

JAN 18 2019

A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that victims of domestic
2 violence often need to take leave from their employment to
3 attend to various health or legal matters and that addressing
4 such matters should not pose a risk to their personal health and
5 well-being, financial security, or safety due to a fear of
6 adverse consequences from their employers. Although state law
7 currently requires that employers allow victim leave for victims
8 of domestic or sexual violence, victim employees are required to
9 exhaust all other paid and unpaid leave accrued for the calendar
10 year before victim leave may be applied. Thus an employee may
11 exhaust all sick leave in order to seek safety or medical
12 attention for themselves or their minor child or to take legal
13 action against an abuser, leaving little to no sick leave
14 available for the rest of the calendar year.

15 The purpose of this Act is to amend the Hawaii family leave
16 law to allow an employee to take family leave, separate from



1 victim leave, related to domestic or sexual violence against the
2 employee or the employee's minor child.

3 SECTION 2. Section 398-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) An employee shall be entitled to a total of four
6 weeks of family leave during any calendar year:

7 (1) Upon the birth of a child of the employee or the
8 adoption of a child; [~~or~~]

9 (2) To care for the employee's child, spouse, reciprocal
10 beneficiary, sibling, or parent with a serious health
11 condition~~[or]~~; or

12 (3) To seek safety, medical attention, or victim services
13 related to domestic or sexual violence against the
14 employee or the employee's minor child. Family leave
15 taken related to domestic or sexual violence against
16 the employee or the employee's minor child shall be
17 made available to the employee in addition to victim
18 leave under section 378-72 and shall be treated the
19 same as family leave taken for the other purposes
20 permitted under this section for purposes of
21 calculating accrued benefits under this chapter."



1 SECTION 3. Section 398-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§398-6 Certification. (a) An employer may require that
4 a claim for family leave be supported by written certification.

5 (b) For the birth of a child, certification shall be
6 issued by a health care provider or the family court. For the
7 placement of a child for adoption with the employee,
8 certification shall be issued by a recognized adoption agency,
9 the attorney handling the adoption, or by the individual
10 officially designated by the birth parent to select and approve
11 the adoptive family.

12 (c) When leave is to care for a child, spouse, reciprocal
13 beneficiary, sibling, or parent who has a serious health
14 condition, certification shall be issued by the health care
15 provider of the individual requiring care. Certification shall
16 be considered sufficient if it provides information as required
17 by the director.

18 (d) When leave is to seek safety, medical attention, or
19 victim services related to domestic or sexual violence against
20 the employee or the employee's minor child, certification shall
21 be provided by one of the following methods:



- 1 (1) A certificate issued by a health care provider or
- 2 other professional from whom the employee or the
- 3 employee's minor child has sought assistance related
- 4 to the domestic or sexual violence against the
- 5 employee or employee's child;
- 6 (2) A signed written statement from an employee, agent, or
- 7 volunteer of a victim services organization from the
- 8 employee's attorney or advocate or from a minor
- 9 child's attorney or advocate; or
- 10 (3) A police or court record related to the domestic or
- 11 sexual violence.
- 12 (e) All information provided to the employer under
- 13 subsection (d), including statements of the employee, or any
- 14 other documentation, record, or corroborating evidence, and the
- 15 fact that the employee or employee's minor child has been a
- 16 victim of domestic or sexual violence or that the employee has
- 17 requested leave pursuant to section 398-3 related to domestic or
- 18 sexual violence against the employee or the employee's minor
- 19 child, shall be maintained in the strictest confidence by the
- 20 employer, and shall not be disclosed, except to the extent that
- 21 disclosure is:



- 1 (1) Requested or consented to by the employee;
- 2 (2) Ordered by a court or administrative agency; or
- 3 (3) Otherwise required by applicable federal or state
- 4 law."

5 SECTION 4. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

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S.B. NO. 1046



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Report Title:

Family Leave; Domestic Violence; Sexual Violence

Description:

Allows an employee to take family leave in addition to victim leave when the leave is related to domestic or sexual violence against the employee or the employee's minor child. Requires an employee to submit certification related to domestic or sexual violence of the employee or the employee's minor child. Requires employer confidentiality of information related to domestic or sexual violence against the employee or the employee's minor child.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

