

By: West

S.B. No. 1273

A BILL TO BE ENTITLED

AN ACT

relating to the rights of an employee who is a victim of domestic violence.

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

SECTION 1. Subtitle D, Title 2, Labor Code, is amended by adding Chapter 83 to read as follows:

CHAPTER 83. RIGHTS OF EMPLOYEES WHO ARE VICTIMS OF DOMESTIC VIOLENCE

Sec. 83.001. 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 25 or more employees.

Sec. 83.002. RIGHT TO SEEK TREATMENT OR ATTEND COURT PROCEEDINGS; NOTICE TO EMPLOYER. (a) An employee who is a victim of domestic violence is entitled to time off from work as provided by this chapter to seek treatment or counseling or attend court proceedings related to the incident of domestic violence.

(b) An employee who is a victim of domestic violence is entitled to three days of leave time for each incident of domestic violence.

(c) An employee entitled to time off under this chapter

1 must, not later than the seventh day after the date of receiving
2 notice of the scheduling of an appointment for treatment or
3 counseling or a court proceeding, notify the employee's employer
4 that the employee will take the time off.

5 Sec. 83.003. USE OF LEAVE TIME. An employee may be required
6 by an employer to use existing vacation leave time, personal leave
7 time, or compensatory leave time for the purpose of an absence from
8 work authorized by this chapter.

9 Sec. 83.004. EFFECT ON EMPLOYEE BENEFITS. (a) Except as
10 provided by Subsection (b), an employer may not reduce the benefits
11 otherwise owed to an employee for any pay period because the
12 employee took time off during that pay period for the purpose of an
13 absence from work authorized by this chapter.

14 (b) An employer is not required to pay an employee for the
15 time the employee is absent from work under this chapter unless the
16 employee is using paid leave time.

17 Sec. 83.005. DOCUMENTATION. On return to work an employee
18 shall provide reasonable documentation to the employer on the
19 employer's request regarding the employee's absence from work to
20 seek treatment or counseling or attend court proceedings related to
21 the incident of domestic violence of which the employee was a
22 victim.

23 Sec. 83.006. REASONABLE WORKPLACE SAFETY ACCOMMODATIONS.
24 An employer shall make reasonable workplace safety accommodations
25 for an employee who is a victim of domestic violence, unless the
26 employer demonstrates that the workplace safety accommodation
27 would impose an undue hardship on the operation of the business of

1 the employer.

2 Sec. 83.007. EMPLOYER RETALIATION PROHIBITED. (a) An
3 employer may not suspend or terminate the employment of, or
4 otherwise discriminate against, an employee because the employee is
5 a victim of domestic violence or because the employee takes time off
6 from work or requests a reasonable workplace safety accommodation
7 as authorized by this chapter.

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

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

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

15 (3) compensation for any monetary loss directly
16 resulting from the violation;

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

19 (5) if the employer's violation is wilful, payment by
20 the employer of court costs, reasonable attorney's fees, and
21 interest; and

22 (6) additional liquidated damages in an amount not to
23 exceed 25 percent of the amount to which an employee is otherwise
24 entitled under this section.

25 (c) An employer who raises the defense of undue hardship
26 bears the burden of establishing that an undue hardship exists in
27 relation to:

1 (1) the nature and cost of the workplace safety
2 accommodation;

3 (2) the overall financial resources of the employer;

4 (3) the effect on expenses and resources or any other
5 impact of the workplace safety accommodation on the operation of
6 the employer; and

7 (4) the overall size of the business of the employer
8 with respect to the number of employees and the number, type, and
9 location of its facilities.

10 SECTION 2. This Act applies only to a suspension,
11 termination, or other adverse employment action that is taken by an
12 employer against an employee in violation of Chapter 83, Labor
13 Code, as added by this Act, that occurs on or after the effective
14 date of this Act. A suspension, termination, or other adverse
15 employment action that is taken by an employer against an employee
16 before the effective date of this Act is governed by the law in
17 effect on the date the employment action is taken, and the former
18 law is continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2015.