

SENATE BILL NO. 16

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

0581S.051

ADRIANE D. CROUSE, Secretary

AN ACT

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

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto
2 six new sections, to be known as sections 285.625, 285.630,
3 285.635, 285.650, 285.665, and 285.670, to read as follows:

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

3 (1) "Abuse", the same meaning as in section 210.110;

4 (2) "Director", the director of the department of
5 labor and industrial relations;

6 (3) "Domestic violence", the same meaning as in
7 section 455.010;

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

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

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

17 (7) "Employee benefit plan" or "plan", an employee
18 welfare benefit plan or an employee pension benefit plan or

19 a plan that is both an employee welfare benefit plan and an
20 employee pension benefit plan;

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

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

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

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

41 (12) "Public agency", the government of the state or
42 of any political subdivision thereof, any agency of the
43 state or of any political subdivision of the state, or any
44 other governmental agency;

45 (13) "Public assistance", includes cash, food stamps,
46 medical assistance, housing assistance, and other benefits
47 provided on the basis of income by a public agency or public
48 employer;

49 (14) "Qualified individual", in the case of:

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

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

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

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

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

80 (18) "Son or daughter", a biological, adopted, or
81 foster child, a stepchild, a legal ward, or a child of a

82 person standing in loco parentis, who is under eighteen
83 years of age, or is eighteen years of age or older and
84 incapable of self-care because of a mental or physical
85 disability and is a victim of domestic or sexual violence;

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

89 (20) "Victim of domestic or sexual violence", an
90 individual who has been subjected to domestic violence,
91 sexual violence, or abuse;

92 (21) "Victim services organization", a nonprofit,
93 nongovernmental organization that provides assistance to
94 victims of domestic violence or to advocates for such
95 victims, including a rape crisis center, a child advocacy
96 center, an organization carrying out a domestic violence
97 program, an organization operating a shelter or providing
98 counseling services, or a legal services organization or
99 other organization providing assistance through the legal
100 process;

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

285.630. 1. An employee who is a victim of domestic
2 or sexual violence or a family or household member who is a
3 victim of domestic or sexual violence whose interests are
4 not adverse to the employee as it relates to the domestic or
5 sexual violence may take unpaid leave from work to address
6 such violence by:

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

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

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

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

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

26 2. Subject to subsection 5 of this section, an
27 employee working for an employer that employs at least fifty
28 employees shall be entitled to a total of two workweeks of
29 leave under subsection 1 of this section during any twelve-
30 month period. An employee working for an employer that
31 employs at least twenty but not more than forty-nine
32 employees shall be entitled to a total of one workweek of
33 leave under subsection 1 of this section during any twelve-
34 month period. For purposes of this subsection "workweek"
35 shall mean an individual employee's standard workweek. The
36 total number of workweeks to which an employee is entitled
37 shall not decrease during the relevant twelve-month period.
38 Sections 285.625 to 285.670 shall not create a right for an
39 employee to take unpaid leave that exceeds the amount of
40 unpaid leave time allowed under the federal Family and
41 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

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

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

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

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

65 (1) Documentation from an employee, agent, or
66 volunteer of a victim services organization, an attorney, a
67 member of the clergy, or a medical or other professional
68 from whom the employee or the employee's family or household
69 member has sought assistance in addressing domestic violence
70 or sexual violence and the effects of such violence;

71 (2) A police or court record; or

72 (3) Other corroborating evidence.

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

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

88 9. The taking of leave under this section shall not
89 result in the loss of any employment benefit accrued prior
90 to the date on which the leave commenced. Nothing in this
91 section shall be construed to entitle any restored employee
92 to the accrual of any seniority or employment benefits
93 during any period of leave or any right, benefit, or
94 position of employment other than any right, benefit, or
95 position to which the employee would have been entitled had
96 the employee not taken the leave. Nothing in this section
97 shall be construed to prohibit an employer from requiring an
98 employee on leave under this section to report periodically
99 to the employer on the status and intention of the employee
100 to return to work.

101 10. Upon the request of an employer, an employee
102 requesting a reasonable safety accommodation pursuant to
103 sections 285.625 to 285.670, shall provide the employer a
104 written statement signed by the employee or an individual

105 acting on the employee's behalf, certifying that the
106 reasonable safety accommodation is for a purpose authorized
107 under sections 285.625 to 285.670.

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

8 2. The employer may recover from the employee the
9 premium that the employer paid for maintaining coverage for
10 the employee and the employee's family or household member
11 under such group health plan during any period of leave
12 under this section if the employee fails to return from
13 leave after the period of leave to which the employee is
14 entitled has expired for a reason other than the
15 continuation, recurrence, or onset of domestic violence,
16 sexual violence, abuse, a sexual assault, or human
17 trafficking that entitled the employee to leave under
18 section 285.630, or other circumstances beyond the control
19 of the employee.

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

- 26 (1) A sworn statement of the employee;
- 27 (2) Documentation from an employee, agent, or
28 volunteer of a victim services organization, an attorney, a
29 member of the clergy, or a medical or other professional

30 from whom the employee has sought assistance in addressing
31 domestic or sexual violence and the effects of such violence;

32 (3) A police or court record; or

33 (4) Other corroborating evidence.

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

285.650. 1. Employers and public agencies shall make
2 reasonable safety accommodations, in a timely manner, to the
3 known limitations resulting from circumstances relating to
4 being a victim of domestic or sexual violence or a family or
5 household member being a victim of domestic or sexual
6 violence of an otherwise qualified individual:

7 (1) Who is:

8 (a) An employee of the employer; or

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

11 (2) Who is:

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

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

17 2. Subsection 1 of this section shall not apply if the
18 employer or public agency can demonstrate that the

19 accommodation would impose an undue hardship on the
20 operation of the employer or public agency.

285.665. Every employer subject to sections 285.625 to
2 285.670 shall deliver a notice, to be prepared or approved
3 by the director, summarizing the requirements of sections
4 285.625 to 285.670. Such notice may be in electronic form
5 and shall be delivered to each person employed by the
6 employer no later than October 27, 2021, and for each person
7 hired after October 27, 2021, such notice shall be delivered
8 upon the commencement of employment. The director shall
9 furnish copies of summaries and rules to employers upon
10 request without charge.

285.670. 1. Nothing in sections 285.625 to 285.670
2 shall be construed to supersede any provision of any
3 federal, state, or local law, collective bargaining
4 agreement, or employment benefits program or plan that
5 provides:

6 (1) Greater leave benefits for victims of domestic or
7 sexual violence than the rights established under sections
8 285.625 to 285.670; or

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

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

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