

As Amended by House Committee

Session of 2008

**SENATE BILL No. 612**

By Committee on Commerce

2-13

10 AN ACT concerning discrimination in employment; relating to domestic  
11 ~~violence and sexual abuse victims to excused and unexcused ab-~~  
12 ~~sences~~; authorizing enforcement by the secretary of labor; **amending**  
13 **K.S.A. 2007 Supp. 44-1132 and repealing the existing section.**  
14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. The secretary of labor shall enforce K.S.A. 2007 Supp. 44-  
17 1131 ~~and 44-1132~~, **44-1132 and section 2**, and amendments thereto,  
18 and may adopt rules and regulations necessary to implement the provi-  
19 sions of K.S.A. 2007 Supp. 44-1131 ~~and 44-1132~~, **44-1132 and section**  
20 **2**, and amendments thereto.

21 **New Sec. 2. (a) An employer may not discharge or in any man-**  
22 **ner discriminate or retaliate against an employee who is a victim**  
23 **of physical violence where the offense was motivated entirely or**  
24 **in part by the race, color, religion, ethnicity or national origin of**  
25 **the victim or the perpetrator was motivated by the perpetrator's**  
26 **belief or perception, entirely or in part, of the race, color, religion,**  
27 **ethnicity or national origin of the victim, whether or not the per-**  
28 **petrator's belief or perception was correct, for taking time off from**  
29 **work to:**

30 (1) **Obtain or attempt to obtain any relief, including, but not**  
31 **limited to, a temporary restraining order, restraining order or**  
32 **other injunctive relief to help ensure the health, safety or welfare**  
33 **of the victim or the victim's child or children;**

34 (2) **seek medical attention for injuries caused by the physical**  
35 **violence;**

36 (3) **obtain therapy services as a result of the physical violence;**  
37 **or**

38 (4) **make court appearances in the aftermath of the physical**  
39 **violence.**

40 (b) (1) **As a condition of taking time off for a purpose set forth**  
41 **in subsection (a), the employee shall give the employer reasonable**  
42 **advance notice of the employee's intention to take time off, unless**  
43 **such advance notice is not feasible. Within 48 hours after returning**

1 from the requested time off, the employee shall provide documen-  
2 tation which may include, but is not limited to, that described in  
3 subsection (b)(2) to support taking time off for a purpose set forth  
4 in subsection (a).

5 (2) When an unscheduled absence occurs, the employer shall  
6 not take any action against the employee if the employee, within  
7 seven days after the beginning of the unscheduled absence, pro-  
8 vides a certification to the employer in the form of any of the  
9 following:

10 (A) A police report indicating that the employee was a victim  
11 of physical violence;

12 (B) a court order protecting or separating the employee from  
13 the perpetrator of an act of physical violence, or other evidence  
14 from the court or prosecuting attorney that the employee has ap-  
15 peared in court; or

16 (C) documentation from a medical professional, therapist,  
17 health care provider or counselor that the employee was under-  
18 going treatment for physical or mental injuries or abuse resulting  
19 in victimization from an act of physical violence.

20 (3) An employee taking time off pursuant to subsection (a) shall  
21 have 30 days to provide documentation to such employee's em-  
22 ployer indicating that the physical violence was motivated entirely  
23 or in part by the race, color, religion, ethnicity or national origin  
24 of the employee or the perpetrator was motivated by the perpe-  
25 trator's belief or perception, entirely or in part, of the race, color,  
26 religion, ethnicity or national origin of the employee, whether or  
27 not the perpetrator's belief or perception was correct.

28 (c) To the extent allowed by law, the employer shall maintain  
29 the confidentiality of any employee requesting leave under sub-  
30 section (a), as well as the confidentiality of any supporting docu-  
31 mentation provided by the employee to the employer relating to  
32 a purpose set forth in subsection (a).

33 (d) An employee may use any accrued paid leave or, if paid  
34 leave is unavailable to the employee, unpaid leave, not to exceed  
35 a total of eight days per calendar year, as time off for a purpose  
36 specified in subsection (a), unless a longer period of time is oth-  
37 erwise available to an employee under the applicable terms of em-  
38 ployment or is provided by a collective bargaining agreement. The  
39 entitlement of any employee under this section shall not be dimin-  
40 ished by any collective bargaining agreement term or condition.

41 (e) As used in this section: "Physical violence" means any crime  
42 defined in K.S.A. 21-3412, 21-3412a, 21-3413, 21-3414 or 21-3415,  
43 and amendments thereto.

1     **Sec. 3. K.S.A. 2007 Supp. 44-1132 is hereby amended to read**  
2 **as follows: 44-1132. (a) An employer may not discharge or in any**  
3 **manner discriminate or retaliate against an employee who is a vic-**  
4 **tim of domestic violence or a victim of sexual assault for taking**  
5 **time off from work to:**  
6     **(1) Obtain or attempt to obtain any relief, including, but not**  
7 **limited to, a temporary restraining order, restraining order or**  
8 **other injunctive relief to help ensure the health, safety or welfare**  
9 **of the victim or the victim's child or children;**  
10    **(2) seek medical attention for injuries caused by domestic vio-**  
11 **lence or sexual assault;**  
12    **(3) obtain services from a domestic violence shelter, domestic**  
13 **violence program or rape crisis center as a result of domestic vio-**  
14 **lence or sexual assault; or**  
15    **(4) make court appearances in the aftermath of domestic vio-**  
16 **lence or sexual assault.**  
17    **(b) (1) As a condition of taking time off for a purpose set forth**  
18 **in subsection (a), the employee shall give the employer reasonable**  
19 **advance notice of the employee's intention to take time off, unless**  
20 **such advance notice is not feasible. Within 48 hours after returning**  
21 **from the requested time off, the employee shall provide documen-**  
22 **tation which may include, but is not limited to, that described in**  
23 **subsection (b)(2) to support taking time off for a purpose set forth**  
24 **in subsection (a).**  
25    **(2) When an unscheduled absence occurs, the employer shall**  
26 **not take any action against the employee if the employee, within**  
27 ~~48 hours~~ *seven days* **after the beginning of the unscheduled absence,**  
28 **provides a certification to the employer in the form of any of the**  
29 **following:**  
30    **(A) A police report indicating that the employee was a victim**  
31 **of domestic violence or sexual assault;**  
32    **(B) a court order protecting or separating the employee from**  
33 **the perpetrator of an act of domestic violence or sexual assault, or**  
34 **other evidence from the court or prosecuting attorney that the**  
35 **employee has appeared in court; or**  
36    **(C) documentation from a medical professional, domestic vio-**  
37 **lence advocate or advocate for victims of sexual assault, health care**  
38 **provider or counselor that the employee was undergoing treat-**  
39 **ment for physical or mental injuries or abuse resulting in victimi-**  
40 **zation from an act of domestic violence or sexual assault.**  
41    **(c) To the extent allowed by law, the employer shall maintain**  
42 **the confidentiality of any employee requesting leave under sub-**  
43 **section (a), as well as the confidentiality of any supporting docu-**

1 **mentation provided by the employee to the employer relating to**  
2 **a purpose set forth in subsection (a).**

3 **(d) An employee may use any accrued paid leave or, if paid**  
4 **leave is unavailable to the employee, unpaid leave, not to exceed**  
5 **a total of eight days per calendar year, as time off for a purpose**  
6 **specified in subsection (a), unless a longer period of time is oth-**  
7 **erwise available to an employee under the applicable terms of em-**  
8 **ployment or is provided by a collective bargaining agreement. The**  
9 **entitlement of any employee under this section shall not be dimin-**  
10 **ished by any collective bargaining agreement term or condition.**

11 **Sec. 4. K.S.A. 2007 Supp. 44-1132 is hereby repealed.**

12 **Sec. 5. This act shall take effect and be in force from and after its**  
13 **publication in the statute book.**