

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2928**

As Agreed to May 5, 2006

Brief*

Senate Sub. for HB 2928 would allow persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking to obtain a confidential address designated by the Secretary of State's office to be used as a substitute mailing address. The application for a substitute address to the Secretary of State could be made by an adult, parent or guardian acting on behalf of a minor, or guardian on behalf of an incapacitated person. Evidence would be required to be given to the Secretary of State's Office that the person is a victim of one of the crimes. The evidence may include law enforcement, court or other federal, state or local government records or files; documentation from a public or private entity that provides assistance to victims of domestic violence, sexual assault, trafficking or stalking; documentation from a religious, medical or other professional; or other forms of evidence as determined by the Secretary of State.

The bill would provide when the victim is a child, and there are court orders or court actions such as child support, child custody or child visitation the Secretary of State would, within 10 days, notify the other parent or parents of the address designated for the program participant. To knowingly provide incorrect information would be a severity level 8, nonperson felony. These provisions of the bill regarding confidentiality, substitute addresses, evidence in domestic abuse situations and assistance would be effective on and after January 1, 2007 and its publication in the statute book.

The provisions of the bill that would be effective upon publication in the statute book (July 1, 2006) are the following ones which would prohibit an employer from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work to obtain or

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attempt to obtain any relief.

Relief would include: to seek a temporary restraining order, restraining order or other injunctive relief; to seek medical attention for injuries caused by domestic violence or sexual assault or to obtain services from a domestic violence shelter, program or rape crisis center or to settle matters, including, but not limited to court appearances, in the aftermath of domestic violence or sexual assault.

As a condition of taking time off, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless such advance notice is not feasible. Within 48 hours after returning from the requested time off, the employee would be required to provide documentation of the domestic violence or sexual assault. When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within 48 hours after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following:

- A police report indicating that the employee was a victim of domestic violence or sexual assault;
- A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or the evidence from the court or prosecuting attorney that the employee has appeared in court; or
- Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assaults, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.

To the extent allowed by law, the employer shall maintain the confidentiality of an employee requesting leave, as well as the confidentiality of any supporting documentation provided by the employee to the employer.

An employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, unless a longer period of time is available to an employee under the terms of employment or is provided by a collective bargaining agreement. The entitlement of any employee under this act shall not be diminished by any collective

bargaining agreement.

Conference Committee Action

The Conference Committee agreed to the following:

- Maintain sections one through eight of Senate Sub. for HB 2928;
- Add provisions that include sections one and two of HB 2928 as amended by the Senate Committee dealing with employer prohibitions and protections; and
- Modified certain provisions of both versions of the bill cited above.

Background

The bill was supported by Representatives Loganbill and Yonally and by representatives of the Kansas Coalition Against Sexual and Domestic Violence and the YWCA Battered Women's Task Force.

The House Committee deleted crime and criminal penalties which could have been imposed against employers and made clarifying amendments.

The Senate Committee deleted the provisions that would prohibit an employer from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work to obtain or attempt to obtain any relief. In addition, the Committee added provisions of HB 2994 into the bill. The provisions of HB 2994 address confidentiality for victims of domestic violence, sexual assault, trafficking and stalking and authorize the Secretary of State to perform certain duties and functions. The Committee amended the bill by adding provisions with regard to evidence and child custody that were requested by the Secretary of State.

The fiscal note states that any fiscal effect of the bill cannot be determined with regard to the original HB 2928. The fiscal note on HB 2994 indicates that the Secretary of State notes that to implement this bill it would require 1.0 new FTE position at an ongoing cost of \$53,564 and one-time expenditures of \$26,500 for office equipment and technology needs for a total of \$80,064. For the second and

subsequent years, the Secretary of State would have ongoing costs for the position and \$11,700 for other operating expenses. Any fiscal effect resulting from enactment of the bill is not included in the Governor's budget.

domestic abuse; employer prohibitions and protections