

By: Hernandez Luna

H.B. No. 1065

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) "Guardian" has the meaning assigned by Section 1002.012, Estates Code.

(4) "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.

1 (5) "Victim" means an individual who is the victim of
2 the offense of sexual assault, kidnapping, aggravated robbery, or
3 injury to a child, elderly individual, or disabled individual or
4 who has suffered bodily injury as a result of the criminal conduct
5 of another.

6 Sec. 84.002. RIGHT TO ATTEND COURT PROCEEDINGS; NOTICE TO
7 EMPLOYER. (a) An employee who is a victim of a crime or the parent
8 or guardian of a victim of a crime is entitled to time off as
9 provided by this chapter to attend court proceedings related to the
10 crime.

11 (b) An employee entitled to time off under this chapter
12 must, not later than 24 hours before the time the employee will be
13 absent from work, notify the employee's employer that the employee
14 will take the time off.

15 Sec. 84.003. USE OF LEAVE TIME. (a) An employee may be
16 required by an employer to use existing vacation leave time,
17 personal leave time, or compensatory leave time for the purpose of
18 an absence from work authorized by this chapter, except as
19 otherwise provided by a collective bargaining agreement entered
20 into before September 1, 2013.

21 (b) The use of leave time under this section may not be
22 restricted by a term or condition adopted under a collective
23 bargaining agreement that is entered into on or after September 1,
24 2013.

25 Sec. 84.004. EFFECT ON EMPLOYEE PAY. An employer may not
26 reduce the pay otherwise owed to an employee for any pay period
27 lasting eight hours or less because the employee took time off

1 during that pay period for the purpose of an absence from work
2 authorized by this chapter.

3 Sec. 84.005. DOCUMENTATION. (a) Except as provided by
4 Subsection (b), on return to work an employee shall provide
5 reasonable documentation to the employer on the employer's request
6 regarding the employee's absence from work to attend court
7 proceedings related to the crime of which the employee or the
8 employee's child or ward was a victim.

9 (b) An employer may not require documentation under
10 Subsection (a) if, under Article 56.02(a)(10), Code of Criminal
11 Procedure, the attorney for the state notifies the employer of the
12 victim or of the parent or guardian of the victim of the necessity
13 of the victim's or parent's or guardian's cooperation and testimony
14 in a proceeding that may necessitate the absence of the victim or
15 parent or guardian from work.

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

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

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

25 (2) compensation for wages lost during the period of
26 suspension or termination;

27 (3) reinstatement of any fringe benefits and seniority

1 rights lost because of the suspension or termination; and

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

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

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

11 SECTION 2. Article 56.02(a), Code of Criminal Procedure, is
12 amended to read as follows:

13 (a) A victim, guardian of a victim, or close relative of a
14 deceased victim is entitled to the following rights within the
15 criminal justice system:

16 (1) the right to receive from law enforcement agencies
17 adequate protection from harm and threats of harm arising from
18 cooperation with prosecution efforts;

19 (2) the right to have the magistrate take the safety of
20 the victim or his family into consideration as an element in fixing
21 the amount of bail for the accused;

22 (3) the right, if requested, to be informed:

23 (A) by the attorney representing the state of
24 relevant court proceedings, including appellate proceedings, and
25 to be informed if those proceedings have been canceled or
26 rescheduled prior to the event; and

27 (B) by an appellate court of decisions of the

1 court, after the decisions are entered but before the decisions are
2 made public;

3 (4) the right to be informed, when requested, by a
4 peace officer concerning the defendant's right to bail and the
5 procedures in criminal investigations and by the district
6 attorney's office concerning the general procedures in the criminal
7 justice system, including general procedures in guilty plea
8 negotiations and arrangements, restitution, and the appeals and
9 parole process;

10 (5) the right to provide pertinent information to a
11 probation department conducting a presentencing investigation
12 concerning the impact of the offense on the victim and his family by
13 testimony, written statement, or any other manner prior to any
14 sentencing of the offender;

15 (6) the right to receive information regarding
16 compensation to victims of crime as provided by Subchapter B,
17 including information related to the costs that may be compensated
18 under that subchapter and the amount of compensation, eligibility
19 for compensation, and procedures for application for compensation
20 under that subchapter, the payment for a medical examination under
21 Article 56.06 for a victim of a sexual assault, and when requested,
22 to referral to available social service agencies that may offer
23 additional assistance;

24 (7) the right to be informed, upon request, of parole
25 procedures, to participate in the parole process, to be notified,
26 if requested, of parole proceedings concerning a defendant in the
27 victim's case, to provide to the Board of Pardons and Paroles for

1 inclusion in the defendant's file information to be considered by
2 the board prior to the parole of any defendant convicted of any
3 crime subject to this subchapter, and to be notified, if requested,
4 of the defendant's release;

5 (8) the right to be provided with a waiting area,
6 separate or secure from other witnesses, including the offender and
7 relatives of the offender, before testifying in any proceeding
8 concerning the offender; if a separate waiting area is not
9 available, other safeguards should be taken to minimize the
10 victim's contact with the offender and the offender's relatives and
11 witnesses, before and during court proceedings;

12 (9) the right to prompt return of any property of the
13 victim that is held by a law enforcement agency or the attorney for
14 the state as evidence when the property is no longer required for
15 that purpose;

16 (10) the right to have the attorney for the state
17 notify the employer of the victim or of the guardian of the victim,
18 if requested, of the necessity of the victim's or guardian's
19 cooperation and testimony in a proceeding that may necessitate the
20 absence of the victim or the guardian of the victim from work for
21 good cause;

22 (11) the right to counseling, on request, regarding
23 acquired immune deficiency syndrome (AIDS) and human
24 immunodeficiency virus (HIV) infection and testing for acquired
25 immune deficiency syndrome (AIDS), human immunodeficiency virus
26 (HIV) infection, antibodies to HIV, or infection with any other
27 probable causative agent of AIDS, if the offense is an offense under

1 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

2 (12) the right to request victim-offender mediation
3 coordinated by the victim services division of the Texas Department
4 of Criminal Justice;

5 (13) the right to be informed of the uses of a victim
6 impact statement and the statement's purpose in the criminal
7 justice system, to complete the victim impact statement, and to
8 have the victim impact statement considered:

9 (A) by the attorney representing the state and
10 the judge before sentencing or before a plea bargain agreement is
11 accepted; and

12 (B) by the Board of Pardons and Paroles before an
13 inmate is released on parole;

14 (14) to the extent provided by Articles 56.06 and
15 56.065, for a victim of a sexual assault, the right to a forensic
16 medical examination if, within 96 hours of the sexual assault, the
17 assault is reported to a law enforcement agency or a forensic
18 medical examination is otherwise conducted at a health care
19 facility; and

20 (15) for a victim of an assault or sexual assault who
21 is younger than 17 years of age or whose case involves family
22 violence, as defined by Section 71.004, Family Code, the right to
23 have the court consider the impact on the victim of a continuance
24 requested by the defendant; if requested by the attorney
25 representing the state or by counsel for the defendant, the court
26 shall state on the record the reason for granting or denying the
27 continuance.

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

11 SECTION 4. This Act takes effect January 1, 2014.