



SHRIVER CENTER

Sargent Shriver National Center on Poverty Law

Taking action to end poverty

May 12, 2010

The Honorable Senator Richard J. Durbin
309 Hart Senate Bldg.
Washington, DC 20510

Dear Senator Durbin,

The Sargent Shriver National Center on Poverty Law (Shriver Center) writes in strong support of the reauthorization of the Violence Against Women Act (VAWA), and particularly in support of adding workplace protections to VAWA to assist survivors of domestic violence, sexual violence, dating violence and stalking in maintaining economic security. Located in Chicago, Illinois, the Shriver Center is a national resource that champions law and policy promoting equal opportunity and support for low-income individuals, families and communities so that they can escape from poverty permanently. Our work includes finding reasonable solutions to issues, such as domestic and sexual violence, that can be barriers to obtaining and maintaining employment.

Workplace protections for survivors are a crucial element in helping them maintain economic security, especially against the backdrop of the recession. Although past reauthorizations of VAWA have created and funded important resources to assist survivors, many survivors remain unable or unwilling to access these services because revealing their status as survivors of violence, or asking for time off or other necessary workplace modifications, could jeopardize their continued employment. Many survivors are too afraid of losing desperately needed jobs to ask for time off to obtain an order of protection, relocate, seek medical treatment, or to take other essential steps to ensure their safety. And when survivors are fired or leave a job due to the violence, they frequently return to their abuser for economic support if they are unable to find another source of income, such as unemployment insurance benefits.

I speak from experience when I say that anti-discrimination and leave provisions are critically important to enabling survivors and their families to safely separate from a dangerous situation. Illinois was the first state to enact such protections in 2003, in the Victims' Economic Security and Safety Act (VESSA). I drafted the language and advocated for the passage of VESSA. I know our law is one of the most comprehensive in the country. At the implementation level, the law has not proven to be overly burdensome to employers. Consequently, its protections were broadened in 2009. Since August, 2003, our state Department of Labor has had 128 complaints filed. The majority (76), have related to discrimination, 29 are for leave, and 11 are a combination of leave and discrimination

Even our law does not cover every survivor, and not every state is as proactive as Illinois. It is crucial that there be a comprehensive federal response because survivors needs do not vary significantly across state lines and a survivor's ability to keep a job shouldn't depend on where she or he happens to live.

VESSA and eligible employees

VESSA covers full-time and part-time employees who are survivors of domestic or sexual violence, or who have a family or household member who is a survivor of domestic or sexual violence. Covered employees include those who work for the state or any agency of the state; any unit of local government or school district; or a private employer that employs 15 or more employees. However, there are gaps in protection, and I receive many calls from one group that is not protected by our state's law – federal employees who live and work in Illinois.

VESSA and anti-discrimination

VESSA prohibits covered employers from discrimination regarding the conditions or privileges of employment based on an employee's status as a survivor of domestic or sexual violence, or as an employee with a family or household member who is a survivor of domestic or sexual violence, or based on any request for leave or other accommodations. Discrimination is also prohibited if an employee requests or takes leave for any allowable reason under the law; and reasonable accommodations must be made in a timely fashion.

VESSA and unpaid leave

The law also permits eligible employees to take up to 12 workweeks of unpaid, job-guaranteed leave during any 12-month period to deal with domestic violence, sexual violence, dating violence, or stalking. An employee or a member of the employee's family or household may be the violence survivor. The employee may take leave to seek medical attention, legal assistance, and remedies such as an order of protection or civil no-contact order, counseling, safety planning, to relocate, to recover from physical and psychological injuries or for other specified purposes. Under the amended law, an employee who works for a private employer with 50 or more employees remains eligible for up to 12 workweeks of unpaid, job-guaranteed leave. An employee who works for a private employer with between 15 and 49 employees is eligible for up to 8 workweeks of unpaid, job-guaranteed leave during any 12-month period. The amount of leave cannot be reduced during that 12-month period, even if there is a decrease in the number of employees.

Implementation

While employers feared the worst when the bill was being debated, there have been no significant problems since enactment. The law has not proven burdensome to employers or flooded state agencies and courts with lawsuits. To date, the Illinois Department of Labor reports that only 128 complaints have been filed pursuant to the law. The majority (76) are claims of employment discrimination; 29 are complaints related to the leave provision, and 11 complaints involve a combination of leave and employment discrimination. It has been my experience that most cases settle before a formal complaint is ever filed, because many of the reported problems stem from the employers' lack of knowledge about the law rather than resistance. Employers generally agree to comply once they are informed about the law's provisions. While more outreach to and education for both employers and employees would always be helpful, I can confidently state that since its enactment VESSA has been a valuable tool; it has prevented employees from getting fired simply because they were survivors, and it has afforded survivors the opportunity to stay employed and escape violence.

In light of our experience in Illinois, we strongly believe that establishing similar workplace protections for survivors of violence at the federal level is vitally important. Existing federal proposals (see S. 1740, the SAFE Act) would enhance existing state protections by assisting those who are currently not covered by state law. It would also greatly extend efforts to educate all relevant stakeholders - employers, survivors, unions and government agencies - about these important workplace issues.

Thank you for your consideration. If you have any questions or concerns, do not hesitate to contact me at 312-368-3303 or wendypollack@povertylaw.org.

Sincerely,

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cc: Senator Patrick Leahy