

1 H.711

2 Introduced by Representatives Stevens of Waterbury, Gonzalez of Winooski,
3 Morris of Bennington, Sullivan of Dorset, and Troiano of
4 Stannard

5 Referred to Committee on

6 Date:

7 Subject: Labor; employment practices; fair employment practices; crime
8 victims

9 Statement of purpose of bill as introduced: This bill proposes to add crime
10 victims to the list of protected classes in Vermont's Fair Employment Practices
11 Act and to require an employer to provide an employee who is a crime victim
12 with unpaid leave to attend certain legal proceedings.

13 An act relating to employment protections for crime victims

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 21 V.S.A. § 495 is amended to read:

16 § 495. UNLAWFUL EMPLOYMENT PRACTICE

17 (a) It shall be unlawful employment practice, except where a bona fide
18 occupational qualification requires persons of a particular race, color, religion,
19 national origin, sex, sexual orientation, gender identity, ancestry, place of birth,

1 age, crime victim status, or physical or mental condition:

2 (1) For any employer, employment agency, or labor organization to
3 discriminate against any individual because of race, color, religion, ancestry,
4 national origin, sex, sexual orientation, gender identity, place of birth, crime
5 victim status, or age or against a qualified individual with a disability;

6 (2) For any person seeking employees or for any employment agency or
7 labor organization to cause to be printed, published, or circulated any notice or
8 advertisement relating to employment or membership indicating any
9 preference, limitation, specification, or discrimination based upon race, color,
10 religion, ancestry, national origin, sex, sexual orientation, gender identity,
11 place of birth, crime victim status, age, or disability;

12 (3) For any employment agency to fail or refuse to classify properly or
13 refer for employment or to otherwise discriminate against any individual
14 because of race, color, religion, ancestry, national origin, sex, sexual
15 orientation, gender identity, place of birth, crime victim status, or age or
16 against a qualified individual with a disability;

17 (4) For any labor organization, because of race, color, religion, ancestry,
18 national origin, sex, sexual orientation, gender identity, place of birth, crime
19 victim status, or age to discriminate against any individual or against a
20 qualified individual with a disability or to limit, segregate, or qualify its
21 membership;

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Sec. 2. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

* * *

(14) “Pregnancy-related condition” means a limitation of an employee’s ability to perform the functions of a job caused by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

(15) “Crime victim” means any of the following:

(A) a person who has obtained a relief from abuse order issued under 15 V.S.A. § 1103;

(B) a person who has obtained an order against stalking or sexual assault issued under 12 V.S.A. chapter 178;

(C) a person who has obtained an order against abuse of a vulnerable adult issued under 33 V.S.A. chapter 69; or

(D)(i) a victim as defined in 13 V.S.A. § 5301 or the victim’s child, stepchild, foster child, parent, spouse, or a ward of the victim who lives with the victim, or a parent of the victim’s spouse; provided that

(ii) the victim is identified as a crime victim in an affidavit filed by a law enforcement official with a prosecuting attorney of competent state or federal jurisdiction.

1 Sec. 3. 21 V.S.A. § 472c is added to read:

2 § 472c. LEAVE; CRIME VICTIMS

3 (a) As used in this section:

4 (1) “Employer” means an individual, organization, governmental body,
5 partnership, association, corporation, legal representative, trustee, receiver,
6 trustee in bankruptcy, and any common carrier by rail, motor, water, air, or
7 express company doing business in or operating within this State that employs
8 10 or more individuals who are employed for an average of at least 30 hours
9 per week during a year.

10 (2) “Employee” means a person who is a crime victim as defined in
11 section 495d of this chapter and, in consideration of direct or indirect gain or
12 profit, has been continuously employed by the same employer for a period of
13 six months for an average of at least 20 hours per week.

14 (b) In addition to the leave provided in section 472 of this title, an
15 employee shall be entitled to take unpaid leave from employment for the
16 purpose of attending a deposition or court proceeding related to:

17 (1) a criminal proceeding, when the employee is a victim as defined in
18 13 V.S.A. § 5301 and the employee has a right or obligation to appear at the
19 proceeding;

20 (2) a relief from abuse hearing pursuant to 15 V.S.A. § 1103, when the
21 employee seeks the order as plaintiff;

1 (3) a hearing concerning an order against stalking or sexual assault
2 pursuant to 12 V.S.A. § 5133, when the employee seeks the order as
3 plaintiff; or

4 (4) a relief from abuse, neglect, or exploitation hearing pursuant to
5 33 V.S.A. chapter 69, when the employee is the plaintiff.

6 (c) During the leave, at the employee's option, the employee may use
7 accrued sick leave, vacation leave, or any other accrued paid leave. Use of
8 accrued paid leave shall not extend the leave provided pursuant to this section.

9 (d) The employer shall continue employment benefits for the duration of
10 the leave at the level and under the conditions coverage would be provided if
11 the employee continued in employment continuously for the duration of the
12 leave. The employer may require that the employee contribute to the cost of
13 benefits during the leave at the existing rate of employee contribution.

14 (e) The employer shall post and maintain in a conspicuous place in and
15 about each of its places of business printed notices of the provisions of this
16 section on forms provided by the Commissioner of Labor.

17 (f)(1) Upon return from leave taken under this section, an employee shall
18 be offered the same or comparable job at the same level of compensation,
19 employment benefits, seniority, or any other term or condition of the
20 employment existing on the day leave began.

21 (2) This subsection shall not apply if, prior to requesting leave, the

1 employee had been given notice or had given notice that the employment
2 would terminate.

3 (3) This subsection shall not apply if the employer can demonstrate by
4 clear and convincing evidence that during the period of leave the employee's
5 job would have been terminated or the employee would have been laid off for
6 reasons unrelated to the leave or the condition for which the leave was granted.

7 (g) An employer may adopt a leave policy more generous than the leave
8 provided by this section. Nothing in this section shall be construed to diminish
9 an employer's obligation to comply with any collective bargaining agreement
10 or any employment benefit program or plan that provides greater leave rights
11 than the rights provided by this section. A collective bargaining agreement or
12 employment benefit program or plan shall not diminish rights provided by this
13 section. Notwithstanding the provisions of this section, an employee may, at
14 the time a need for leave arises, waive some or all of the rights under this
15 section, provided that the waiver is informed and voluntary and that any
16 changes in conditions of employment related to the waiver shall be mutually
17 agreed upon between the employer and the employee.

18 Sec. 4. EFFECTIVE DATE

19 This act shall take effect on July 1, 2018.