
A BILL FOR AN ACT

RELATING TO EMPLOYMENT PRACTICES.

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

1 SECTION 1. The legislature finds that workplace violence,
2 harassment, and credible threats against employees have
3 increased across multiple sectors nationwide and in Hawaii, with
4 educators and school-based employees experiencing a particularly
5 acute rise in threatening and intimidating behavior in recent
6 years.

7 The legislature further finds that teachers,
8 administrators, counselors, and other school officials
9 increasingly report being subjected to harassment, stalking,
10 intimidation, and threats of physical harm arising out of their
11 employment, including threats made on campus, during
12 school-related activities, and through work-related
13 communications. These incidents have been widely reported and
14 have required some employees to seek temporary restraining
15 orders, injunctions for protection, or other legal remedies to
16 ensure their personal safety and the safety of others in the
17 workplace.



1 The legislature recognizes that while employers may take
2 steps to address inappropriate or threatening conduct, employees
3 who are the direct targets of workplace violence or credible
4 threats often bear the immediate burden of protecting themselves
5 through court proceedings, meetings with law enforcement, and
6 consultations with attorneys or victim services organizations.
7 These actions frequently occur during working hours and may
8 require short-term absences from work at critical moments when
9 safety concerns are most acute.

10 The legislature finds that existing law provides unpaid
11 leave protections for victims of domestic or sexual violence but
12 does not explicitly address workplace violence or credible
13 threats arising in the course of employment, nor does it provide
14 clear, limited paid leave protections to ensure that employees
15 are not forced to choose between their personal safety and their
16 livelihoods. This gap disproportionately affects employees in
17 public-facing roles, including educators and school officials,
18 who regularly interact with members of the public as part of
19 their job duties.

20 The legislature further finds that allowing a reasonable
21 amount of paid administrative leave for employees who must take



1 immediate legal or safety-related action in response to
2 workplace violence or threats serves an important public
3 purpose. Such leave supports employee safety, promotes timely
4 access to the courts and law enforcement, reduces the risk of
5 escalation, and helps maintain safe and stable workplaces for
6 employees and the communities they serve.

7 The purpose of this Act is to clarify that employees who
8 experience workplace violence or credible threats of workplace
9 violence arising out of their employment are entitled to
10 job-protected leave, and to establish a narrowly tailored,
11 reasonable paid administrative leave provision for safety-
12 related legal actions, while maintaining existing safeguards,
13 certification requirements, and employer flexibility. This Act
14 is not intended to alter employer disciplinary authority,
15 regulate public access to workplaces, or infringe upon lawful
16 speech, but rather to ensure that employees facing credible
17 threats are able to take necessary steps to protect themselves
18 without fear of retaliation or economic harm.

19 SECTION 2. Section 378-72, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§378-72 Leave of absence for domestic [e], sexual, or
2 workplace violence. (a) [An] Except as provided in subsection
3 (b), an employer employing fifty or more employees shall allow
4 an employee to take up to thirty days of unpaid victim leave
5 from work per calendar year, or an employer employing [not] no
6 more than forty-nine employees shall allow an employee to take
7 up to five days of unpaid leave from work per calendar year, if
8 the employee [or the employee's minor child] is a victim of
9 domestic [e] violence, sexual violence[+], or workplace
10 violence or threat of workplace violence, or if the employee's
11 minor child is a victim of domestic violence or sexual violence;
12 provided that the leave is to either:

- 13 (1) Seek medical attention for the employee or employee's
- 14 minor child to recover from physical or psychological
- 15 injury or disability caused by domestic [e] violence,
- 16 sexual violence[+], or workplace violence or threat of
- 17 workplace violence;
- 18 (2) Obtain services from a victim services organization;
- 19 (3) Obtain psychological or other counseling;
- 20 (4) Temporarily or permanently relocate; or



1 (5) Take legal action, including preparing for or
2 participating in any civil or criminal legal
3 proceeding related to or resulting from the domestic
4 ~~[or]~~ violence, sexual violence, or workplace violence
5 or threat of workplace violence, or other actions to
6 enhance the physical, psychological, or economic
7 health or safety of the employee or the employee's
8 minor child or to enhance the safety of those who
9 associate with or work with the employee.

10 (b) An employee who is a victim of workplace violence or
11 threat of workplace violence shall be entitled to paid
12 administrative leave for purposes directly related to the
13 employee's safety or pursuit of legal protection, as follows:

14 (1) An employer employing fifty or more employees shall
15 provide up to ten days of paid administrative leave
16 per calendar year; and

17 (2) An employer employing no more than forty-nine
18 employees shall provide up to five days of paid
19 administrative leave per calendar year.

20 (c) Paid administrative leave under subsection (b) may be
21 used to:



1 (1) Seek, obtain, or prepare for a temporary restraining
2 order, order for protection, injunction against
3 harassment, or other court-ordered relief;

4 (2) Participate in court proceedings, meetings with law
5 enforcement, or consultations with an attorney or
6 victim services organization related to the workplace
7 violence or threat of workplace violence; or

8 (3) Take reasonable actions necessary to address an
9 immediate safety risk arising from the workplace
10 violence or threat of violence.

11 ~~[(b)]~~ (d) An employee's absence from work that is due to
12 or resulting from domestic ~~[abuse or]~~ violence, sexual violence,
13 or workplace violence or threat of workplace violence against
14 the employee or the employee's minor child as provided in this
15 section shall be considered by an employer to be a justification
16 for leave for a reasonable period of time, not to exceed the
17 total number of days allocable for each category of employer
18 under subsection (a) ~~[-]~~ or (b), as applicable.

19 ~~["Reasonable period of time" as used in this section means:~~

20 ~~(1) Where due to physical or psychological injury to or~~
21 ~~disability to the employee or employee's minor child,~~



1 ~~the period of time determined to be necessary by the~~
2 ~~attending health care provider, considering the~~
3 ~~condition of the employee or employee's minor child,~~
4 ~~and the job requirements; and~~

5 ~~(2) Where due to an employee's need to take legal or other~~
6 ~~actions, including preparing for or participating in~~
7 ~~any civil or criminal legal proceeding, obtaining~~
8 ~~services from a victim services organization, or~~
9 ~~permanently or temporarily relocating, the period of~~
10 ~~time necessary to complete the activity as determined~~
11 ~~by the employee's or employee's minor child's attorney~~
12 ~~or advocate, court, or personnel of the relevant~~
13 ~~victim services organization.~~

14 ~~(e)]~~ (e) Where an employee is a victim of domestic ~~[e]~~
15 violence, sexual violence, or workplace violence or threat of
16 workplace violence and seeks leave for medical attention to
17 recover from physical or psychological injury or disability
18 caused by domestic ~~[e]~~ violence, sexual violence, or workplace
19 violence or threat of workplace violence, the employer may
20 request that the employee provide:



1 (1) A certificate from a health care provider estimating
2 the number of leave days necessary and the estimated
3 commencement and termination dates of leave required
4 by the employee; and

5 (2) [~~Prior to~~] Before the employee's return, a medical
6 certificate from the employee's attending health care
7 provider attesting to the employee's condition and
8 approving the employee's return to work.

9 [~~(d)~~] (f) Where an employee has taken [~~not~~] no more than
10 five calendar days of leave for non-medical reasons, the
11 employee shall provide certification to the employer in the form
12 of a signed statement within a reasonable period after the
13 employer's request, that the employee or the employee's minor
14 child is a victim of domestic [~~or~~] violence, sexual violence, or
15 workplace violence or threat of workplace violence and the leave
16 is for one of the purposes enumerated in subsection (a) [~~-~~] or
17 (c), if applicable. If the leave exceeds five days per calendar
18 year, then the certification shall be provided by one of the
19 following methods:



- 1 (1) Certified or exemplified restraining orders,
2 protection orders, injunctions against harassment, and
3 documents from criminal cases;
- 4 (2) Documentation from a victim services organization or
5 domestic or sexual violence program, agency, or
6 facility, including a shelter or safe house for
7 victims of domestic or sexual violence; [~~or~~]
- 8 (3) Documentation from a medical professional, mental
9 health care provider, attorney, advocate, social
10 worker, or member of the clergy from whom the employee
11 or the employee's minor child has sought assistance in
12 relation to the domestic [~~or~~] violence, sexual
13 violence[~~-~~], or workplace violence or threat of
14 workplace violence; or
- 15 (4) Documentation including but not limited to a police
16 report, incident report, workplace safety report, or a
17 written statement from a court, attorney, advocate,
18 victim services organization, or employer
19 representative confirming that the employee reported
20 or sought assistance related to a credible workplace
21 threat or act of workplace violence.



1 ~~(e)~~ (g) If certification is required, no leave shall be
2 protected until a certification, as provided in this section, is
3 provided to the employer.

4 ~~(f)~~ (h) The employee shall provide the employer with
5 reasonable notice of the employee's intention to take the leave,
6 unless providing that notice is not practicable due to imminent
7 danger to the employee or the employee's minor child.

8 ~~(g)~~ (i) Nothing in this section shall be construed to
9 prohibit an employer from requiring an employee on victim leave
10 to report ~~not~~ no less than once a week to the employer on the
11 status of the employee and intention of the employee to return
12 to work.

13 ~~(h)~~ (j) Upon return from leave under this section, the
14 employee shall return to the employee's original job or to a
15 position of comparable status and pay, without loss of
16 accumulated service credits and privileges, ~~except~~; provided
17 that nothing in this subsection shall be construed to entitle
18 any restored employee to the accrual of:

19 (1) Any seniority or employment benefits during any period
20 of leave, unless the seniority or benefits would be
21 provided to a similarly situated employee who was on



1 leave due to a reason other than domestic or sexual
2 violence; or

3 (2) Any right, benefit, or position of employment to which
4 the employee would not have otherwise been entitled.

5 [~~(i)~~] (k) All information provided to the employer under
6 this section, including statements of the employee, or any other
7 documentation, record, or corroborating evidence, and the fact
8 that the employee or employee's minor child has been a victim of
9 domestic ~~[or]~~ violence, sexual violence, or workplace violence
10 or threat of workplace violence, or the employee has requested
11 leave pursuant to this section, shall be maintained in the
12 strictest confidence by the employer, and shall not be
13 disclosed, except to the extent that disclosure is:

14 (1) Requested or consented to by the employee;

15 (2) Ordered by a court or administrative agency; or

16 (3) Otherwise required by applicable federal or state law.

17 [~~(j)~~] (l) Any employee denied leave by an employer in
18 wilful violation of this section may file a civil action against
19 the employer to enforce this section and recover costs,
20 including reasonable attorney's fees, incurred in the civil
21 action.



1 (m) No employer shall discharge, threaten, coerce,
2 discriminate against, or retaliate against an employee for
3 exercising rights under this section related to domestic
4 violence, sexual violence, or workplace violence or threat of
5 workplace violence.

6 (n) For purposes of this section:

7 "Reasonable period of time" means:

8 (1) Where due to physical or psychological injury to or
9 disability to the employee or employee's minor child,
10 the period of time determined to be necessary by the
11 attending health care provider, considering the
12 condition of the employee or employee's minor child,
13 and the job requirements; and

14 (2) Where due to an employee's need to take legal or other
15 actions, including preparing for or participating in
16 any civil or criminal legal proceeding, obtaining
17 services from a victim services organization, or
18 permanently or temporarily relocating, the period of
19 time necessary to complete the activity as determined
20 by the employee's or employee's minor child's attorney



1 or advocate, court, or personnel of the relevant
2 victim services organization.

3 "Workplace violence or threat of workplace violence" means
4 any act or credible threat of physical violence, harassment,
5 intimidation, stalking, or threatening conduct that occurs at
6 the workplace, at a work-related location, or arises out of or
7 in the course of employment, including conduct committed by a
8 client, customer, student, parent, guardian, member of the
9 public, or any other third party, that a reasonable person would
10 perceive as posing a risk to the health or safety of the
11 employee or others in the workplace."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Employment Practices; Administrative Leave of Absence; Workplace Violence

Description:

Requires certain employers to provide administrative leave of absence for victims of workplace violence or threat of workplace violence. Expands the type of certification an employee may provide to an employer if the leave exceeds five days per calendar year. Prohibits retaliation against employees for exercising rights related to domestic violence, sexual violence, or workplace violence or threat of workplace violence. Effective 7/1/3000. (HD2)

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

