

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 178

AN ACT

To amend chapter 285, RSMo, by adding thereto six new sections relating to leave from employment for victims of certain crimes.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

Section A. Chapter 285, RSMo, is amended by adding thereto six new sections, to be known as sections 285.625, 285.630, 285.635, 285.650, 285.665, and 285.670, to read as follows:

285.625. As used in sections 285.625 to 285.670, the following terms mean:

(1) "Director", the director of the department of labor and industrial relations;

(2) "Domestic violence", the same meaning as in section 455.010;

(3) "Employ", the act of employing or state of being employed, engaged, or hired to perform work or services of any kind or character within the state of Missouri;

(4) "Employee", any person performing work or service of any kind or character for hire within the state of Missouri;

(5) "Employer", the state or any agency of the state, political subdivision of the state, or any person that employs at least twenty employees;

(6) "Employee benefit plan" or "plan", an employee welfare benefit plan or an employee pension benefit plan or a plan that

is both an employee welfare benefit plan and an employee pension benefit plan;

(7) "Employment benefits", all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, pensions, and profit-sharing, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan";

(8) "Family or household member", for employees with a family or household member who is a victim of domestic or sexual violence, a spouse, parent, son, daughter, other person related by blood or by present or prior marriage, other person who shares a relationship through a son or daughter, and persons jointly residing in the same household;

(9) "Parent", the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter who is a victim of domestic or sexual violence;

(10) "Person", an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons;

(11) "Public agency", the government of the state or of any political subdivision thereof, any agency of the state or of any political subdivision of the state, or any other governmental agency;

(12) "Public assistance", includes cash, food stamps, medical assistance, housing assistance, and other benefits

provided on the basis of income by a public agency or public employer;

(13) "Qualified individual", in the case of:

(a) An applicant or employee of an employer, an individual who, but for being a victim of domestic or sexual violence or with a family or household member who is a victim of domestic or sexual violence, can perform the essential functions of the employment position that such individual holds or desires; or

(b) An applicant for or recipient of public assistance from a public agency, an individual who, but for being a victim of domestic or sexual violence or with a family or household member who is a victim of domestic or sexual violence, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires;

(14) "Reasonable safety accommodation", an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, implementation of a safety procedure, or assistance in documenting domestic violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic violence. Any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable;

(15) "Reduced work schedule", a work schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

(16) "Sexual violence", a sexual assault, as defined in section 455.010, and trafficking for the purposes of sexual exploitation as described in section 566.209;

(17) "Son or daughter", a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under eighteen years of age, or is eighteen years of age or older and incapable of self-care because of a mental or physical disability and is a victim of domestic or sexual violence;

(18) "Undue hardship", significant difficulty or expense, when considered in light of the nature and cost of the reasonable safety accommodation;

(19) "Victim of domestic or sexual violence", an individual who has been subjected to domestic violence or sexual violence;

(20) "Victim services organization", a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or a legal services organization or other organization providing assistance through the legal process;

(21) "Work", any job, task, labor, services, or any other activity for which compensation is provided, expected, or due.

285.630. 1. An employee who is a victim of domestic or sexual violence or has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual

violence may take unpaid leave from work to address such violence by:

(1) Seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence or sexual violence to the employee or the employee's family or household member;

(2) Obtaining services from a victim services organization for the employee or the employee's family or household member;

(3) Obtaining psychological or other counseling for the employee or the employee's family or household member;

(4) Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence or sexual violence or to ensure economic security; or

(5) Seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence or sexual violence.

2. Subject to subsection 5 of this section, an employee working for an employer that employs at least fifty employees shall be entitled to a total of two workweeks of leave under subsection 1 of this section during any twelve-month period. An employee working for an employer that employs at least twenty but not more than forty-nine employees shall be entitled to a total of one workweek of leave under subsection 1 of this section during any twelve-month period. For purposes of this subsection

"workweek" shall mean an individual employee's standard workweek.  
The total number of workweeks to which an employee is entitled  
shall not decrease during the relevant twelve-month period.  
Sections 285.625 to 285.670 shall not create a right for an  
employee to take unpaid leave that exceeds the amount of unpaid  
leave time allowed under the federal Family and Medical Leave Act  
of 1993 (29 U.S.C. 2601 et seq.).

3. Leave described in subsection 2 of this section may be  
taken intermittently or on a reduced work schedule.

4. The employee shall provide the employer with at least  
forty-eight hours' advance notice of the employee's intention to  
take leave under subsection 1 of this section, unless providing  
such notice is not practicable. When an unscheduled absence  
occurs, the employer may not take any action against the employee  
if the employee, upon request of the employer and within a  
reasonable period after the absence, provides certification under  
subsection 5 of this section.

5. The employer may require the employee to provide  
certification to the employer that the employee or the employee's  
family or household member is a victim of domestic or sexual  
violence and that the leave is for one of the purposes enumerated  
in subsection 1 of this section. The employee shall provide such  
certification to the employer within a reasonable period after  
the employer requests certification.

6. An employee may satisfy the certification requirement of  
subsection 5 of this section by providing to the employer a sworn  
statement of the employee and the following:

(1) Documentation from an employee, agent, or volunteer of

a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence or sexual violence and the effects of such violence;

(2) A police or court record; or

(3) Other corroborating evidence.

7. All information provided to the employer pursuant to subsection 6 of this section including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee or otherwise required by applicable federal or state law.

8. Any employee who takes leave under this section shall be entitled, on return from such leave, to be restored by the employer to the position of employment held by the employee when the leave commenced or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

9. The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Nothing in this section shall be construed to entitle any restored employee to the accrual of any seniority or employment benefits during any period of leave or any right, benefit, or position of employment other than any

right, benefit, or position to which the employee would have been entitled had the employee not taken the leave. Nothing in this section shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

10. Upon the request of an employer, an employee requesting a reasonable safety accommodation pursuant to sections 285.625 to 285.670, shall provide the employer a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the reasonable safety accommodation is for a purpose authorized under sections 285.625 to 285.670.

285.635. 1. During any period that an employee takes leave under section 285.630, the employer shall maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

2. The employer may recover from the employee the premium that the employer paid for maintaining coverage for the employee and the employee's family or household member under such group health plan during any period of leave under this section if the employee fails to return from leave after the period of leave to which the employee is entitled has expired for a reason other than the continuation, recurrence, or onset of domestic violence or sexual violence, a sexual assault, or human trafficking that entitled the employee to leave under section 285.630, or other



circumstances beyond the control of the employee.

3. An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subsection 2 of this section to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason by providing the employer with:

(1) A sworn statement of the employee;

(2) Documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee has sought assistance in addressing domestic violence or sexual violence and the effects of such violence;

(3) A police or court record; or

(4) Other corroborating evidence.

4. All information provided to the employer pursuant to subsection 3 of this section including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subsection 2 of this section shall be retained in the strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or state law.

285.650. 1. Employers and public agencies shall make reasonable safety accommodation, in a timely manner, to the known limitations resulting from circumstances relating to being a victim of domestic or sexual violence or a family or household

member being a victim of domestic or sexual violence of an otherwise qualified individual:

(1) Who is:

(a) An employee of the employer; or

(b) An applicant for or recipient of public assistance from a public agency; and

(2) Who is:

(a) A victim of domestic or sexual violence; or

(b) With a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the individual in this subdivision as it relates to the domestic or sexual violence;

2. Subsection 1 of this section shall not apply if the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

285.665. Every employer subject to sections 285.625 to 285.670 shall deliver a notice, to be prepared or approved by the director, summarizing the requirements of sections 285.625 to 285.670. Such notice may be in electronic form and shall be delivered to each person employed by the employer as of August 28, 2019, no later than September 27, 2019, and to each person hired after August 28, 2019, upon the commencement of employment. The director shall furnish copies of summaries and rules to employers upon request without charge.

285.670. 1. Nothing in sections 285.625 to 285.670 shall be construed to supersede any provision of any federal, state, or local law, collective bargaining agreement, or employment

benefits program or plan that provides:

(1) Greater leave benefits for victims of domestic or sexual violence than the rights established under sections 285.625 to 285.670; or

(2) Leave benefits for a larger population of victims of domestic or sexual violence, as defined in such law, agreement, program, or plan, than the victims of domestic or sexual violence covered under sections 285.625 to 285.670.

2. The rights and remedies established for applicants and employees who are victims of domestic or sexual violence and applicants and employees with a family or household member who is a victim of domestic or sexual violence under sections 285.625 to 285.670 shall not be diminished by any federal, state, or local law, collective bargaining agreement, or employment benefits program or plan.