

By: Miles

H.B. No. 1219

A BILL TO BE ENTITLED

AN ACT

relating to the right of an employee to time off from work if the employee or the employee's child 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 EMPLOYEE'S CHILD

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.

(4) "Violent felony offense" means an offense under:
(A) Section 20.04(a)(4), Penal Code, if the offense is committed with the intent to violate or abuse the victim sexually;

(B) Section 21.11, Penal Code;

(C) Section 22.011, Penal Code;

(D) Section 22.021, Penal Code;

(E) Section 30.02, Penal Code, if the offense is

1 punishable under Subsection (d) of that section; or

2 (F) Section 43.25, Penal Code.

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

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

7 (2) whose child is a victim of family violence or a
8 violent felony offense.

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

13 (1) seek medical attention for, or recover from,
14 physical or psychological injuries suffered by the employee or the
15 employee's child as a result of family violence or a violent felony
16 offense;

17 (2) obtain services from a victim services
18 organization for the employee or the employee's child in relation
19 to the occurrence of family violence or a violent felony offense;

20 (3) obtain psychological or other counseling for the
21 employee or the employee's child in relation to the occurrence of
22 family violence or a violent felony offense;

23 (4) participate in safety planning or temporary or
24 permanent relocation or take any other action necessary to increase
25 the safety of the employee or the employee's child or to ensure the
26 employee or child's economic security following the occurrence of
27 family violence or a violent felony offense; or

1 (5) seek legal assistance or remedies to ensure the
2 health and safety of the employee or the employee's child,
3 including preparing for or participating in any civil or criminal
4 legal or investigative proceeding relating to the occurrence of
5 family violence or a violent felony offense.

6 (b) Before taking time off under this section, an employee
7 must provide the employer with at least 48 hours advance written
8 notice of the planned absence of the employee, unless providing
9 advance notice is not feasible.

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

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

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

18 (1) the employee or the employee's child is a victim of
19 family violence or a violent felony offense; and

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

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

26 (1) medical documentation;

27 (2) a police report; or

1 (3) an active protective order.

2 Sec. 84.005. USE OF LEAVE TIME. An employee who has
3 existing vacation leave time, personal leave time, sick leave time,
4 or compensatory leave time must use that leave time for a planned
5 absence authorized by this chapter.

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

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

14 (c) The employer may recover the premium that the employer
15 paid for maintaining health coverage under Subsection (b) if the
16 employee fails to return to work after the period of time off to
17 which the employee is entitled under this chapter has expired for a
18 reason other than the continuation, recurrence, or onset of family
19 violence or a violent felony offense.

20 (d) An employer may require an employee who claims the
21 employee is unable to return to work because of the continuation,
22 recurrence, or onset of family violence or a violent felony offense
23 to provide, within a reasonable time after making the claim,
24 certification to the employer that the employee is unable to return
25 to work because of that reason. An employee may satisfy the
26 certification requirement by providing to the employer a sworn
27 statement by the employee and the following documentation attesting

1 to the circumstances:

- 2 (1) medical documentation;
- 3 (2) a police report; or
- 4 (3) an active protective order.

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

- 11 (1) requested or consented to in writing by the
12 employee; or
- 13 (2) required by other state or federal law.

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

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

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

- 23 (1) any seniority or employment benefit that would
24 have accrued during the employee's time off under this section; or
- 25 (2) any other right, benefit, or position of
26 employment other than a right, benefit, or position the employee
27 accrued before the employee took the time off under this chapter.

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

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

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

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

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

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

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

21 SECTION 2. This Act applies only to a suspension,
22 termination, or other adverse employment action that is taken by an
23 employer against an employee because of an employee absence
24 authorized under Chapter 84, Labor Code, as added by this Act, that
25 occurs on or after the effective date of this Act. A suspension,
26 termination, or other adverse employment action that is taken by an
27 employer against an employee before the effective date of this Act

1 is governed by the law in effect on the date that the employment
2 action is taken, and the former law is continued in effect for that
3 purpose.

4 SECTION 3. This Act takes effect September 1, 2011.