

By: Wu

H.B. No. 528

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 83 to read as follows:

CHAPTER 83. EMPLOYEE RIGHT TO TIME OFF FOLLOWING VIOLENCE AGAINST  
EMPLOYEE OR EMPLOYEE'S CHILD

Sec. 83.001. DEFINITIONS. In this chapter:

(1) "Employee" and "employer" have the meanings assigned by Section 21.002.

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

(3) "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 22.02, Penal Code;

(E) Section 22.021, Penal Code;

(F) Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section; or

1                    (G) Section 43.25, Penal Code.

2            Sec. 83.002. APPLICATION. This chapter applies only to an  
3 employee:

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

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

8            Sec. 83.003. RIGHT TO TIME OFF; LIMITATIONS. (a) Except as  
9 provided by Subsections (b), (c), and (d), an employee to whom this  
10 chapter applies is entitled to time off as provided by this section  
11 to:

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

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

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

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

27                    (5) seek legal assistance or remedies to ensure the

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

5 (b) Before taking time off under this section, an employee  
6 must provide the employer with at least 24 hours advance written  
7 notice of the planned absence of the employee, unless providing  
8 advance notice is not feasible.

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

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

14 Sec. 83.004. CERTIFICATION. (a) An employer may require an  
15 employee to provide, within a reasonable time after the employee's  
16 initial absence from work, certification to the employer that:

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

19 (2) the time off from work requested by the employee is  
20 being used by the employee to engage in an activity described by  
21 Section 83.003(a).

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

25 (1) medical documentation;

26 (2) a police report;

27 (3) an active protective order; or

1           (4) a signed statement or other written documentation  
2 from a family violence center, as defined by Section 51.002, Human  
3 Resources Code.

4           Sec. 83.005. USE OF LEAVE TIME. An employee who has  
5 existing vacation leave time, personal leave time, sick leave time,  
6 or compensatory leave time must use that leave time for a planned  
7 absence authorized by this chapter.

8           Sec. 83.006. EFFECT ON EMPLOYEE PAY AND BENEFITS. (a) An  
9 employer is not required to compensate an employee during a planned  
10 absence authorized by this chapter unless the employee is using  
11 leave time under Section 83.005.

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

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

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

1 certification requirement by providing to the employer a sworn  
2 statement by the employee and the documentation described by  
3 Section 83.004(b).

4 Sec. 83.007. CONFIDENTIALITY. An employer shall maintain  
5 the confidentiality of the fact that an employee has requested or  
6 obtained time off under this chapter and any written document or  
7 record submitted to the employer by the employee relating to a  
8 request for time off under this chapter, except to the extent that  
9 disclosure is:

10 (1) requested or consented to in writing by the  
11 employee; or

12 (2) required by other state or federal law.

13 Sec. 83.008. ENTITLEMENT ON RETURN TO WORK. (a) On  
14 returning from time off under this chapter, an employee is entitled  
15 to:

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

19 (2) any benefits accrued by the employee before the  
20 employee's time off under this chapter.

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

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

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

27 Sec. 83.009. EMPLOYER RETALIATION PROHIBITED. (a) An

1 employer may not suspend or terminate the employment of, or  
2 otherwise discriminate against, an employee who takes time off  
3 authorized by this chapter if the employee has provided written  
4 notice or certification as required by this chapter.

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

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

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

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

14 Sec. 83.010. NOTICE TO EMPLOYEES. (a) Each employer shall  
15 inform its employees of their rights under this chapter by posting a  
16 conspicuous sign in a prominent location in the employer's  
17 workplace.

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

20 SECTION 2. This Act applies only to a suspension,  
21 termination, or other adverse employment action that is taken by an  
22 employer against an employee because of an employee absence  
23 authorized under Chapter 83, Labor Code, as added by this Act, that  
24 occurs on or after the effective date of this Act. A suspension,  
25 termination, or other adverse employment action that is taken by an  
26 employer against an employee before the effective date of this Act  
27 is governed by the law in effect on the date that the employment

1 action is taken, and the former law is continued in effect for that  
2 purpose.

3 SECTION 3. This Act takes effect September 1, 2023.