


Councilmember Vincent B. Orange, Sr.

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Accrued Sick and Safe Leave Act of 2008 to protect victims of domestic abuse, sexual assault, and stalking from discrimination in the workplace, to require an employer to provide reasonable accommodations to an employee who is a victim of domestic abuse, sexual assault, or stalking to ensure the employee’s safety in the workplace, to prevent an employer from discharging, demoting, or suspending an employee who is a victim of domestic abuse, sexual assault, or stalking in retaliation for having received an accommodation or for taking time off from work due to a violent incident.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Employment Protections for Victims of Domestic Violence Amendment Act of 2015”

Sec. 2. The Accrued Sick and Safe Leave Act of 2008, effective May 13, 2008 (D.C. Law 12-152; D.C. Official Code § 32-131.01 *et seq.*), is amended by adding a new section 9a to read as follows:

“Sec. 9a. Prohibition on workplace discrimination against victims of domestic violence.

“(a)(1) An employer shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic abuse, sexual assault, or stalking (“domestic violence”) for taking time off from work to obtain or attempt to obtain relief to help ensure the health, safety, or welfare of the employee or the employee’s child, including:

“(A) A temporary restraining order;

“(B) Restraining order, or

29 “(C) Other injunctive relief.

30 ”(2) Unless advance notice is not feasible, an employee who requires time off from work
31 for a purpose set forth in paragraph (1) of this subsection shall give the employer reasonable
32 advance notice of the employee’s intention to take time off from work.

33 “(b)(1) When an unscheduled absence from work occurs, the employer shall not take
34 action against the employee if the employee within a reasonable time after the absence provides
35 a certification to the employer that the time taken off from work was due to domestic violence
36 and in accordance with this act.

37 “(2) Certification shall be:

38 “(A) A police report indicating that the employee was a victim of domestic
39 violence;

40 “(B) A court order protecting or separating the employee from the
41 perpetrator of an act of domestic violence or other evidence from a court or prosecuting attorney
42 that the employee has appeared in court; or

43 “(C) Documentation from a licensed medical professional, domestic
44 violence counselor, sexual assault counselor, or licensed health-care provider, or a counselor
45 with whom the employee was undergoing treatment for physical or mental injuries or abuse
46 resulting from an act of domestic violence.

47 “(c) To the extent allowed by law, an employer shall maintain the confidentiality of an
48 employee requesting time off from work pursuant to this section.

49 “(d) An employer shall not discharge or in any manner discriminate or retaliate against an
50 employee because of the employee’s status as a victim of domestic violence if the victim

51 provides notice, as required by this section, to the employer of the domestic violence status or the
52 employer has actual knowledge of the domestic violence status.

53 “(e)(1) An employer shall provide reasonable accommodations for the safety of a victim
54 of domestic violation while at work to a victim of domestic violence who requests an
55 accommodation.

56 “(2) A reasonable accommodation may include:

57 “(i) The implementation of safety measures, including a transfer,
58 reassignment, modified schedule, changed work telephone number, changed work station, or
59 installed lock;

60 “(ii) Assistance in documenting domestic violence that has
61 occurred in the workplace;

62 “(iii) An implemented safety procedure;

63 “(iv) Other adjustments to the employee’s job structure or work
64 requirements, or to the workplace facility; or

65 “(v) A referral to a victim assistance organization.

66 “(3) An employer shall not be required to provide an accommodation that would
67 constitute an undue hardship on the employer’s business operation.

68 “(4) An employer shall not be required to provide a reasonable accommodation to
69 an employee who has not disclosed his or her status as a victim of domestic violence.

70 “(5)(A) The employer shall engage in a timely, good faith, and interactive process
71 with the employee to determine effective reasonable accommodations.

72 “(B) In determining whether the accommodation is reasonable, the
73 employer shall consider exigent circumstances or danger facing the employee.

74 “(6)(A) Upon the request of an employer, an employee requesting a reasonable
75 accommodation pursuant to this section shall provide the employer with a written statement
76 signed by the employee, or an individual acting on the employee’s behalf, verifying that the
77 accommodation is for a purpose authorized under this section.

78 “(B) An employer may also require certification, as described in
79 subsection (b)(2) of this section, from an employee requesting an accommodation pursuant to
80 this section as verification of the employee’s status as a victim of domestic violence.

81 “(7)(A) For an employee receiving an accommodation, if circumstances change
82 and the employee needs a new accommodation, the employee shall request a new
83 accommodation from the employer.

84 “(B) If an employee no longer needs an accommodation, the employee
85 shall notify the employer that the accommodation is no longer needed.

86 “(f) An employer shall not retaliate against a victim of domestic violence for requesting a
87 reasonable accommodation, regardless of whether the request was granted.

88 “(g) An employee who is discharged, threatened with discharge, demoted, suspended, or
89 in any other manner discriminated or retaliated against in the terms and conditions of
90 employment by an employer for reasons prohibited by this section shall be entitled to
91 reinstatement and reimbursement for lost wages and work benefits caused by the prohibited acts
92 of the employer and to appropriate equitable relief.

93 “(h)(1) An employee may use vacation, personal leave, or compensatory time that is
94 otherwise available to the employee under the applicable terms of employment, unless otherwise
95 provided by a collective bargaining agreement, for time taken off for a purpose specified in this
96 section.

97 “(2) An employee shall not be entitled to take unpaid leave that exceeds the
98 unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the
99 Family and Medical Leave Act of 1993, approved February 5, 1993 (107 Stat. 3; 29 U.S.C. §
100 2601 *et seq.*).

101 “(i) The entitlements provided by this section shall not be diminished for any employee
102 by any collective bargaining agreement term or condition.”.

103 Sec. 3. Fiscal impact statement.

104 The Council adopts the fiscal impact statement in the committee report as the fiscal
105 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
106 approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

107 Sec. 4. Effective date.

108 This act shall take effect following approval by the Mayor (or in the event of veto by the
109 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
110 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
111 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of
112 Columbia Register.