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FIRST REPRINT

A.B. 163

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.

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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
2 assault. (NRS 200.366) Existing law requires an employer to provide certain hours
3 of leave to an employee who has been employed by the employer for at least 90
4 days and who is a victim of an act which constitutes domestic violence, or such an



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

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

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

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

3 608.0198 1. An employee who has been employed by an
4 employer for at least 90 days and who is a victim of an act which
5 constitutes domestic violence **[] or sexual assault**, or whose family
6 or household member is a victim of an act which constitutes



1 domestic violence **[H] or sexual assault**, and the employee is not the
2 alleged perpetrator, is entitled to not more than 160 hours of leave in
3 one 12-month period. Hours of leave provided pursuant to this
4 subsection:

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

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

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

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

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

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

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

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

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

30 (4) To establish a safety plan, including, without limitation,
31 any action to increase the safety of the employee or the family or
32 household member of the employee from a future act which
33 constitutes domestic violence **[H] or sexual assault**.

34 (b) After taking any hours of leave upon the occurrence of the
35 act which constitutes domestic violence **[H] or sexual assault**, an
36 employee shall give not less than 48 hours' advance notice to his or
37 her employer of the need to use additional hours of leave for any
38 purpose listed in paragraph (a).

39 3. An employer shall not:

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

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

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



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

13 5. The Labor Commissioner shall prepare a bulletin which
14 clearly sets forth the right to the benefits created by this section. The
15 Labor Commissioner shall post the bulletin on the Internet website
16 maintained by the Office of Labor Commissioner, if any, and shall
17 require all employers to post the bulletin in a conspicuous location
18 in each workplace maintained by the employer. The bulletin may be
19 included in any printed abstract posted by the employer pursuant to
20 NRS 608.013.

21 6. An employer shall maintain a record of the hours of leave
22 taken pursuant to this section for each employee for a 2-year period
23 following the entry of such information in the record and, upon
24 request, shall make those records available for inspection by the
25 Labor Commissioner. The employer shall exclude the names of
26 the employees from the records, unless a request for a record is for
27 the purpose of an investigation.

28 7. The provisions of this section do not:

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

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

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

36 8. As used in this section:

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

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

40 (1) Spouse;

41 (2) Domestic partner;

42 (3) Minor child; or

43 (4) Parent or other adult person who is related within the first
44 degree of consanguinity or affinity to the employee, or other adult



1 person who is or was actually residing with the employee at the time
2 of the act which constitutes domestic violence ~~§~~ *or sexual assault.*

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

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

6 612.3755 1. The Administrator shall not deny any otherwise
7 eligible person benefits if the Administrator finds that:

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

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

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

15 3. As used in this section:

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

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

19 (1) Spouse;

20 (2) Domestic partner;

21 (3) Minor child; or

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

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

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

29 613.222 1. An employer must make reasonable
30 accommodations which will not create an undue hardship for an
31 employee who is a victim of an act which constitutes domestic
32 violence *or sexual assault* or whose family or household member is
33 a victim of an act which constitutes domestic violence ~~§~~ *or sexual*
34 *assault.* The employer may provide such accommodations,
35 including, without limitation, as:

36 (a) A transfer or reassignment;

37 (b) A modified schedule;

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

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

42 2. An employer may require an employee to provide to the
43 employer documentation that confirms or supports the reason the
44 employee requires the reasonable accommodations.

45 3. As used in this section:



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

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

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

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

8 613.223 1. It is unlawful for any employer in this State to
9 discharge, discipline, discriminate against in any manner or deny
10 employment or promotion to, or threaten to take any such action
11 against, an employee because:

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

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

18 (c) The employee requested an accommodation pursuant to NRS
19 613.222; or

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

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

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

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

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

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

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

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



