

CHAPTER 114

GOVERNMENT - STATE

HOUSE BILL 02-1051

BY REPRESENTATIVE(S) Romanoff, Veiga, Bacon, Boyd, Chavez, Coleman, Garcia, Groff, Grossman, Hodge, Jahn, Mace, Marshall, Miller, Plant, Ragsdale, Saliman, Sanchez, Tochtrop, Vigil, Weddig, and Williams S.;
also SENATOR(S) Entz, Gordon, Hernandez, Pascoe, Tupa, and Windels.

AN ACT

CONCERNING MEASURES PERTAINING TO EMPLOYERS FOR THE PROTECTION OF EMPLOYEES WHO ARE VICTIMS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-14-102 (4), Colorado Revised Statutes, is amended to read:

13-14-102. Civil restraining orders. (4) (a) A temporary civil restraining order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil restraining order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider when the most recent incident of abuse or threat of harm occurred as well as all other relevant evidence concerning the safety and protection of the persons seeking the restraining order. However, the court shall not deny a petitioner the relief requested solely because of a lapse of time between an act of abuse or threat of harm and filing of the petition for a restraining order.

(b) ~~IF THE JUDGE OR MAGISTRATE FINDS THAT AN IMMINENT DANGER EXISTS TO THE EMPLOYEES OF A BUSINESS ENTITY, HE OR SHE MAY ISSUE A CIVIL RESTRAINING ORDER IN THE NAME OF THE BUSINESS FOR THE PROTECTION OF THE EMPLOYEES. AN EMPLOYER SHALL NOT BE LIABLE FOR FAILING TO OBTAIN A CIVIL RESTRAINING ORDER IN THE NAME OF THE BUSINESS FOR THE PROTECTION OF THE EMPLOYEES AND PATRONS.~~

SECTION 2. Part 4 of article 34 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-34-402.7. Unlawful action against employees seeking protection.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(1) (a) EMPLOYERS SHALL PERMIT AN EMPLOYEE TO REQUEST OR TAKE UP TO THREE WORKING DAYS OF LEAVE FROM WORK IN ANY TWELVE-MONTH PERIOD, WITH OR WITHOUT PAY, IF THE EMPLOYEE IS THE VICTIM OF DOMESTIC ABUSE, AS THAT TERM IS DEFINED IN SECTION 13-14-101 (2), C.R.S., THE VICTIM OF STALKING, AS THAT CRIME IS DEFINED IN SECTION 18-9-111 (4), C.R.S., THE VICTIM OF SEXUAL ASSAULT, AS THAT CRIME IS DEFINED IN SECTION 18-3-402, C.R.S., OR THE VICTIM OF ANY OTHER CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY A COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS THAT TERM IS DEFINED IN SECTION 18-6-800.3 (1), C.R.S. THIS SECTION SHALL ONLY APPLY IF SUCH EMPLOYEE IS USING THE LEAVE FROM WORK TO PROTECT HIMSELF OR HERSELF BY:

(I) SEEKING A CIVIL RESTRAINING ORDER TO PREVENT DOMESTIC ABUSE PURSUANT TO SECTION 13-14-102, C.R.S.;

(II) OBTAINING MEDICAL CARE OR MENTAL HEALTH COUNSELING OR BOTH FOR HIMSELF OR HERSELF OR FOR HIS OR HER CHILDREN TO ADDRESS PHYSICAL OR PSYCHOLOGICAL INJURIES RESULTING FROM THE ACT OF DOMESTIC ABUSE, STALKING, OR SEXUAL ASSAULT OR OTHER CRIME INVOLVING DOMESTIC VIOLENCE;

(III) MAKING HIS OR HER HOME SECURE FROM THE PERPETRATOR OF THE ACT OF DOMESTIC ABUSE, STALKING, OR SEXUAL ASSAULT OR OTHER CRIME INVOLVING DOMESTIC VIOLENCE OR SEEKING NEW HOUSING TO ESCAPE SAID PERPETRATOR;

(IV) SEEKING LEGAL ASSISTANCE TO ADDRESS ISSUES ARISING FROM THE ACT OF DOMESTIC ABUSE, STALKING, OR SEXUAL ASSAULT OR OTHER CRIME INVOLVING DOMESTIC VIOLENCE AND ATTENDING AND PREPARING FOR COURT-RELATED PROCEEDINGS ARISING FROM SAID ACT OR CRIME.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL ONLY APPLY TO EMPLOYERS WHO EMPLOY FIFTY OR MORE EMPLOYEES AND TO EMPLOYEES WHO HAVE BEEN EMPLOYED WITH THE EMPLOYER FOR TWELVE MONTHS OR MORE.

(2) (a) EXCEPT IN CASES OF IMMINENT DANGER TO THE HEALTH OR SAFETY OF THE EMPLOYEE, AN EMPLOYEE SEEKING LEAVE FROM WORK PURSUANT TO THIS SECTION SHALL PROVIDE HIS OR HER EMPLOYER WITH THE APPROPRIATE ADVANCE NOTICE OF SUCH LEAVE AS MAY BE REQUIRED BY THE EMPLOYER'S POLICY AND SUCH DOCUMENTATION AS MAY BE REQUIRED BY THE EMPLOYER.

(b) AN EMPLOYEE SEEKING LEAVE PURSUANT TO THIS SECTION, PRIOR TO RECEIVING SUCH LEAVE, SHALL EXHAUST ANY AND ALL ANNUAL OR VACATION LEAVE, PERSONAL LEAVE, AND SICK LEAVE, IF APPLICABLE, THAT MAY BE AVAILABLE TO THE EMPLOYEE, UNLESS THE EMPLOYER WAIVES THIS REQUIREMENT.

(c) ALL INFORMATION RELATED TO THE EMPLOYEE'S LEAVE PURSUANT TO THIS SECTION SHALL BE KEPT CONFIDENTIAL BY THE EMPLOYER.

(3) (a) IT SHALL BE UNLAWFUL FOR ANY EMPLOYER TO INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF OR ANY ATTEMPT TO EXERCISE ANY RIGHTS PROVIDED UNDER THIS SECTION.

(b) IT SHALL BE UNLAWFUL FOR ANY EMPLOYER TO DISCHARGE OR IN ANY OTHER MANNER DISCRIMINATE AGAINST ANY INDIVIDUAL FOR EXERCISING HIS OR HER RIGHTS UNDER THIS SECTION.

(c) AN EMPLOYEE SHALL HAVE NO GREATER RIGHTS TO CONTINUED EMPLOYMENT OR TO OTHER BENEFITS AND CONDITIONS OF EMPLOYMENT THAN IF THE EMPLOYEE WAS NOT ENTITLED TO LEAVE UNDER THIS SECTION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE EMPLOYER'S RIGHT TO DISCIPLINE OR TERMINATE ANY EMPLOYEE FOR ANY REASON, INCLUDING BUT NOT LIMITED TO REDUCTIONS IN WORK FORCE OR TERMINATION FOR CAUSE OR FOR NO REASON AT ALL, OTHER THAN EXERCISING HIS OR HER RIGHTS UNDER THIS SECTION.

(4) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE TO THE CONTRARY, THE SOLE REMEDY FOR ANY PERSON CLAIMING TO BE AGGRIEVED BY A VIOLATION OF THIS SECTION SHALL BE TO BRING A CIVIL SUIT FOR DAMAGES OR EQUITABLE RELIEF OR BOTH IN ANY DISTRICT COURT OF COMPETENT JURISDICTION. SUCH PERSON MAY CLAIM AS DAMAGES ALL WAGES AND BENEFITS THAT WOULD HAVE BEEN DUE THE PERSON UP TO AND INCLUDING THE DATE OF THE JUDGMENT HAD THE ACT VIOLATING THIS SECTION NOT OCCURRED; EXCEPT THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELIEVE SUCH PERSON FROM THE OBLIGATION TO MITIGATE HIS OR HER DAMAGES.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 2002