

BILL ANALYSIS

Senate Research Center
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S.B. 64
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law gives victims of crime certain rights, which include the right to be informed of relevant court proceedings, bail, probation, and parole; the right to request the prosecutor to notify their employer if the victim's cooperation and testimony may necessitate the absence of the victim from work; and, the right to give a victim impact statement during the sentencing phase of a trial. However, absent a court ordered subpoena, crime victims do not have a protected right to take time off from work to attend these proceedings.

Victim participation in the justice system goes well beyond reporting the crime and being available to testify. Many victims attend court in order to obtain a civil protective order, a restraining order, or to ensure that justice is done. Many victims, particularly people who are in low-paying, low-skill jobs are unable to attend these proceedings without the fear of being fired from their job.

The federal Victims of Crime Act (1984) guarantees victims the right to a day in court and respectful treatment in the federal criminal justice system. Under current law, Section 56.02 (Crime Victims' Rights), Code of Criminal Procedure, provides a list of rights guaranteed to crime victims and Section 52.051 (Penalizing Employee for Compliance with Subpoena), Labor Code, prohibits an employer from penalizing an employee who misses work in order to comply with a subpoena.

S.B. 64 creates an explicit clause that protects persons from being penalized by their employers for taking unpaid time off of work to attend court proceedings related to their cases.

As proposed, S.B. 64 amends current law relating to the right of an employee who is a victim of a crime to time off from work to attend court proceedings related to that crime.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 84.007, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Labor Code, by adding Chapter 84, as follows:

CHAPTER 84. EMPLOYEE RIGHT TO ATTEND CERTAIN COURT PROCEEDINGS

Sec. 84.001. DEFINITIONS. Defines, in this chapter, "employee," "employer," "public employer," and "victim."

Sec. 84.002. RIGHT TO ATTEND COURT PROCEEDINGS; NOTICE TO EMPLOYER. Entitles an employee who is a victim of a crime or the parent or guardian of a victim of a crime to time off as provided by this chapter to attend court proceedings related to the crime.

Sec. 84.003. USE OF LEAVE TIME. (a) Provides that an employee is not required to use existing vacation leave time, personal leave time, or compensatory leave time for the

purpose of an absence from work authorized by this chapter except as otherwise provided by a collective bargaining agreement entered into before September 1, 2011.

(b) Prohibits the use of leave time under this section from being restricted by a term or condition adopted under a collective bargaining agreement that is entered into on or after September 1, 2011.

Sec. 84.004. EFFECT ON EMPLOYEE PAY. Prohibits an employer from reducing the pay otherwise owed to an employee for any pay period lasting eight hours or less because the employee took time off during that pay period for the purpose of an absence from work authorized by this chapter.

Sec. 84.005. DOCUMENTATION. (a) Requires an employee on return to work, except as provided by Subsection (b), to provide reasonable documentation to the employer on the employer's request regarding the employee's absence from work to attend court proceedings related to the crime of which the employee or the employee's child or ward was a victim.

(b) Prohibits an employer from requiring documentation under Subsection (a) if, under Article 56.02(a)(10) (relating to notification to an employer by an attorney for the state), Code of Criminal Procedure, the attorney for the state notifies the employer of the victim or of the parent or guardian of the victim of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work.

Sec. 84.006. EMPLOYER RETALIATION PROHIBITED. (a) Prohibits an employer from suspending or terminating the employment of, or otherwise discriminating against, an employee who takes time off from work authorized by this chapter.

(b) Sets forth certain remedies to which an employee whose employment is suspended or terminated in violation of this chapter is entitled.

Sec. 84.007. NOTICE TO EMPLOYEES. (a) Requires each employer to inform its employees of their rights under this chapter by posting a conspicuous sign in a prominent location in the employer's workplace.

(b) Requires the Texas Workforce Commission by rule to prescribe the design and content of the sign required by this section.

SECTION 2. Amends Article 56.02(a), Code of Criminal Procedure, to entitle a victim, guardian of a victim, or close relative of a deceased victim to certain rights within the criminal justice system, including the right to have the attorney for the state notify the employer of the victim or guardian of the victim, if requested, of the necessity of the victim's or guardian's cooperation and testimony in a proceeding that may necessitate the absence of the victim or guardian from work for good cause..

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.