

Amendment No. 538

Senate Amendment to Assembly Bill No. 163	(BDR 53-834)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: Yes Digest: No	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

VDW/BAW



Date: 5/11/2023

A.B. No. 163—Revises provisions governing employment. (BDR 53-834)



ASSEMBLY BILL NO. 163—ASSEMBLYMEN GONZÁLEZ, CONSIDINE, THOMAS; ANDERSON, BROWN-MAY, DICKMAN, DURAN, GRAY, HARDY, LA RUE HATCH, NEWBY, NGUYEN, O’NEILL, ORENTLICHER AND WATTS

FEBRUARY 14, 2023

JOINT SPONSORS: SENATORS SPEARMAN, NEAL, D. HARRIS; LANGE, OHRENSCHALL AND SCHEIBLE

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing employment. (BDR 53-834)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; providing for hours of leave, under certain circumstances, if an employee or a family or household member of an employee is a victim of an act which constitutes sexual assault; prohibiting the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from denying certain persons unemployment benefits under certain circumstances; requiring employers to provide reasonable accommodations under certain circumstances; prohibiting an employer from taking certain actions against an employee; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a person who commits certain acts is guilty of sexual assault.
2 (NRS 200.366) Existing law requires an employer to provide certain hours of leave to an
3 employee who has been employed by the employer for at least 90 days and who is a victim of
4 an act which constitutes domestic violence, or such an employee whose family or household
5 member is a victim of an act which constitutes domestic violence and the employee is not the
6 alleged perpetrator. Existing law provides that such an employee is entitled to not more than
7 160 hours of leave during a 12-month period. Such leave: (1) may be paid or unpaid; (2) must
8 be used within the 12 months immediately following the date on which the act which
9 constitutes domestic violence occurred; (3) may be used consecutively or intermittently; and
10 (4) under certain circumstances, must be deducted from leave permitted by the Family and
11 Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq. Existing law additionally requires an
12 employer to maintain a record of the use of the hours of leave for each employee for a 2-year
13 period and to make those records available for inspection by the Labor Commissioner. (NRS
14 608.0198) **Section 1** of this bill: (1) requires an employer to provide such leave to a victim of

15 an act which constitutes sexual assault; (2) authorizes an employee to use the leave for certain
 16 purposes; and (3) requires an employer to maintain a record of the use of the hours of leave
 17 for each employee for a 2-year period and to make those records available for inspection by
 18 the Labor Commissioner.

19 Existing law prohibits the Administrator of the Employment Security Division of the
 20 Department of Employment, Training and Rehabilitation from denying a person
 21 unemployment compensation benefits in certain circumstances. (NRS 612.3755) **Section 2**
 22 of this bill prohibits the Administrator from denying a person unemployment compensation
 23 benefits if the Administrator finds that the person: (1) left employment to protect himself or
 24 herself, or his or her family or household member, from an act which constitutes sexual
 25 assault; and (2) actively engaged in an effort to preserve employment. **Section 2** also
 26 authorizes the Administrator to request evidence from the person to support a claim for
 27 benefits.

28 Existing law requires an employer to provide reasonable accommodations which will not
 29 create an undue hardship for an employee who is a victim of an act which constitutes domestic
 30 violence or whose family or household member is a victim of an act which constitutes
 31 domestic violence. (NRS 613.222) **Section 3** of this bill similarly requires an employer to
 32 provide such accommodations for an employee who is a victim of an act which constitutes
 33 sexual assault or whose family or household member is a victim of an act which constitutes
 34 sexual assault.

35 Existing law prohibits an employer from conditioning the employment of an employee or
 36 prospective employee or taking certain employment actions because of certain circumstances
 37 related to the commission of an act which constitutes domestic violence. (NRS 613.223)
 38 **Section 4** of this bill prohibits an employer from conditioning the employment of an employee
 39 or prospective employee or taking certain employment actions because: (1) the employee or
 40 prospective employee is a victim of an act which constitutes sexual assault; (2) the employee
 41 or prospective employee's family or household member is a victim of an act which constitutes
 42 sexual assault; or (3) of other circumstances related to being a victim of an act which
 43 constitutes sexual assault.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 608.0198 is hereby amended to read as follows:

2 608.0198 1. An employee who has been employed by an employer for at
 3 least 90 days and who is a victim of an act which constitutes domestic violence ~~or~~
 4 *or sexual assault*, or whose family or household member is a victim of an act
 5 which constitutes domestic violence ~~or~~ *or sexual assault*, and the employee is not
 6 the alleged perpetrator, is entitled to not more than 160 hours of leave in one 12-
 7 month period. Hours of leave provided pursuant to this subsection:

8 (a) May be paid or unpaid by the employer;

9 (b) Must be used within the 12 months immediately following the date on
 10 which the act which constitutes domestic violence *or sexual assault* occurred;

11 (c) May be used consecutively or intermittently; and

12 (d) If used for a reason for which leave may also be taken pursuant to the
 13 Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., must be
 14 deducted from the amount of leave the employee is entitled to take pursuant to this
 15 section and from the amount of leave the employee is entitled to take pursuant to
 16 the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

17 2. An employee may use the hours of leave pursuant to subsection 1 as
 18 follows:

19 (a) An employee may use the hours of leave only:

1 (1) For the diagnosis, care or treatment of a health condition related to an
2 act which constitutes domestic violence *or sexual assault* committed against the
3 employee or family or household member of the employee;

4 (2) To obtain counseling or assistance related to an act which constitutes
5 domestic violence *or sexual assault* committed against the employee or family or
6 household member of the employee;

7 (3) To participate in any court proceedings related to an act which
8 constitutes domestic violence *or sexual assault* committed against the employee or
9 family or household member of the employee; or

10 (4) To establish a safety plan, including, without limitation, any action to
11 increase the safety of the employee or the family or household member of the
12 employee from a future act which constitutes domestic violence ~~or~~ *or sexual*
13 *assault*.

14 (b) After taking any hours of leave upon the occurrence of the act which
15 constitutes domestic violence ~~or~~ *or sexual assault*, an employee shall give not less
16 than 48 hours' advance notice to his or her employer of the need to use additional
17 hours of leave for any purpose listed in paragraph (a).

18 3. An employer shall not:

19 (a) Deny an employee the right to use hours of leave in accordance with the
20 conditions of this section;

21 (b) Require an employee to find a replacement worker as a condition of using
22 hours of leave; or

23 (c) Retaliate against an employee for using hours of leave.

24 4. The employer of an employee who takes hours of leave pursuant to this
25 section may require the employee to provide to the employer documentation that
26 confirms or supports the reason the employee provided for requesting leave. Such
27 documentation may include, without limitation, a police report, a copy of an
28 application for an order for protection, an affidavit from an organization which
29 provides services to victims of domestic violence *or sexual assault* or
30 documentation from a physician. Any documentation provided to an employer
31 pursuant to this subsection is confidential and must be retained by the employer in a
32 manner consistent with the requirements of the Family and Medical Leave Act of
33 1993, 29 U.S.C. §§ 2601 et seq.

34 5. The Labor Commissioner shall prepare a bulletin which clearly sets forth
35 the right to the benefits created by this section. The Labor Commissioner shall post
36 the bulletin on the Internet website maintained by the Office of Labor
37 Commissioner, if any, and shall require all employers to post the bulletin in a
38 conspicuous location in each workplace maintained by the employer. The bulletin
39 may be included in any printed abstract posted by the employer pursuant to NRS
40 608.013.

41 6. An employer shall maintain a record of the hours of leave taken pursuant to
42 this section for each employee for a 2-year period following the entry of such
43 information in the record and, upon request, shall make those records available for
44 inspection by the Labor Commissioner. The employer shall exclude the names of
45 the employees from the records, unless a request for a record is for the purpose of
46 an investigation.

47 7. The provisions of this section do not:

48 (a) Limit or abridge any other rights, remedies or procedures available under
49 the law.

50 (b) Negate any other rights, remedies or procedures available to an aggrieved
51 party.

52 (c) Prohibit, preempt or discourage any contract or other agreement that
53 provides a more generous leave benefit or paid leave benefit.

1 8. As used in this section:

2 (a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

3 (b) "Family or household member" means a:

4 (1) Spouse;

5 (2) Domestic partner;

6 (3) Minor child; or

7 (4) Parent or other adult person who is related within the first degree of
8 consanguinity or affinity to the employee, or other adult person who is or was
9 actually residing with the employee at the time of the act which constitutes
10 domestic violence ~~or~~ *or sexual assault*.

11 (c) *"Sexual assault" has the meaning ascribed to it in NRS 200.366.*

12 **Sec. 2.** NRS 612.3755 is hereby amended to read as follows:

13 612.3755 1. The Administrator shall not deny any otherwise eligible person
14 benefits if the Administrator finds that:

15 (a) The person left employment to protect himself or herself, or a family or
16 household member, from an act which constitutes domestic violence ~~or~~ *or sexual*
17 *assault*; and

18 (b) The person actively engaged in an effort to preserve employment.

19 2. The Administrator may request the person to furnish evidence satisfactory
20 to support the person's claim for benefits.

21 3. As used in this section:

22 (a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

23 (b) "Family or household member" means a:

24 (1) Spouse;

25 (2) Domestic partner;

26 (3) Minor child; or

27 (4) Parent or other adult person who is related within the first degree of
28 consanguinity or affinity to the employee, or other adult person who is or was
29 actually residing with the employee at the time of the act which constitutes
30 domestic violence ~~or~~ *or sexual assault*.

31 (c) *"Sexual assault" has the meaning ascribed to it in NRS 200.366.*

32 **Sec. 3.** NRS 613.222 is hereby amended to read as follows:

33 613.222 1. An employer must make reasonable accommodations which will
34 not create an undue hardship for an employee who is a victim of an act which
35 constitutes domestic violence *or sexual assault* or whose family or household
36 member is a victim of an act which constitutes domestic violence ~~or~~ *or sexual*
37 *assault*. The employer may provide such accommodations, including, without
38 limitation, as:

39 (a) A transfer or reassignment;

40 (b) A modified schedule;

41 (c) A new telephone number for work; or

42 (d) Any other reasonable accommodations which will not create an undue
43 hardship deemed necessary to ensure the safety of the employee, the workplace, the
44 employer or other employees.

45 2. An employer may require an employee to provide to the employer
46 documentation that confirms or supports the reason the employee requires the
47 reasonable accommodations.

48 3. As used in this section:

49 (a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

50 (b) "Family or household member" has the meaning ascribed to it in NRS
51 612.3755.

52 (c) *"Sexual assault" has the meaning ascribed to it in NRS 200.366.*

1 **Sec. 4.** NRS 613.223 is hereby amended to read as follows:

2 613.223 1. It is unlawful for any employer in this State to discharge,
3 discipline, discriminate against in any manner or deny employment or promotion
4 to, or threaten to take any such action against, an employee because:

5 (a) The employee requested to use hours of leave pursuant to NRS 608.0198;

6 (b) The employee participated as a witness or interested party in court
7 proceedings related to an act which constitutes domestic violence *or sexual assault*
8 which triggered the use of leave pursuant to NRS 608.0198;

9 (c) The employee requested an accommodation pursuant to NRS 613.222; or

10 (d) An act which constitutes domestic violence *or sexual assault* was
11 committed against the employee in the workplace of the employee.

12 2. As used in this section ~~[, "domestic"]~~:

13 (a) *"Domestic violence"* has the meaning ascribed to it in NRS 33.018.

14 (b) *"Sexual assault" has the meaning ascribed to it in NRS 200.366.*

15 **Sec. 5.** 1. This section becomes effective upon passage and approval.

16 2. Sections 1 to 4, inclusive, of this act become effective:

17 (a) Upon passage and approval for the purpose of adopting any regulations and
18 performing any other preparatory administrative tasks necessary to carry out the
19 provisions of this act; and

20 (b) On January 1, 2024, for all other purposes.