



Sen. Heather Steans

Filed: 3/13/2009

09600SB1770sam001

LRB096 11246 WGH 22947 a

1 AMENDMENT TO SENATE BILL 1770

2 AMENDMENT NO. _____. Amend Senate Bill 1770 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Victims' Economic Security and Safety Act
5 is amended by changing Sections 5, 10, 15, 20, 25, 30, 35, and
6 40 and by adding Section 37 as follows:

7 (820 ILCS 180/5)

8 Sec. 5. Findings. The General Assembly finds and declares
9 the following:

10 (1) Domestic and sexual violence affects many persons
11 without regard to age, race, educational level,
12 socioeconomic status, religion, or occupation.

13 (2) Domestic and sexual violence has a devastating
14 effect on individuals, families, communities and the
15 workplace.

16 (3) Domestic violence crimes account for approximately

1 15% of total crime costs in the United States each year.

2 (4) Violence against women has been reported to be the
3 leading cause of physical injury to women. Such violence
4 has a devastating impact on women's physical and emotional
5 health and financial security.

6 (5) According to recent government surveys, from 1993
7 through 1998 the average annual number of violent
8 victimizations committed by intimate partners was
9 1,082,110, 87% of which were committed against women.

10 (6) Female murder victims were substantially more
11 likely than male murder victims to have been killed by an
12 intimate partner. About one-third of female murder
13 victims, and about 4% of male murder victims, were killed
14 by an intimate partner.

15 (7) According to recent government estimates,
16 approximately 987,400 rapes occur annually in the United
17 States, 89% of the rapes are perpetrated against female
18 victims.

19 (8) Approximately 10,200,000 people have been stalked
20 at some time in their lives. Four out of every 5 stalking
21 victims are women. Stalkers harass and terrorize their
22 victims by spying on the victims, standing outside their
23 places of work or homes, making unwanted phone calls,
24 sending or leaving unwanted letters or items, or
25 vandalizing property.

26 (9) Employees in the United States who have been

1 victims of domestic violence, dating violence, sexual
2 assault, or stalking too often suffer adverse consequences
3 in the workplace as a result of their victimization.

4 (10) Victims of domestic violence, dating violence,
5 sexual assault, and stalking face the threat of job loss
6 and loss of health insurance as a result of the illegal
7 acts of the perpetrators of violence.

8 (11) The prevalence of domestic violence, dating
9 violence, sexual assault, stalking, and other violence
10 against women at work is dramatic. Approximately 11% of all
11 rapes occur in the workplace. About 50,500 individuals, 83%
12 of whom are women, were raped or sexually assaulted in the
13 workplace each year from 1992 through 1996. Half of all
14 female victims of violent workplace crimes know their
15 attackers. Nearly one out of 10 violent workplace incidents
16 is committed by partners or spouses.

17 (12) Homicide is the leading cause of death for women
18 on the job. Husbands, boyfriends, and ex-partners commit
19 15% of workplace homicides against women.

20 (13) Studies indicate that as much as 74% of employed
21 battered women surveyed were harassed at work by their
22 abusive partners.

23 (14) According to a 1998 report of the U.S. General
24 Accounting Office, between one-fourth and one-half of
25 domestic violence victims surveyed in 3 studies reported
26 that the victims lost a job due, at least in part, to

1 domestic violence.

2 (15) Women who have experienced domestic violence or
3 dating violence are more likely than other women to be
4 unemployed, to suffer from health problems that can affect
5 employability and job performance, to report lower
6 personal income, and to rely on welfare.

7 (16) Abusers frequently seek to control their partners
8 by actively interfering with their ability to work,
9 including preventing their partners from going to work,
10 harassing their partners at work, limiting the access of
11 their partners to cash or transportation, and sabotaging
12 the child care arrangements of their partners.

13 (17) More than one-half of women receiving welfare have
14 been victims of domestic violence as adults and between
15 one-fourth and one-third reported being abused in the last
16 year.

17 (18) Sexual assault, whether occurring in or out of the
18 workplace, can impair an employee's work performance,
19 require time away from work, and undermine the employee's
20 ability to maintain a job. Almost 50% of sexual assault
21 survivors lose their jobs or are forced to quit in the
22 aftermath of the assaults.

23 (19) More than one-fourth of stalking victims report
24 losing time from work due to the stalking and 7% never
25 return to work.

26 (20) (A) According to the National Institute of

1 Justice, crime costs an estimated \$450,000,000,000
2 annually in medical expenses, lost earnings, social
3 service costs, pain, suffering, and reduced quality of life
4 for victims, which harms the Nation's productivity and
5 drains the Nation's resources. (B) Violent crime accounts
6 for \$426,000,000,000 per year of this amount. (C) Rape
7 exacts the highest costs per victim of any criminal
8 offense, and accounts for \$127,000,000,000 per year of the
9 amount described in subparagraph (A).

10 (21) The Bureau of National Affairs has estimated that
11 domestic violence costs United States employers between
12 \$3,000,000,000 and \$5,000,000,000 annually in lost time
13 and productivity. Other reports have estimated that
14 domestic violence costs United States employers
15 \$13,000,000,000 annually.

16 (22) United States medical costs for domestic violence
17 have been estimated to be \$31,000,000,000 per year.

18 (23) Ninety-four percent of corporate security and
19 safety directors at companies nationwide rank domestic
20 violence as a high security concern.

21 (24) Forty-nine percent of senior executives recently
22 surveyed said domestic violence has a harmful effect on
23 their company's productivity, 47% said domestic violence
24 negatively affects attendance, and 44% said domestic
25 violence increases health care costs.

26 (25) Employees, including individuals participating in

1 welfare to work programs, may need to take time during
2 business hours to:

3 (A) obtain orders of protection or civil no contact
4 orders;

5 (B) seek medical or legal assistance, counseling,
6 or other services; or

7 (C) look for housing in order to escape from
8 domestic or sexual violence.

9 (Source: P.A. 93-591, eff. 8-25-03.)

10 (820 ILCS 180/10)

11 Sec. 10. Definitions. In this Act, except as otherwise
12 expressly provided:

13 (1) "Commerce" includes trade, traffic, commerce,
14 transportation, or communication; and "industry or
15 activity affecting commerce" means any activity, business,
16 or industry in commerce or in which a labor dispute would
17 hinder or obstruct commerce or the free flow of commerce,
18 and includes "commerce" and any "industry affecting
19 commerce".

20 (2) "Course of conduct" means a course of repeatedly
21 maintaining a visual or physical proximity to a person or
22 conveying oral or written threats, including threats
23 conveyed through electronic communications, or threats
24 implied by conduct.

25 (3) "Department" means the Department of Labor.

1 (4) "Director" means the Director of Labor.

2 (5) "Domestic or sexual violence" means domestic
3 violence, sexual assault, sexual abuse, or stalking.

4 (6) "Domestic violence" means abuse, as defined in
5 Section 103 of the Illinois Domestic Violence Act of 1986,
6 by a family or household member, as defined in Section 103
7 of the Illinois Domestic Violence Act of 1986 ~~includes acts~~
8 ~~or threats of violence, not including acts of self defense,~~
9 ~~as defined in subdivision (3) of Section 103 of the~~
10 ~~Illinois Domestic Violence Act of 1986, sexual assault, or~~
11 ~~death to the person, or the person's family or household~~
12 ~~member, if the conduct causes the specific person to have~~
13 ~~such distress or fear.~~

14 (7) "Electronic communications" includes
15 communications via telephone, mobile phone, computer,
16 e-mail, video recorder, fax machine, telex, or pager, or
17 any other electronic communication, as defined in Section
18 12-7.5 of the Criminal Code of 1961.

19 (8) "Employ" includes to suffer or permit to work.

20 (9) Employee.

21 (A) In general. "Employee" means any person
22 employed by an employer.

23 (B) Basis. "Employee" includes a person employed
24 as described in subparagraph (A) on a full or part-time
25 basis, or as a participant in a work assignment as a
26 condition of receipt of federal or State income-based

1 public assistance.

2 (10) "Employer" means any of the following: (A) the
3 State or any agency of the State; (B) any unit of local
4 government or school district; or (C) any person that
5 employs at least 15 ~~50~~ employees.

6 (11) "Employment benefits" means all benefits provided
7 or made available to employees by an employer, including
8 group life insurance, health insurance, disability
9 insurance, sick leave, annual leave, educational benefits,
10 ~~and~~ pensions, and profit-sharing, regardless of whether
11 such benefits are provided by a practice or written policy
12 of an employer or through an "employee benefit plan".
13 "Employee benefit plan" or "plan" means an employee welfare
14 benefit plan or an employee pension benefit plan or a plan
15 which is both an employee welfare benefit plan and an
16 employee pension benefit plan.

17 (12) "Family or household member", for employees with a
18 family or household member who is a victim of domestic or
19 sexual violence or is perceived to be a victim of domestic
20 or sexual violence, means a spouse, parent, son, daughter,
21 other person related by blood or by present or prior
22 marriage, or who share a relationship through a son or
23 daughter, and persons jointly residing in the same
24 household.

25 (13) "Parent" means the biological parent of an
26 employee or an individual who stood in loco parentis to an

1 employee when the employee was a son or daughter. "Son or
2 daughter" means a biological, adopted, or foster child, a
3 stepchild, a legal ward, or a child of a person standing in
4 loco parentis, who is under 18 years of age, or is 18 years
5 of age or older and incapable of self-care because of a
6 mental or physical disability.

7 (14) "Perpetrator" means an individual who commits or
8 is alleged to have committed any act or threat of domestic
9 or sexual violence.

10 (15) "Person" means an individual, partnership,
11 association, corporation, business trust, legal
12 representative, or any organized group of persons.

13 (15.1) "Prevailing party" or "prevailing employee"
14 means an employee or employees who obtain relief by
15 administrative order, judicial order, or whose suit or
16 claim is settled by private agreement.

17 (16) "Public agency" means the Government of the State
18 or political subdivision thereof; any agency of the State,
19 or of a political subdivision of the State; or any
20 governmental agency.

21 (17) "Public assistance" includes cash, food stamps,
22 medical assistance, housing assistance, and other benefits
23 provided on the basis of income by a public agency or
24 public employer.

25 (18) "Reduced work schedule" means a work schedule that
26 reduces the usual number of hours per workweek, or hours

1 per workday, of an employee.

2 (19) "Repeatedly" means on 2 or more occasions.

3 (20) "Sexual assault" means any conduct proscribed by
4 the Criminal Code of 1961 in Sections 12-13, 12-14,
5 12-14.1, 12-15, and 12-16.

6 (21) "Stalking" means any conduct proscribed by the
7 Criminal Code of 1961 in Sections 12-7.3, ~~and~~ 12-7.4, and
8 12-7.5.

9 (22) "Victim" or "survivor" means an individual who has
10 been subjected to domestic or sexual violence.

11 (23) "Victim services organization" means a nonprofit,
12 nongovernmental organization that provides assistance to
13 victims of domestic or sexual violence or to advocates for
14 such victims, including a rape crisis center, an
15 organization carrying out a domestic violence program, an
16 organization operating a shelter or providing counseling
17 services, or a legal services organization or other
18 organization providing assistance through the legal
19 process.

20 (Source: P.A. 93-591, eff. 8-25-03.)

21 (820 ILCS 180/15)

22 Sec. 15. Purposes. The purposes of this Act are:

23 (1) to promote the State's interest in reducing
24 domestic violence, dating violence, sexual assault, and
25 stalking by enabling victims of domestic or sexual violence

1 to maintain the financial independence necessary to leave
2 abusive situations, achieve safety, and minimize the
3 physical and emotional injuries from domestic or sexual
4 violence, and to reduce the devastating economic
5 consequences of domestic or sexual violence to employers
6 and employees;

7 (2) to address the failure of existing laws to protect
8 the employment rights of employees who are victims of
9 domestic or sexual violence and employees with a family or
10 household member who is a victim of domestic or sexual
11 violence, by protecting the civil and economic rights of
12 those employees, and by furthering the equal opportunity of
13 women for economic self-sufficiency and employment free
14 from discrimination;

15 (3) to accomplish the purposes described in paragraphs
16 (1) and (2) by (A) entitling employed victims of domestic
17 or sexual violence and employees with a family or household
18 member who is a victim of domestic or sexual violence to
19 take unpaid leave to seek medical help, legal assistance,
20 counseling, safety planning, and other assistance without
21 penalty from their employers for the employee or the family
22 or household member who is a victim; and (B) prohibiting
23 employers from discriminating against any employee who is
24 an actual or perceived victim of domestic or sexual
25 violence or any employee who has a family or household
26 member who is an actual or perceived victim of domestic or

1 sexual violence, in a manner that accommodates the
2 legitimate interests of employers and protects the safety
3 of all persons in the workplace.

4 (Source: P.A. 93-591, eff. 8-25-03.)

5 (820 ILCS 180/20)

6 Sec. 20. Entitlement to leave due to domestic or sexual
7 violence.

8 (a) Leave requirement.

9 (1) Basis. An employee who is a victim of domestic or
10 sexual violence or has a family or household member who is
11 a victim of domestic or sexual violence whose interests are
12 not adverse to the employee as it relates to the domestic
13 or sexual violence may take unpaid leave from work to
14 address domestic or sexual violence by:

15 (A) seeking medical attention for, or recovering
16 from, physical or psychological injuries caused by
17 domestic or sexual violence to the employee or the
18 employee's family or household member;

19 (B) obtaining services from a victim services
20 organization for the employee or the employee's family
21 or household member;

22 (C) obtaining psychological or other counseling
23 for the employee or the employee's family or household
24 member;

25 (D) participating in safety planning, temporarily

1 or permanently relocating, or taking other actions to
2 increase the safety of the employee or the employee's
3 family or household member from future domestic or
4 sexual violence or ensure economic security; or

5 (E) seeking legal assistance or remedies to ensure
6 the health and safety of the employee or the employee's
7 family or household member, including preparing for or
8 participating in any civil or criminal legal
9 proceeding related to or derived from domestic or
10 sexual violence.

11 (2) Period. Subject to subsection (c), an employee
12 shall be entitled to a total of 12 workweeks of leave
13 during any 12-month period. This Act does not create a
14 right for an employee to take unpaid leave that exceeds the
15 unpaid leave time allowed under, or is in addition to the
16 unpaid leave time permitted by, the federal Family and
17 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

18 (3) Schedule. Leave described in paragraph (1) may be
19 taken intermittently or on a reduced work schedule.

20 (b) Notice. The employee shall provide the employer with at
21 least 48 hours' advance notice of the employee's intention to
22 take the leave, unless providing such notice is not
23 practicable. When an unscheduled absence occurs, the employer
24 may not take any action against the employee if the employee,
25 upon request of the employer and within a reasonable period
26 after the absence, provides certification under subsection

1 (c).

2 (c) Certification.

3 (1) In general. The employer may require the employee
4 to provide certification to the employer that:

5 (A) the employee or the employee's family or
6 household member is a victim of domestic or sexual
7 violence; and

8 (B) the leave is for one of the purposes enumerated
9 in paragraph (a) (1).

10 The employee shall provide such certification to the
11 employer within a reasonable period after the employer
12 requests certification.

13 (2) Contents. An employee may satisfy the
14 certification requirement of paragraph (1) by providing to
15 the employer a sworn statement of the employee, and upon
16 obtaining such documents the employee shall provide:

17 (A) documentation from an employee, agent, or
18 volunteer of a victim services organization, an
19 attorney, a member of the clergy, or a medical or other
20 professional from whom the employee or the employee's
21 family or household member has sought assistance in
22 addressing domestic or sexual violence and the effects
23 of the violence;

24 (B) a police or court record; or

25 (C) other corroborating evidence.

26 (d) Confidentiality. All information provided to the

1 employer pursuant to subsection (b) or (c), including a
2 statement of the employee or any other documentation, record,
3 or corroborating evidence, and the fact that the employee has
4 requested or obtained leave pursuant to this Section, shall be
5 retained in the strictest confidence by the employer, except to
6 the extent that disclosure is:

7 (1) requested or consented to in writing by the
8 employee; or

9 (2) otherwise required by applicable federal or State
10 law.

11 Any employer that fails to maintain the required
12 confidentiality shall be liable for a penalty of \$2,000 to be
13 paid to the prevailing party for each unwarranted disclosure.

14 (e) Employment and benefits.

15 (1) Restoration to position.

16 (A) In general. Any employee who takes leave under
17 this Section for the intended purpose of the leave
18 shall be entitled, on return from such leave:

19 (i) to be restored by the employer to the
20 position of employment held by the employee when
21 the leave commenced; or

22 (ii) to be restored to an equivalent position
23 with equivalent employment benefits, pay, and
24 other terms and conditions of employment.

25 (B) Loss of benefits. The taking of leave under
26 this Section shall not result in the loss of any

1 employment benefit accrued prior to the date on which
2 the leave commenced.

3 (C) Limitations. Nothing in this subsection shall
4 be construed to entitle any restored employee to:

5 (i) the accrual of any seniority or employment
6 benefits during any period of leave; or

7 (ii) any right, benefit, or position of
8 employment other than any right, benefit, or
9 position to which the employee would have been
10 entitled had the employee not taken the leave.

11 (D) Construction. Nothing in this paragraph shall
12 be construed to prohibit an employer from requiring an
13 employee on leave under this Section to report
14 periodically to the employer on the status and
15 intention of the employee to return to work.

16 (2) Maintenance of health benefits.

17 (A) Coverage. Except as provided in subparagraph
18 (B), during any period that an employee takes leave
19 under this Section, the employer shall maintain
20 coverage for the employee and any family or household
21 member under any group health plan for the duration of
22 such leave at the level and under the conditions
23 coverage would have been provided if the employee had
24 continued in employment continuously for the duration
25 of such leave.

26 (B) Failure to return from leave. The employer may

1 recover the premium that the employer paid for
2 maintaining coverage for the employee and the
3 employee's family or household member under such group
4 health plan during any period of leave under this
5 Section if:

6 (i) the employee fails to return from leave
7 under this Section after the period of leave to
8 which the employee is entitled has expired; and

9 (ii) the employee fails to return to work for a
10 reason other than:

11 (I) the continuation, recurrence, or onset
12 of domestic or sexual violence that entitles
13 the employee to leave pursuant to this Section;

14 or

15 (II) other circumstances beyond the
16 control of the employee.

17 (C) Certification.

18 (i) Issuance. An employer may require an
19 employee who claims that the employee is unable to
20 return to work because of a reason described in
21 subclause (I) or (II) of subparagraph (B)(ii) to
22 provide, within a reasonable period after making
23 the claim, certification to the employer that the
24 employee is unable to return to work because of
25 that reason.

26 (ii) Contents. An employee may satisfy the

1 certification requirement of clause (i) by
2 providing to the employer:

3 (I) a sworn statement of the employee;

4 (II) documentation from an employee,
5 agent, or volunteer of a victim services
6 organization, an attorney, a member of the
7 clergy, or a medical or other professional from
8 whom the employee has sought assistance in
9 addressing domestic or sexual violence and the
10 effects of that violence;

11 (III) a police or court record; or

12 (IV) other corroborating evidence.

13 (D) Confidentiality. All information provided to
14 the employer pursuant to subparagraph (C), including a
15 statement of the employee or any other documentation,
16 record, or corroborating evidence, and the fact that
17 the employee is not returning to work because of a
18 reason described in subclause (I) or (II) of
19 subparagraph (B)(ii) shall be retained in the
20 strictest confidence by the employer, except to the
21 extent that disclosure is:

22 (i) requested or consented to in writing by the
23 employee; or

24 (ii) otherwise required by applicable federal
25 or State law.

26 Any employer that fails to maintain the required

1 confidentiality shall be liable for a penalty of \$2,000 to be
2 paid to the prevailing party for each unwarranted disclosure.

3 (f) Prohibited acts.

4 (1) Interference with rights.

5 (A) Exercise of rights. It shall be unlawful for
6 any employer to interfere with, restrain, or deny the
7 exercise of or the attempt to exercise any right
8 provided under this Section.

9 (B) Employer discrimination. It shall be unlawful
10 for any employer to discharge or harass any individual,
11 or otherwise discriminate against any individual with
12 respect to compensation, terms, conditions, or
13 privileges of employment of the individual (including
14 retaliation in any form or manner) because the
15 individual:

16 (i) exercised any right provided under this
17 Section; or

18 (ii) opposed any practice made unlawful by
19 this Section.

20 (C) Public agency sanctions. It shall be unlawful
21 for any public agency to deny, reduce, or terminate the
22 benefits of, otherwise sanction, or harass any
23 individual, or otherwise discriminate against any
24 individual with respect to the amount, terms, or
25 conditions of public assistance of the individual
26 (including retaliation in any form or manner) because

1 the individual:

2 (i) exercised any right provided under this
3 Section; or

4 (ii) opposed any practice made unlawful by
5 this Section.

6 (2) Interference with proceedings or inquiries. It
7 shall be unlawful for any person to discharge or in any
8 other manner discriminate (as described in subparagraph
9 (B) or (C) of paragraph (1)) against any individual because
10 such individual:

11 (A) has filed any charge, or has instituted or
12 caused to be instituted any proceeding, under or
13 related to this Section;

14 (B) has given, or is about to give, any information
15 in connection with any inquiry or proceeding relating
16 to any right provided under this Section; or

17 (C) has testified, or is about to testify, in any
18 inquiry or proceeding relating to any right provided
19 under this Section.

20 (Source: P.A. 93-591, eff. 8-25-03.)

21 (820 ILCS 180/25)

22 Sec. 25. Existing leave usable for addressing domestic or
23 sexual violence. An employee who is entitled to take paid or
24 unpaid leave (including family, medical, sick, annual,
25 personal, or similar leave) from employment, pursuant to

1 federal, State, or local law, a collective bargaining
2 agreement, or an employment benefits program or plan, may elect
3 to substitute any period of such leave for an equivalent period
4 of leave provided under Section 20. The employer may not
5 require the employee to substitute available paid or unpaid
6 leave for leave provided under Section 20.

7 (Source: P.A. 93-591, eff. 8-25-03.)

8 (820 ILCS 180/30)

9 Sec. 30. Victims' employment sustainability; prohibited
10 discriminatory acts.

11 (a) An employer shall not fail to hire, refuse to hire,
12 discharge, constructively discharge, or harass any individual,
13 otherwise discriminate against any individual with respect to
14 the compensation, terms, conditions, or privileges of
15 employment of the individual, or retaliate against an
16 individual in any form or manner, and a public agency shall not
17 deny, reduce, or terminate the benefits of, otherwise sanction,
18 or harass any individual, otherwise discriminate against any
19 individual with respect to the amount, terms, or conditions of
20 public assistance of the individual, or retaliate against an
21 individual in any form or manner, because:

22 (1) the individual involved:

23 (A) is or is perceived to be a victim of domestic
24 or sexual violence;

25 (B) attended, participated in, prepared for, or

1 requested leave to attend, participate in, or prepare
2 for a criminal or civil court proceeding relating to an
3 incident of domestic or sexual violence of which the
4 individual or a family or household member of the
5 individual was a victim, or requested or took leave for
6 any other reason provided under Section 20; or

7 (C) requested an adjustment to a job structure,
8 workplace facility, or work requirement, including a
9 transfer, reassignment, or modified schedule, leave, a
10 changed telephone number or seating assignment,
11 installation of a lock, or implementation of a safety
12 procedure in response to actual or threatened domestic
13 or sexual violence, regardless of whether the request
14 was granted; or

15 (2) the workplace is disrupted or threatened by the
16 action of a person whom the individual states has committed
17 or threatened to commit domestic or sexual violence against
18 the individual or the individual's family or household
19 member.

20 (b) In this Section:

21 (1) "Discriminate", used with respect to the terms,
22 conditions, or privileges of employment or with respect to
23 the terms or conditions of public assistance, includes not
24 making a reasonable accommodation to the known limitations
25 resulting from circumstances relating to being a victim of
26 domestic or sexual violence or a family or household member

1 being a victim of domestic or sexual violence of an
2 otherwise qualified individual:

3 (A) who is:

4 (i) an applicant or employee of the employer
5 (including a public agency); or

6 (ii) an applicant for or recipient of public
7 assistance from a public agency; and

8 (B) who is:

9 (i) a victim of domestic or sexual violence; or

10 (ii) with a family or household member who is a
11 victim of domestic or sexual violence whose
12 interests are not adverse to the individual in
13 subparagraph (A) as it relates to the domestic or
14 sexual violence;

15 unless the employer or public agency can demonstrate that
16 the accommodation would impose an undue hardship on the
17 operation of the employer or public agency.

18 A reasonable accommodation should be made in a timely
19 fashion. Any exigent circumstances or danger facing the
20 employee or his or her family or household member will be
21 considered in determining whether the accommodation is
22 reasonable.

23 (2) "Qualified individual" means:

24 (A) in the case of an applicant or employee
25 described in paragraph (1) (A) (i), an individual who,
26 but for being a victim of domestic or sexual violence

1 or with a family or household member who is a victim of
2 domestic or sexual violence, can perform the essential
3 functions of the employment position that such
4 individual holds or desires; or

5 (B) in the case of an applicant or recipient
6 described in paragraph (1)(A)(ii), an individual who,
7 but for being a victim of domestic or sexual violence
8 or with a family or household member who is a victim of
9 domestic or sexual violence, can satisfy the essential
10 requirements of the program providing the public
11 assistance that the individual receives or desires.

12 (3) "Reasonable accommodation" may include an
13 adjustment to a job structure, workplace facility, or work
14 requirement, including a transfer, reassignment, or
15 modified schedule, leave, a changed telephone number or
16 seating assignment, installation of a lock, or
17 implementation of a safety procedure, or assistance in
18 documenting domestic or sexual violence that occurs at the
19 workplace or in work-related settings, in response to
20 actual or threatened domestic or sexual violence.

21 (4) Undue hardship.

22 (A) In general. "Undue hardship" means an action
23 requiring significant difficulty or expense, when
24 considered in light of the factors set forth in
25 subparagraph (B).

26 (B) Factors to be considered. In determining

1 whether a reasonable accommodation would impose an
2 undue hardship on the operation of an employer or
3 public agency, factors to be considered include:

4 (i) the nature and cost of the reasonable
5 accommodation needed under this Section;

6 (ii) the overall financial resources of the
7 facility involved in the provision of the
8 reasonable accommodation, the number of persons
9 employed at such facility, the effect on expenses
10 and resources, or the impact otherwise of such
11 accommodation on the operation of the facility;

12 (iii) the overall financial resources of the
13 employer or public agency, the overall size of the
14 business of an employer or public agency with
15 respect to the number of employees of the employer
16 or public agency, and the number, type, and
17 location of the facilities of an employer or public
18 agency; and

19 (iv) the type of operation of the employer or
20 public agency, including the composition,
21 structure, and functions of the workforce of the
22 employer or public agency, the geographic
23 separateness of the facility from the employer or
24 public agency, and the administrative or fiscal
25 relationship of the facility to the employer or
26 public agency.

1 (Source: P.A. 93-591, eff. 8-25-03.)

2 (820 ILCS 180/35)

3 Sec. 35. Enforcement.

4 (a) Department of Labor.

5 (1) The Director or his or her authorized
6 representative shall administer and enforce the provisions
7 of this Act. Any employee or a representative of employees
8 who believes his or her rights under this Act have been
9 violated may, within 3 years after the alleged violation
10 occurs, file a complaint with the Department requesting a
11 review of the alleged violation. A copy of the complaint
12 shall be sent to the person who allegedly committed the
13 violation, who shall be the respondent. Upon receipt of a
14 complaint, the Director shall cause such investigation to
15 be made as he or she deems appropriate. The investigation
16 shall provide an opportunity for a public hearing at the
17 request of any party to the review to enable the parties to
18 present information relating to the alleged allegation.
19 The parties shall be given written notice of the time and
20 place of the hearing at least 7 days before the hearing.
21 Upon receiving the report of the investigation, the
22 Director shall make findings of fact. If the Director finds
23 that a violation did occur, he or she shall issue a
24 decision incorporating his or her findings and requiring
25 the party committing the violation to take such affirmative

1 action to abate the violation as the Director deems
2 appropriate, including:

3 (A) damages equal to the amount of wages, salary,
4 employment benefits, public assistance, or other
5 compensation denied or lost to such individual by
6 reason of the violation, and the interest on that
7 amount calculated at the prevailing rate;

8 (A-5) compensatory damages for emotional distress;

9 (B) such equitable relief as may be appropriate,
10 including but not limited to hiring, reinstatement,
11 promotion, and reasonable accommodations; and

12 (C) reasonable attorney's fees, reasonable expert
13 witness fees, and other costs of the action to be paid
14 by the respondent to a prevailing employee.

15 If the Director finds that there was no violation, he
16 or she shall issue an order denying the complaint. An order
17 issued by the Director under this Section shall be final
18 and subject to judicial review under the Administrative
19 Review Law.

20 (2) The Director shall adopt rules necessary to
21 administer and enforce this Act in accordance with the
22 Illinois Administrative Procedure Act. The Director shall
23 have the powers and the parties shall have the rights
24 provided in the Illinois Administrative Procedure Act for
25 contested cases, including, but not limited to, provisions
26 for depositions, subpoena power and procedures, and

1 discovery and protective order procedures.

2 (3) Intervention. The Attorney General of Illinois may
3 intervene on behalf of the Department if the Department
4 certifies that the case is of general public importance.
5 Upon such intervention the court may award such relief as
6 is authorized to be granted to an employee who has filed a
7 complaint or whose representative has filed a complaint
8 under this Section.

9 (b) Refusal to pay damages. Any employer who has been
10 ordered by the Director of Labor or the court to pay damages
11 under this Section and who fails to do so within 30 days after
12 the order is entered is liable to pay a penalty of 1% per
13 calendar day to the employee for each day of delay in paying
14 the damages to the employee.

15 (Source: P.A. 93-591, eff. 8-25-03.)

16 (820 ILCS 180/37 new)

17 Sec. 37. Private right of action. Any employee or
18 representative of employees aggrieved by a violation of this
19 Act or any rule adopted under this Act may file suit in circuit
20 court, in the county where the alleged offense occurred,
21 without regard to exhaustion of any alternative administrative
22 remedies provided under this Act. Actions may be brought by one
23 or more individuals for and on behalf of themselves and other
24 individuals similarly situated. An individual whose rights
25 have been violated under this Act may seek any and all remedies

1 provided in this Act, including reasonable attorney's fees for
2 the prevailing party, whether those remedies are obtained
3 through a judicial order or a suit or claim is settled by
4 private agreement.

5 (820 ILCS 180/40)

6 Sec. 40. Notification. Every employer covered by this Act
7 shall post and keep posted, in conspicuous places on the
8 premises of the employer where notices to employees are
9 customarily posted, a notice, to be prepared or approved by the
10 Director of Labor, summarizing the requirements of this Act and
11 information pertaining to the filing of a charge or law suit.
12 The Director shall furnish copies of summaries and rules to
13 employers upon request without charge. Any employer that fails
14 to post the required notice will be unable to rely on the
15 provisions in subsection (b) of Section 20 to argue that the
16 employee failed to inform the employer that she or he wanted or
17 was eligible for leave under this Act. Any employer that fails
18 to post the required notice shall pay a \$5,000 penalty to the
19 prevailing party for a first violation of the Act, \$2,000 for a
20 second violation, and \$2,000 for each subsequent violation with
21 the same employee.

22 (Source: P.A. 93-591, eff. 8-25-03.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."