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FIRST REPRINT

A.B. 163

ASSEMBLY BILL NO. 163—ASSEMBLYMEN GONZÁLEZ, CONSIDINE, THOMAS; ANDERSON, BROWN-MAY, DICKMAN, DURAN, GRAY, HARDY, LA RUE HATCH, NEWBY, NGUYEN, O'NEILL, ORENTLICHER AND WATTS

FEBRUARY 14, 2023

JOINT SPONSORS: SENATORS SPEARMAN, NEAL, D. HARRIS;
LANGE, OHRENSCHALL AND SCHEIBLE

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing employment.
(BDR 53-834)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; providing for hours of leave, under certain circumstances, if an employee or a family or household member of an employee is a victim of an act which constitutes sexual assault; prohibiting the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from denying certain persons unemployment benefits under certain circumstances; requiring employers to provide reasonable accommodations under certain circumstances; prohibiting an employer from taking certain actions against an employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides that a person who commits certain acts is guilty of sexual
- 2 assault. (NRS 200.366) Existing law requires an employer to provide certain hours
- 3 of leave to an employee who has been employed by the employer for at least 90
- 4 days and who is a victim of an act which constitutes domestic violence, or such an



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employee whose family or household member is a victim of an act which constitutes domestic violence and the employee is not the alleged perpetrator. Existing law provides that such an employee is entitled to not more than 160 hours of leave during a 12-month period. Such leave: (1) may be paid or unpaid; (2) must be used within the 12 months immediately following the date on which the act which constitutes domestic violence occurred; (3) may be used consecutively or intermittently; and (4) under certain circumstances, must be deducted from leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq. Existing law additionally requires an employer to maintain a record of the use of the hours of leave for each employee for a 2-year period and to make those records available for inspection by the Labor Commissioner. (NRS 608.0198) **Section 1** of this bill: (1) requires an employer to provide such leave to a victim of an act which constitutes sexual assault; (2) authorizes an employee to use the leave for certain purposes; and (3) requires an employer to maintain a record of the use of the hours of leave for each employee for a 2-year period and to make those records available for inspection by the Labor Commissioner.

Existing law prohibits the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from denying a person unemployment compensation benefits in certain circumstances. (NRS 612.3755) **Section 2** of this bill prohibits the Administrator from denying a person unemployment compensation benefits if the Administrator finds that the person: (1) left employment to protect himself or herself, or his or her family or household member, from an act which constitutes sexual assault; and (2) actively engaged in an effort to preserve employment. **Section 2** also authorizes the Administrator to request evidence from the person to support a claim for benefits.

Existing law requires an employer to provide reasonable accommodations which will not create an undue hardship for an employee who is a victim of an act which constitutes domestic violence or whose family or household member is a victim of an act which constitutes domestic violence. (NRS 613.222) **Section 3** of this bill similarly requires an employer to provide such accommodations for an employee who is a victim of an act which constitutes sexual assault or whose family or household member is a victim of an act which constitutes sexual assault.

Existing law prohibits an employer from conditioning the employment of an employee or prospective employee or taking certain employment actions because of certain circumstances related to the commission of an act which constitutes domestic violence. (NRS 613.223) **Section 4** of this bill prohibits an employer from conditioning the employment of an employee or prospective employee or taking certain employment actions because: (1) the employee or prospective employee is a victim of an act which constitutes sexual assault; (2) the employee or prospective employee's family or household member is a victim of an act which constitutes sexual assault; or (3) of other circumstances related to being a victim of an act which constitutes sexual assault.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 608.0198 is hereby amended to read as follows:

608.0198 1. An employee who has been employed by an employer for at least 90 days and who is a victim of an act which constitutes domestic violence ~~or~~ **or sexual assault**, or whose family or household member is a victim of an act which constitutes



domestic violence **H or sexual assault**, and the employee is not the alleged perpetrator, is entitled to not more than 160 hours of leave in one 12-month period. Hours of leave provided pursuant to this subsection:

(a) May be paid or unpaid by the employer;

(b) Must be used within the 12 months immediately following the date on which the act which constitutes domestic violence **or sexual assault** occurred;

(c) May be used consecutively or intermittently; and

(d) If used for a reason for which leave may also be taken pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., must be deducted from the amount of leave the employee is entitled to take pursuant to this section and from the amount of leave the employee is entitled to take pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

2. An employee may use the hours of leave pursuant to subsection 1 as follows:

(a) An employee may use the hours of leave only:

(1) For the diagnosis, care or treatment of a health condition related to an act which constitutes domestic violence **or sexual assault** committed against the employee or family or household member of the employee;

(2) To obtain counseling or assistance related to an act which constitutes domestic violence **or sexual assault** committed against the employee or family or household member of the employee;

(3) To participate in any court proceedings related to an act which constitutes domestic violence **or sexual assault** committed against the employee or family or household member of the employee; or

(4) To establish a safety plan, including, without limitation, any action to increase the safety of the employee or the family or household member of the employee from a future act which constitutes domestic violence **H or sexual assault**.

(b) After taking any hours of leave upon the occurrence of the act which constitutes domestic violence **H or sexual assault**, an employee shall give not less than 48 hours' advance notice to his or her employer of the need to use additional hours of leave for any purpose listed in paragraph (a).

3. An employer shall not:

(a) Deny an employee the right to use hours of leave in accordance with the conditions of this section;

(b) Require an employee to find a replacement worker as a condition of using hours of leave; or

(c) Retaliate against an employee for using hours of leave.



4. The employer of an employee who takes hours of leave pursuant to this section may require the employee to provide to the employer documentation that confirms or supports the reason the employee provided for requesting leave. Such documentation may include, without limitation, a police report, a copy of an application for an order for protection, an affidavit from an organization which provides services to victims of domestic violence **or sexual assault** or documentation from a physician. Any documentation provided to an employer pursuant to this subsection is confidential and must be retained by the employer in a manner consistent with the requirements of the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.

5. The Labor Commissioner shall prepare a bulletin which clearly sets forth the right to the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be included in any printed abstract posted by the employer pursuant to NRS 608.013.

6. An employer shall maintain a record of the hours of leave taken pursuant to this section for each employee for a 2-year period following the entry of such information in the record and, upon request, shall make those records available for inspection by the Labor Commissioner. The employer shall exclude the names of the employees from the records, unless a request for a record is for the purpose of an investigation.

7. The provisions of this section do not:

(a) Limit or abridge any other rights, remedies or procedures available under the law.

(b) Negate any other rights, remedies or procedures available to an aggrieved party.

(c) Prohibit, preempt or discourage any contract or other agreement that provides a more generous leave benefit or paid leave benefit.

8. As used in this section:

(a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

(b) "Family or household member" means a:

(1) Spouse;

(2) Domestic partner;

(3) Minor child; or

(4) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult



person who is or was actually residing with the employee at the time of the act which constitutes domestic violence ~~§~~ *or sexual assault.*

(c) "Sexual assault" has the meaning ascribed to it in NRS 200.366.

Sec. 2. NRS 612.3755 is hereby amended to read as follows:

612.3755 1. The Administrator shall not deny any otherwise eligible person benefits if the Administrator finds that:

(a) The person left employment to protect himself or herself, or a family or household member, from an act which constitutes domestic violence ~~§~~ *or sexual assault;* and

(b) The person actively engaged in an effort to preserve employment.

2. The Administrator may request the person to furnish evidence satisfactory to support the person's claim for benefits.

3. As used in this section:

(a) "Domestic violence" has the meaning ascribed to it in NRS 33.018.

(b) "Family or household member" means a:

(1) Spouse;

(2) Domestic partner;

(3) Minor child; or

(4) Parent or other adult person who is related within the first degree of consanguinity or affinity to the employee, or other adult person who is or was actually residing with the employee at the time of the act which constitutes domestic violence ~~§~~ *or sexual assault.*

(c) "Sexual assault" has the meaning ascribed to it in NRS 200.366.

Sec. 3. NRS 613.222 is hereby amended to read as follows:

613.222 1. An employer must make reasonable accommodations which will not create an undue hardship for an employee who is a victim of an act which constitutes domestic violence *or sexual assault* or whose family or household member is a victim of an act which constitutes domestic violence ~~§~~ *or sexual assault.* The employer may provide such accommodations, including, without limitation, as:

(a) A transfer or reassignment;

(b) A modified schedule;

(c) A new telephone number for work; or

(d) Any other reasonable accommodations which will not create an undue hardship deemed necessary to ensure the safety of the employee, the workplace, the employer or other employees.

2. An employer may require an employee to provide to the employer documentation that confirms or supports the reason the employee requires the reasonable accommodations.

3. As used in this section:



(a) “Domestic violence” has the meaning ascribed to it in NRS 33.018.

(b) “Family or household member” has the meaning ascribed to it in NRS 612.3755.

(c) “Sexual assault” has the meaning ascribed to it in NRS 200.366.

Sec. 4. NRS 613.223 is hereby amended to read as follows:

613.223 1. It is unlawful for any employer in this State to discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, an employee because:

(a) The employee requested to use hours of leave pursuant to NRS 608.0198;

(b) The employee participated as a witness or interested party in court proceedings related to an act which constitutes domestic violence *or sexual assault* which triggered the use of leave pursuant to NRS 608.0198;

(c) The employee requested an accommodation pursuant to NRS 613.222; or

(d) An act which constitutes domestic violence *or sexual assault* was committed against the employee in the workplace of the employee.

2. As used in this section ~~[, “domestic”]~~ :

(a) “Domestic violence” has the meaning ascribed to it in NRS 33.018.

(b) “Sexual assault” has the meaning ascribed to it in NRS 200.366.

Sec. 5. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.

