

By: Miles

H.B. No. 2059

A BILL TO BE ENTITLED

AN ACT

relating to the right of an employee to time off from work if the employee, or a family or household member of the employee, is a victim of family violence or a violent felony offense.

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. EMPLOYEE RIGHT TO TIME OFF FOLLOWING VIOLENCE AGAINST
EMPLOYEE OR CERTAIN FAMILY OR HOUSEHOLD MEMBERS

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).

(3) "Family violence" has the meaning assigned by Section 71.004, Family Code.

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

(1) who is a victim of family violence or a violent felony offense; or

(2) whose spouse, child, parent, or household member is a victim of family violence or a violent felony offense.

Sec. 84.003. RIGHT TO TIME OFF; LIMITATIONS. (a) Except as provided by Subsections (b), (c), and (d), an employee to whom this

1 chapter applies is entitled to time off as provided by this section
2 to:

3 (1) seek medical attention for, or recover from,
4 physical or psychological injuries suffered by the employee or the
5 employee's family or household member as a result of family
6 violence or a violent felony offense;

7 (2) obtain services from a victim services
8 organization for the employee or the employee's family or household
9 member in relation to the occurrence of family violence or a violent
10 felony offense;

11 (3) obtain psychological or other counseling for the
12 employee or the employee's family or household member in relation
13 to the occurrence of family violence or a violent felony offense;

14 (4) participate in safety planning or temporary or
15 permanent relocation or take any other action necessary to increase
16 the safety of the employee or the employee's family or household
17 member or to ensure the employee or member's economic security
18 following the occurrence of family violence or a violent felony
19 offense; or

20 (5) seek legal assistance or remedies to ensure the
21 health and safety of the employee or the employee's family or
22 household member, including preparing for or participating in any
23 civil or criminal legal or investigative proceeding relating to the
24 occurrence of family violence or a violent felony offense.

25 (b) Before taking time off under this section, an employee
26 must provide the employer with at least 48 hours advance written
27 notice of the planned absence of the employee, unless the employee

1 determines that providing notice is impracticable under the
2 circumstances. If the employee does not provide the required
3 notice, the employer may not take any adverse employment action
4 against the employee if the employee provides certification to the
5 employer in accordance with Section 84.004.

6 (c) An employer may require an employee who is taking time
7 off under this chapter to report periodically to the employer on the
8 status and intention of the employee to return to work.

9 (d) An employee is entitled under this section to not more
10 than 30 work days of leave in any 12-month period.

11 Sec. 84.004. CERTIFICATION. (a) An employer may require an
12 employee to provide, within a reasonable time after the employee's
13 initial absence from work, certification to the employer that:

14 (1) the employee or a member of the employee's family
15 or household is a victim of family violence or a violent felony
16 offense; and

17 (2) the time off from work requested by the employee is
18 being used by the employee to engage in an activity described by
19 Section 84.003(a).

20 (b) An employee may satisfy the requirements of Subsection
21 (a) by providing to the employer a sworn statement by the employee
22 and the following documentation attesting to the circumstances:

23 (1) a medical report;

24 (2) a police or court record; or

25 (3) a sworn statement by a family violence program
26 staff person.

27 Sec. 84.005. USE OF LEAVE TIME. An employee may elect to

1 use existing vacation leave time, personal leave time, sick leave
2 time, or compensatory leave time for a planned absence authorized
3 by this chapter.

4 Sec. 84.006. EFFECT ON EMPLOYEE PAY AND BENEFITS. (a) An
5 employer is not required to compensate an employee during a planned
6 absence authorized by this chapter unless the employee is using
7 leave time under Section 84.005.

8 (b) An employer shall maintain any health coverage provided
9 by the employer to the employee or a member of the employee's family
10 or household under any group health plan for the duration of the
11 employee's absence under this chapter.

12 (c) The employer may recover the premium that the employer
13 paid for maintaining health coverage under Subsection (b) if:

14 (1) the employee fails to return to work after the
15 period of time off to which the employee is entitled under this
16 chapter has expired; and

17 (2) the employee's failure to return to work is for a
18 reason other than:

19 (A) the continuation, recurrence, or onset of
20 family violence or a violent felony offense; or

21 (B) other circumstances outside of the
22 employee's control.

23 (d) An employer may require an employee who claims the
24 employee is unable to return to work for a reason described by
25 Subsection (c)(2)(A) or (B) to provide, within a reasonable time
26 after making the claim, certification to the employer that the
27 employee is unable to return to work because of that reason. An

1 employee may satisfy the certification requirement by providing to
2 the employer a sworn statement by the employee and the following
3 documentation attesting to the circumstances:

- 4 (1) a medical report;
5 (2) a police or court record; or
6 (3) a sworn statement by a family violence program
7 staff person.

8 Sec. 84.007. CONFIDENTIALITY. An employer shall maintain
9 the confidentiality of the fact that an employee has requested or
10 obtained time off under this chapter and any written document or
11 record submitted to the employer by the employee relating to a
12 request for time off under this chapter, except to the extent that
13 disclosure is:

- 14 (1) requested or consented to in writing by the
15 employee; or
16 (2) required by other state or federal law.

17 Sec. 84.008. ENTITLEMENT ON RETURN TO WORK. (a) On
18 returning from time off under this chapter, an employee is entitled
19 to:

- 20 (1) reinstatement to the employee's former position or
21 a position that is comparable in terms of compensation, benefits,
22 and other conditions of employment; and
23 (2) any benefits accrued by the employee before the
24 employee's time off under this chapter.

25 (b) This section does not entitle the employee to:

- 26 (1) any seniority or employment benefit that would
27 have accrued during the employee's time off under this section; or

1 (2) any other right, benefit, or position of
2 employment other than a right, benefit, or position the employee
3 accrued before the employee took the time off under this chapter.

4 Sec. 84.009. EMPLOYER RETALIATION PROHIBITED. (a) An
5 employer may not suspend or terminate the employment of, or
6 otherwise discriminate against, an employee who takes time off
7 authorized by this chapter if the employee has provided written
8 notice or certification as required by this chapter.

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

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

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

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

18 Sec. 84.010. NOTICE TO EMPLOYEES. (a) Each employer shall
19 inform its employees of their rights under this chapter by posting a
20 conspicuous sign in a prominent location in the employer's
21 workplace.

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

24 SECTION 2. This Act applies only to a suspension,
25 termination, or other adverse employment action that is taken by an
26 employer against an employee because of an employee absence
27 authorized under Chapter 84, Labor Code, as added by this Act, that

1 occurs on or after the effective date of this Act. A suspension,
2 termination, or other adverse employment action that is taken by an
3 employer against an employee before the effective date of this Act
4 is governed by the law in effect on the date that the employment
5 action is taken, and the former law is continued in effect for that
6 purpose.

7 SECTION 3. This Act takes effect September 1, 2007.