

By: Zaffirini

S.B. No. 60

A BILL TO BE ENTITLED

AN ACT

relating to the right of an employee who is a victim of a crime to time off from work to attend court proceedings related to that crime.

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 ATTEND CERTAIN COURT PROCEEDINGS

Sec. 84.001. DEFINITIONS. In this chapter:

(1) "Employee" means an individual, other than an independent contractor, who, for compensation, performs services for an employer under a written or oral contract of hire, whether express or implied.

(2) "Employer" means a person who employs one or more employees. The term includes a public employer.

(3) "Public employer" means this state and political subdivisions of this state, including:

(A) state, county, and municipal agencies;

(B) public schools, colleges, and universities;

and

(C) river authorities, publicly owned utilities, and other special districts.

(4) "Victim" means an individual who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, or

1 injury to a child, elderly individual, or disabled individual or  
2 who has suffered bodily injury as a result of the criminal conduct  
3 of another.

4 Sec. 84.002. RIGHT TO ATTEND COURT PROCEEDINGS; NOTICE TO  
5 EMPLOYER. An employee who is a victim of a crime is entitled to  
6 time off as provided by this chapter to attend court proceedings  
7 related to the crime.

8 Sec. 84.003. USE OF LEAVE TIME. (a) An employee is not  
9 required to use existing vacation leave time, personal leave time,  
10 or compensatory leave time for the purpose of an absence from work  
11 authorized by this chapter except as otherwise provided by a  
12 collective bargaining agreement entered into before September 1,  
13 2009.

14 (b) The use of leave time under this section may not be  
15 restricted by a term or condition adopted under a collective  
16 bargaining agreement that is entered into on or after September 1,  
17 2009.

18 Sec. 84.004. EFFECT ON EMPLOYEE PAY. An employer may not  
19 reduce the pay otherwise owed to an employee for any pay period  
20 lasting eight hours or less because the employee took time off  
21 during that pay period for the purpose of an absence from work  
22 authorized by this chapter.

23 Sec. 84.005. DOCUMENTATION. (a) Except as provided by  
24 Subsection (b), on return to work an employee shall provide  
25 reasonable documentation to the employer on the employer's request  
26 regarding the employee's absence from work to attend court  
27 proceedings related to the crime of which the employee was a victim.

1       (b) An employer may not require documentation under  
2 Subsection (a) if, under Section 56.02(a)(10), Code of Criminal  
3 Procedure, the attorney for the state notifies the employer of the  
4 victim of the necessity of the victim's cooperation and testimony  
5 in a proceeding that may necessitate the absence of the victim from  
6 work.

7       Sec. 84.006. EMPLOYER RETALIATION PROHIBITED. (a) An  
8 employer may not suspend or terminate the employment of, or  
9 otherwise discriminate against, an employee who takes time off from  
10 work authorized by this chapter.

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

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

16               (2) compensation for wages lost during the period of  
17 suspension or termination;

18               (3) reinstatement of any fringe benefits and seniority  
19 rights lost because of the suspension or termination; and

20               (4) if the employee brings an action to enforce this  
21 section and is the prevailing party, payment by the employer of  
22 court costs and reasonable attorney's fees.

23       Sec. 84.007. NOTICE TO EMPLOYEES. (a) Each employer shall  
24 inform its employees of their rights under this chapter by posting a  
25 conspicuous sign in a prominent location in the employer's  
26 workplace.

27       (b) The Texas Workforce Commission by rule shall prescribe

1 the design and content of the sign required by this section.

2 SECTION 2. This Act applies only to a suspension,  
3 termination, or other adverse employment action that is taken by an  
4 employer against an employee because of an employee absence from  
5 work authorized under Chapter 84, Labor Code, as added by this Act,  
6 that occurs on or after the effective date of this Act. A  
7 suspension, termination, or other adverse employment action that is  
8 taken by an employer against an employee before the effective date  
9 of this Act is governed by the law in effect on the date the  
10 employment action is taken, and the former law is continued in  
11 effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2009.