote the State's interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

(2) to address the failure of existing laws to protect the employment rights of employees who are victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, by protecting the civil and economic rights of those employees, and by furthering the equal opportunity of

women for economic self-sufficiency and employment free from discrimination;

(3) to accomplish the purposes described in paragraphs (1) and (2) by (A) entitling employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers for the employee or the family or household member who is a victim; and (B) prohibiting employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/20)

Sec. 20. Entitlement to leave due to domestic or sexual violence.

(a) Leave requirement.

(1) Basis. An employee who is a victim of domestic or sexual violence or has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic

or sexual violence may take unpaid leave from work to address domestic or sexual violence by:

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

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

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

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

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

(2) Period. Subject to subsection (c), an employee working for an employer that employs at least 50 employees shall be entitled to a total of 12 workweeks of leave

during any 12-month period. Subject to subsection (c), an employee working for an employer that employs at least 15 but not more than 49 employees shall be entitled to a total of 8 workweeks of leave during any 12-month period. The total number of workweeks to which an employee is entitled shall not decrease during the relevant 12-month period. This Act does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

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

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

(c) Certification.

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

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

violence; and

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

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

(2) Contents. An employee may satisfy the certification requirement of paragraph (1) by providing to the employer a sworn statement of the employee, and upon obtaining such documents the employee shall provide:

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

(B) a police or court record; or

(C) other corroborating evidence.

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

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

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

(e) Employment and benefits.

(1) Restoration to position.

(A) In general. Any employee who takes leave under this Section for the intended purpose of the leave shall be entitled, on return from such leave:

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

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

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

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

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

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been

entitled had the employee not taken the leave.

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

(2) Maintenance of health benefits.

(A) Coverage. Except as provided in subparagraph (B), during any period that an employee takes leave under this Section, the employer shall maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

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

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

(ii) the employee fails to return to work for a

reason other than:

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

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

(C) Certification.

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

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

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee has sought assistance in addressing domestic or sexual violence and the

effects of that violence;

(III) a police or court record; or

(IV) other corroborating evidence.

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

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

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

(f) Prohibited acts.

(1) Interference with rights.

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

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

privileges of employment of the individual (including retaliation in any form or manner) because the individual:

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

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

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

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

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

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

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or

related to this Section;

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

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

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/25)

Sec. 25. Existing leave usable for addressing domestic or sexual violence. An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to federal, State, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under Section 20. The employer may not require the employee to substitute available paid or unpaid leave for leave provided under Section 20.

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/30)

Sec. 30. Victims' employment sustainability; prohibited discriminatory acts.

(a) An employer shall not fail to hire, refuse to hire,

discharge, constructively discharge, or harass any individual, otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, or retaliate against an individual in any form or manner, and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual, or retaliate against an individual in any form or manner, because:

(1) the individual involved:

(A) is or is perceived to be a victim of domestic or sexual violence;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the individual or a family or household member of the individual was a victim, or requested or took leave for any other reason provided under Section 20; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure in response to actual or threatened domestic

or sexual violence, regardless of whether the request was granted; or

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

(b) In this Section:

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

(A) who is:

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

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

(B) who is:

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

(ii) with a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the individual in

subparagraph (A) as it relates to the domestic or sexual violence;

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

A reasonable accommodation must be made in a timely fashion. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable.

(2) "Qualified individual" means:

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

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

(3) "Reasonable accommodation" may include an

adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, or assistance in documenting domestic or sexual violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic or sexual violence.

(4) Undue hardship.

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

(B) Factors to be considered. In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include:

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

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

(iii) the overall financial resources of the

employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

(Source: P.A. 93-591, eff. 8-25-03.)

(820 ILCS 180/40)

Sec. 40. Notification. Every employer covered by this Act shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Director of Labor, summarizing the requirements of this Act and information pertaining to the filing of a charge. The Director shall furnish copies of summaries and rules to employers upon request without charge. Any employer that fails to post the required notice may not rely on the provisions in subsection

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SB1770 Enrolled

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(b) of Section 20 to claim that the employee failed to inform the employer that she or he wanted or was eligible for leave under this Act.

(Source: P.A. 93-591, eff. 8-25-03.)

Section 99. Effective date. This Act takes effect upon becoming law.