

By: Pena

H.B. No. 1750

A BILL TO BE ENTITLED

AN ACT

relating to the right of certain employees who are crime victims to time off from work; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Labor Code, is amended by adding Chapter 84 to read as follows:

CHAPTER 84. RIGHTS OF EMPLOYEES WHO ARE CRIME VICTIMS

Sec. 84.001. DEFINITIONS. In this chapter:

(1) "Employee" has the meaning assigned by Section 21.002(7).

(2) "Employer" has the meaning assigned by Section 21.002(8).

Sec. 84.002. APPLICATION. This chapter applies only to an employee:

(1) who is a victim of an offense under Section 22.011 or 22.021, Penal Code; or

(2) whose spouse, child, parent, brother, or sister is a victim of an offense under Section 19.02 or 19.03, Penal Code.

Sec. 84.003. RIGHT TO TIME OFF; LIMITATIONS. (a) Except as provided by Subsections (c) and (d), an employee to whom this chapter applies is entitled to time off as provided by this section to attend:

(1) a legal or investigative proceeding associated with the prosecution of the crime; or

1 (2) a counseling session conducted by a certified
2 psychiatrist, psychologist, pastoral psychologist, clinical social
3 worker, or clinical mental health counselor.

4 (b) Before taking time off under this section, an employee
5 must provide the employer with reasonable advance written notice of
6 the planned absence of the employee, including, if the employee
7 will be attending a legal or investigative proceeding, a copy of any
8 notice regarding the proceeding provided to the employee by the
9 court or agency responsible for providing the employee with that
10 notice.

11 (c) An employee may take time off under this chapter to
12 attend a counseling session only one time each week for a period not
13 to exceed six weeks.

14 (d) An employer may limit an employee's time off under this
15 chapter if the employee's taking time off would cause significant
16 difficulty and expense to the employer's business when considered
17 in relation to the size and resources of the employer's business and
18 the employee's position or role within the business's operations.

19 Sec. 84.004. USE OF LEAVE TIME. (a) An employer may
20 require the employee to use existing vacation leave time, personal
21 leave time, or compensatory leave time for the purpose of a planned
22 absence authorized by this chapter.

23 (b) An employee who is not required to use existing leave
24 time under Subsection (a) may elect to use existing leave described
25 by that subsection for the purpose of a planned absence authorized
26 by this chapter.

27 Sec. 84.005. EFFECT ON EMPLOYEE PAY. An employer is not

1 required to compensate an employee during a planned absence
2 authorized by this chapter unless the employee is using leave time
3 under Section 84.004.

4 Sec. 84.006. CONFIDENTIALITY. An employer shall maintain
5 the confidentiality of any written document or record submitted to
6 the employer by an employee relating to a request for time off under
7 this chapter.

8 Sec. 84.007. EMPLOYER RETALIATION PROHIBITED. (a) An
9 employer may not suspend or terminate the employment of, or
10 otherwise discriminate against, an employee who takes a planned
11 absence authorized by this chapter if the employee has given
12 written notice as required by Section 84.003(b).

13 (b) An employee whose employment is suspended or terminated
14 in violation of this chapter is entitled to:

15 (1) reinstatement to the employee's former position or
16 a position that is comparable in terms of compensation, benefits,
17 and other conditions of employment;

18 (2) compensation for wages lost during the period of
19 suspension or termination; and

20 (3) reinstatement of any fringe benefits and seniority
21 rights lost because of the suspension or termination.

22 Sec. 84.008. CIVIL PENALTY. (a) An employer who suspends
23 or terminates the employment of an employee in violation of this
24 chapter is liable for a civil penalty not to exceed \$500.

25 (b) The attorney general or an appropriate prosecuting
26 attorney may sue to collect a civil penalty under this section.

27 (c) A civil penalty collected under this section shall be

1 deposited in the state treasury to the credit of the general revenue
2 fund.

3 Sec. 84.009. NOTICE TO EMPLOYEES. (a) Each employer shall
4 inform its employees of their rights under this chapter by posting a
5 conspicuous sign in a prominent location in the employer's
6 workplace.

7 (b) The Texas Workforce Commission by rule shall prescribe
8 the design and content of the sign required by this section.

9 SECTION 2. This Act applies only to a suspension,
10 termination, or other adverse employment action that is taken by an
11 employer against an employee because of an employee absence
12 authorized under Chapter 84, Labor Code, as added by this Act, that
13 occurs on or after the effective date of this Act. A suspension,
14 termination, or other adverse employment action that is taken by an
15 employer against an employee before the effective date of this Act
16 is governed by the law in effect on the date that the employment
17 action is taken, and the former law is continued in effect for that
18 purpose.

19 SECTION 3. This Act takes effect September 1, 2005.