

1 TO THE HONORABLE SENATE:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 711 entitled “An act relating to employment
4 protections for crime victims” respectfully reports that it has considered the
5 same and recommends that the Senate propose to the House that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 * * * Employment Protection for Crime Victims * * *

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

10 § 495. UNLAWFUL EMPLOYMENT PRACTICE

11 (a) It shall be unlawful employment practice, except where a bona fide
12 occupational qualification requires persons of a particular race, color, religion,
13 national origin, sex, sexual orientation, gender identity, ancestry, place of birth,
14 age, crime victim status, or physical or mental condition:

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

19 (2) For any person seeking employees or for any employment agency or
20 labor organization to cause to be printed, published, or circulated any notice or
21 advertisement relating to employment or membership indicating any

1 preference, limitation, specification, or discrimination based upon race, color,
2 religion, ancestry, national origin, sex, sexual orientation, gender identity,
3 place of birth, crime victim status, age, or disability;

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

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

14 * * *

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

16 § 495d. DEFINITIONS

17 As used in this subchapter:

18 * * *

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

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

2 (A) a person who has obtained a relief from abuse order issued under
3 15 V.S.A. § 1103;

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

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

8 (D)(i) a victim as defined in 13 V.S.A. § 5301, provided that the
9 victim is identified as a crime victim in an affidavit filed by a law enforcement
10 official with a prosecuting attorney of competent state or federal
11 jurisdiction; and

12 (ii) shall include the victim’s child, stepchild, foster child, parent,
13 spouse, or a ward of the victim who lives with the victim, or a parent of the
14 victim’s spouse, provided that the individual is not identified in the affidavit as
15 the defendant.

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

17 § 472c. LEAVE; CRIME VICTIMS

18 (a) As used in this section:

19 (1) “Employer” means an individual, organization, governmental body,
20 partnership, association, corporation, legal representative, trustee, receiver,

1 trustee in bankruptcy, and any common carrier by rail, motor, water, air, or
2 express company doing business in or operating within this State.

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

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

10 (1) a criminal proceeding, when the employee is a victim as defined in
11 13 V.S.A. § 5301 and the employee has a right or obligation to appear at the
12 proceeding;

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

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

18 (4) a relief from abuse, neglect, or exploitation hearing pursuant to
19 33 V.S.A. chapter 69, when the employee is the plaintiff.

1 (c) During the leave, at the employee’s option, the employee may use
2 accrued sick leave, vacation leave, or any other accrued paid leave. Use of
3 accrued paid leave shall not extend the leave provided pursuant to this section.

4 (d) The employer shall continue employment benefits for the duration of
5 the leave at the level and under the conditions coverage would be provided if
6 the employee continued in employment continuously for the duration of the
7 leave. The employer may require that the employee contribute to the cost of
8 benefits during the leave at the existing rate of employee contribution.

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

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

16 (2) This subsection shall not apply if, prior to requesting leave, the
17 employee had been given notice or had given notice that the employment
18 would terminate.

19 (3) This subsection shall not apply if the employer can demonstrate by
20 clear and convincing evidence that during the period of leave the employee’s

1 job would have been terminated or the employee would have been laid off for
2 reasons unrelated to the leave or the condition for which the leave was granted.

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

14 (h) Subsection (b) of this section shall not apply to an employer that
15 provides goods or services to the general public if the employee's absence
16 would require the employer to suspend all business operations at a location that
17 is open to the general public.

18 * * * Employment Protection for Volunteer First Responders * * *

19 Sec. 4. 21 V.S.A. § 495o is added to read:

20 § 495o. VOLUNTEER EMERGENCY RESPONDERS

21 (a) As used in this section:

1 (1) “Emergency medical personnel” shall include “emergency medical
2 personnel,” “ambulance service,” “emergency medical services,” and “first
3 responder service” as defined in 24 V.S.A. § 2651.

4 (2) “Firefighter” shall have the same meaning as in 20 V.S.A. § 3151(3).

5 (3) “Volunteer emergency responder” means a volunteer firefighter or
6 volunteer emergency medical personnel.

7 (b) An employer shall not discharge, discriminate, or retaliate against an
8 employee because the employee was absent from work to perform duty as a
9 volunteer emergency responder.

10 (c) This section shall not apply to:

11 (1) a public safety agency or provider of emergency medical services if,
12 as determined by the employer, the employee’s absence would hinder the
13 availability of public safety or emergency medical services; or

14 (2) an employer that provides goods or services to the general public if
15 the employee’s absence would require the employer to suspend all business
16 operations at a location that is open to the general public.

17 (d) An employee who is a volunteer emergency responder shall notify his
18 or her employer at the time of hire or at the time that the employee becomes a
19 volunteer emergency responder and shall provide the employer with a written
20 statement signed by the chief of the volunteer fire department or the designated

1 director or chief of the ambulance service or emergency medical services
2 stating that the employee is a volunteer emergency responder.

3 (e) Nothing in this section shall prohibit an employer from requiring an
4 employee to provide reasonable notice that the employee is leaving work to
5 respond to an emergency.

6 (f)(1) An employer shall not be required to compensate an employee for
7 time that an employee is absent from employment while performing his or her
8 duty as a volunteer emergency responder.

9 (2)(A) An employer may require an employee to use any accrued time
10 off for time that the employee is absent from work while performing his or her
11 duty as a volunteer emergency responder, provided that the employer shall
12 compensate the employee for any accrued time off used at his or her normal
13 hourly wage rate.

14 (B) Notwithstanding subdivision (A) of this subdivision (2), an
15 employer shall not prevent an employee from performing his or her duty as a
16 volunteer emergency responder due to a lack of accrued time off or paid leave.

17 * * * Effective Date * * *

18 Sec. 5. EFFECTIVE DATE

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

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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE