



The Legislature
of the
State of New Mexico

49th Legislature, First Session

LAWS 2009

CHAPTER 14

SENATE BILL 68, as amended

Introduced by

SENATOR GERALD ORTIZ y PINO
SENATOR MARY JANE M. GARCIA



FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

CHAPTER 14

AN ACT

1
2 RELATING TO LABOR; PROMOTING FINANCIAL INDEPENDENCE FOR
3 VICTIMS OF DOMESTIC ABUSE.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. A new section of Chapter 50, Article 4 NMSA
7 1978 is enacted to read:

8 "SHORT TITLE.--This act may be cited as the "Promoting
9 Financial Independence for Victims of Domestic Abuse Act"."

10 Section 2. A new section of Chapter 50, Article 4 NMSA
11 1978 is enacted to read:

12 "DEFINITIONS.--As used in the Promoting Financial
13 Independence for Victims of Domestic Abuse Act:

14 A. "domestic abuse" has the same meaning as it
15 does in the Family Violence Protection Act;

16 B. "domestic abuse leave" means intermittent paid
17 or unpaid leave time for up to fourteen days in any calendar
18 year, taken by an employee for up to eight hours in one day,
19 to obtain or attempt to obtain an order of protection or
20 other judicial relief from domestic abuse or to meet with law
21 enforcement officials, to consult with attorneys or district
22 attorneys' victim advocates or to attend court proceedings
23 related to the domestic abuse of an employee or an employee's
24 family member;

25 C. "employee" means a person who is employed by an

1 employer;

2 D. "employer" includes a person, a firm, a
3 partnership, an association, a corporation, a receiver or an
4 officer of the court of New Mexico, a state agency, or a unit
5 of local government or a school district;

6 E. "family member" means a minor child of the
7 employee or a person for whom the employee is a legal
8 guardian;

9 F. "order of protection" means a court order
10 granted pursuant to the Family Violence Protection Act; and

11 G. "retaliation" means an adverse action against
12 an employee, including threats, reprisals or discrimination
13 for engaging in the protected activity of taking domestic
14 abuse leave."

15 Section 3. A new section of Chapter 50, Article 4 NMSA
16 1978 is enacted to read:

17 "DOMESTIC ABUSE LEAVE REQUIRED--RETALIATION
18 PROHIBITED.--An employer shall grant an employee domestic
19 abuse leave without interfering with, restraining or denying
20 exercise of rights under the Promoting Financial Independence
21 for Victims of Domestic Abuse Act or attempting to do so.
22 Retaliation against an employee for using domestic abuse
23 leave is prohibited."

24 Section 4. A new section of Chapter 50, Article 4 NMSA
25 1978 is enacted to read:

1 "CERTIFICATION--VERIFICATION.--

2 A. When domestic abuse leave is taken in an
3 emergency, the employee or the employee's designee shall give
4 notice to the employer within twenty-four hours of commencing
5 the domestic abuse leave.

6 B. An employer may require verification of the
7 need for domestic abuse leave, and, if so, an employee shall
8 provide one of the following forms of verification through
9 furnishing in a timely fashion:

10 (1) a police report indicating that the
11 employee or a family member was a victim of domestic abuse;

12 (2) a copy of an order of protection or
13 other court evidence produced in connection with an incident
14 of domestic abuse, but the document does not constitute a
15 waiver of confidentiality or privilege between the employee
16 and the employee's advocate or attorney; or

17 (3) the written statement of an attorney
18 representing the employee, a district attorney's victim
19 advocate, a law enforcement official or a prosecuting
20 attorney that the employee or employee's family member
21 appeared or is scheduled to appear in court in connection
22 with an incident of domestic abuse."

23 Section 5. A new section of Chapter 50, Article 4 NMSA
24 1978 is enacted to read:

25 "IMPACT OF DOMESTIC ABUSE LEAVE ON OTHER EMPLOYEE

1 BENEFITS.--

2 A. For domestic abuse leave, an employee may use
3 accrued sick leave or other available paid time off,
4 compensatory time or unpaid leave time consistent with the
5 employer's policies.

6 B. To the extent permitted by law, an employer
7 shall not withhold pay, health coverage insurance or another
8 benefit that has accrued to the employee when an employee
9 takes domestic abuse leave. An employer shall not include
10 time taken for domestic abuse leave in calculating
11 eligibility for benefits."

12 Section 6. A new section of Chapter 50, Article 4 NMSA
13 1978 is enacted to read:

14 "CONFIDENTIALITY.--An employer shall not disclose
15 verification information provided under Subsection B of
16 Section 4 of the Promoting Financial Independence for Victims
17 of Domestic Abuse Act and shall maintain confidentiality of
18 the fact that the employee or employee's family member was
19 involved in a domestic abuse incident, that the employee
20 requested or obtained domestic abuse leave and that the
21 employee made any written or oral statement about the need
22 for domestic abuse leave. An employer may disclose an
23 employee's information related to domestic abuse leave only
24 when the employee consents, when a court or administrative
25 agency orders the disclosure or when otherwise required by

1 federal or state law."

2 Section 7. A new section of Chapter 50, Article 4 NMSA
3 1978 is enacted to read:

4 "ENFORCEMENT.--

5 A. The workforce solutions department is
6 authorized to enforce the Promoting Financial Independence
7 for Victims of Domestic Abuse Act and to investigate
8 complaints made by persons who claim to be aggrieved pursuant
9 to the provisions of that act.

10 B. The workforce solutions department and the
11 employee have the right to bring an action in violation of
12 the Promoting Financial Independence for Victims of Domestic
13 Abuse Act in a court of competent jurisdiction to enjoin
14 further violations, recover actual damages sustained or both,
15 together with costs and reasonable attorney fees."

16 Section 8. A new section of Chapter 50, Article 4 NMSA
17 1978 is enacted to read:

18 "EFFECT ON OTHER LAWS AND EXISTING EMPLOYMENT
19 BENEFITS.--

20 A. Remedies in this section are provided in
21 addition to other common law, federal or state remedies.

22 B. Nothing in the Promoting Financial Independence
23 for Victims of Domestic Abuse Act shall supersede any
24 provision of law or contract that provides greater rights
25 than the rights established under that act.

1 C. The rights provided in the Promoting Financial
2 Independence for Victims of Domestic Abuse Act shall not
3 diminish an employer's obligation to provide greater rights
4 in compliance with another contract, collective bargaining
5 agreement or employment benefit program, policy or plan."

6 Section 9. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2009. _____

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Approved by me this 19th day of March, 2009

Bill Richardson

Governor Bill Richardson
State of New Mexico