

1 H.814

2 Introduced by Representatives Kornheiser of Brattleboro, Szott of Barnard,
3 Birong of Vergennes, Colburn of Burlington, Killacky of South
4 Burlington, Nicoll of Ludlow, Ode of Burlington, O’Sullivan of
5 Burlington, Redmond of Essex, and White of Hartford

6 Referred to Committee on

7 Date:

8 Subject: Labor; employment practices; leave; victims of domestic and sexual
9 violence

10 Statement of purpose of bill as introduced: This bill proposes to provide up to
11 eight weeks of leave from employment for a victim of domestic or sexual
12 violence.

13 An act relating to leave from employment for victims of domestic or sexual
14 violence

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 21 V.S.A. § 472d is added to read:

17 § 472d. LEAVE

18 (a) As used in this section:

19 (1) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

20 (2) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

1 (3) “Employer” means any of the following who employ one or more
2 individuals to perform services in Vermont:

3 (A) a person;

4 (B) the receiver, trustee, trustee in bankruptcy, or successor of a
5 person; or

6 (C) the administrator or executor of the estate of a deceased
7 individual.

8 (4) “Employee” means a person who, in consideration of direct or
9 indirect gain or profit, has been continuously employed by the same employer
10 for a period of six months for an average of at least 20 hours per week.

11 (5) “Family member” means:

12 (A) the employee’s child or foster child;

13 (B) a stepchild or ward who lives with the employee;

14 (C) the employee’s spouse, domestic partner, or civil union partner;

15 (D) the employee’s parent or the parent of the employee’s spouse,

16 domestic partner, or civil union partner;

17 (E) the employee’s sibling;

18 (F) the employee’s grandparent;

19 (G) the employee’s grandchild; or

1 (H) a child for whom the employee stands in loco parentis or an
2 individual who stood in loco parentis for the employee when he or she was a
3 child.

4 (6) "Sexual assault" has the same meaning as in 15 V.S.A. § 1151.

5 (7) "Stalking" has the same meaning as in 15 V.S.A. § 1151.

6 (b)(1) In addition to any other leave provided pursuant to this subchapter,
7 an employee shall be entitled to take up to eight weeks of leave in a 12-month
8 period if:

9 (A) the employee or the employee's family member is a victim of
10 domestic violence, sexual assault, or stalking;

11 (B) the employee is using the leave for one of the following reasons
12 related to the domestic violence, sexual assault, or stalking:

13 (i) to seek or obtain medical care, counseling, or social or legal
14 services;

15 (ii) to recover from injuries;

16 (iii) to participate in safety planning;

17 (iv) to relocate or secure safe housing; or

18 (v) to meet with a State's attorney or law enforcement officer; and

19 (C) the employee is not the perpetrator of the domestic violence,
20 sexual assault, or stalking.

1 (2)(A) An employee may use the leave provided pursuant to this
2 subsection intermittently.

3 (B) An employee who uses leave intermittently shall be entitled to
4 take leave in increments of not less than one day.

5 (c) During the leave, at the employee's option, the employee may use
6 accrued sick leave, vacation leave, or any other accrued paid leave. Use of
7 accrued paid leave shall not extend the leave provided pursuant to this section.

8 (d)(1)(A) If the need for a leave pursuant to this section is foreseeable, the
9 employee shall provide the employer with written notice of the need for the
10 leave as soon as practicable.

11 (B) An employee shall not be required to provide advance notice of
12 the need for leave caused by an emergency or other unforeseen event, but shall
13 instead notify the employer that the leave was taken or is being taken within
14 three business days after commencing the leave.

15 (2)(A) An employer may require an employee to provide documentation
16 of the need for the leave from one of the following sources:

17 (i) a court or a law enforcement or other government agency;

18 (ii) a domestic violence, sexual assault, or stalking assistance
19 program;

1 (iii) a legal, clerical, medical, or other professional from whom the
2 employee, or the employee's family member, received counseling or other
3 assistance concerning domestic violence, sexual assault, or stalking; or

4 (iv) a self-certification of the employee's, or the employee's
5 family member's, status as a victim of domestic violence, sexual assault, or
6 stalking, signed under penalty of perjury, on a standard form adopted for that
7 purpose by:

8 (I) a federal or State government entity, including the Vermont
9 Department for Children and Families; or

10 (II) a nonprofit organization that provides support services to
11 protected tenants.

12 (B) An employer shall not disclose any information received
13 pursuant to this subdivision (d)(2) except to the extent:

14 (i) consented to by the employee in writing;

15 (ii) required pursuant to a court order; or

16 (iii) required pursuant to State or federal law.

17 (e) The employer shall continue employment benefits for the duration of a
18 leave taken pursuant to this section at the level and under the conditions
19 coverage would be provided if the employee continued in employment
20 continuously for the duration of the leave. The employer may require that the

1 employee contribute to the cost of benefits during the leave at the existing rate
2 of employee contribution.

3 (f) The employer shall post and maintain in a conspicuous place in and
4 about each of its places of business printed notices of the provisions of this
5 section on forms provided by the Commissioner of Labor.

6 (g)(1) Upon return from leave taken under this section, an employee shall
7 be offered the same or comparable job at the same level of compensation,
8 employment benefits, seniority, and any other term or condition of the
9 employment existing on the day leave began.

10 (2) This subsection shall not apply if, prior to requesting leave, the
11 employee had been given notice or had given notice that the employment
12 would terminate.

13 (3) This subsection shall not apply if the employer can demonstrate by
14 clear and convincing evidence that during the period of leave the employee's
15 job would have been terminated or the employee would have been laid off for
16 reasons unrelated to the leave or the reason for which the leave was taken.

17 (h)(1) An employer may adopt a leave policy more generous than the leave
18 provided by this section.

19 (2) Nothing in this section shall be construed to diminish an employer's
20 obligation to comply with any collective bargaining agreement or any

1 employment benefit program or plan that provides greater leave rights than the
2 rights provided by this section.

3 (3) A collective bargaining agreement or employment benefit program
4 or plan shall not diminish rights provided by this section.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2020.