

Approved: 4/2/08
Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:19 A.M. on March 14, 2008 in Room 784 of the DSOB.

All members were present except:

Kasha Kelley-excused
Brenda Landwehr- excused
Ronnie Metsker-excused
Candy Ruff-excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Renaë Jefferies, Office of Revisor of Statutes
Stephen Bainum, Committee Assistant

Others attending: See attached list.

Representative Grant made a motion that the minutes for 3/12/08 and 3/13/08 be approved. It was seconded by Representative Ruiz and the motion carried.

The Chairman called for action on SB 461 Employment security law; requiring wage reports, contribution returns and making certain payments. Renaë Jefferies gave a refresher on the bill.

Representative Grant made a motion that SB 461 be passed and Representative Roth seconded the motion. There was no discussion and the motion passed.

The Chairman called for action on SB 612 Discrimination in employment; victims of domestic violence and sexual abuse; authorizing enforcement and rules and regulations authority for the secretary of labor. Renaë Jefferies gave an overview of SB 612 (Attachment 1).

Representative Goico introduced an amendment to SB 612 for racial discrimination.

Renaë explained that the amendment is mirrored after the domestic violence and sexual assault statute. It adds an insert saying that the victim must supply proof within 48 hours that the violence was based on race, color, ethnicity or national origin of the victim. Such a victim may take off work to obtain a restraining order or to restore the health, safety and welfare of the victim or the victims child or children, to seek medical attention, to obtain therapy services or make court appearances.

Representative Tietze asked if the insert means that female victims are taken out of this bill. Renaë replied that no, the statutes that control domestic or sexual violence are still there. This is simply a separate section within **SB 612** that deals with racial discrimination.

Representative Ruiz asked a question about FMLA. Is this insert going to allow doctor visits or is this in addition to the unpaid leave in the Family Medical Leave Act? Renaë thought that if a person was taking time off under FMLA the time would count for both of them. Representative Ruiz also mentioned that confidentiality rules can require an employee with a history of absences be seen by the company doctor. Does the insert have that also? Renaë said that there is nothing in the insert about the company doctor, however subsection (c) does state that anything pertaining to this insert is confidential.

Representative Pauls said the Federal Act trumps anything we do. We have had the domestic violence act in place since we passed it in 2006 and we have not heard any complaints or concerns about confidentiality. Any complaint would come up on a hearing of unemployment compensation.

Representative Goico said that if you have a bargaining contract then this bill is not necessary. This is for employees without a union bargaining contract. They often can be fired for not showing up for a couple of days. This bill gives them some protection.

Representative Kiegerl said that he had a conceptual problem with the amendment. Anyone who has been

CONTINUATION SHEET

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physically attacked should be covered by whatever is in this bill. Could we not say that if you are a victim of violence you are covered?

Representative Goico said that basically this addresses victims of hate crimes.

Representative Kiegerl said that he just wanted to ask if we needed to go into this great detail. I have no problem supporting the amendment.

Representative Pauls said that in 2006 when we passed the domestic violence bill there were a lot of employers that were hostile to that and thought it would be a real burden on them, but it has turned out not to be a problem. If we are going to extend this to people who are victims of physical violence because of racial discrimination it will not be a problem. It might be better to do a small extension like this and see how it works out for employers.

Representative Brunk asked if we are treating racial discrimination the same as domestic violence in the base bill. Renae said that the only difference is the amount of time to supply documentation. Representative Brunk asked if we need to treat them equally so that we don't have different time frames for different offences. Renae said that she would need three amendments to make them all the same time frame.

Representative Goico said that he would make the motion to amend the bill to expand the time frames of the entire statute.

Representative Huntington asked if the amendment would change the maximum number of days that can be excused for an absence. Renae said no it does not require an excuse for more than 8 days.

Representative Ruiz said that under the eight days rule the employee often only needs to use a couple of hours or a half of a day at a time. Can we change it to 64 hours?

Representative Huntington seconded the motion. The Chairman asked since Representative Pauls was carrying the bill on the floor to explain exactly where we are on the motion. There was no further discussion.
The motion carried.

We are back on the bill as amended.

Representative Ruiz made a motion to break it down to 8 days and in parenthesis 64 hours. That way the benefit can be broken down by hours or days. **Representative Tietze seconded the motion.**

Representative Pauls suggested that we make it 8 days as defined by the employment agreement or 64 hours at the option of the employee.

Representative Grange said that some employers have difficulty keeping track of time in their accounting process by hours. If we require it in statutes that you break it down by hours it might be a problem for some companies. We might be micro managing the issue.

Representative Pauls said that we have not heard any complaints from employers about this and we have no indication that it has been a problem for employees.

Representative Goico said that too many details would kill the bill.

Representative Ruiz withdrew the amendment.

Representative Goico made a motion that we pass the bill as amended favorable for passage.
Representative Ruiz seconded the motion. The motion passed.

The Chairman said that we are on call of chair next week and adjourned the meeting at 10:18 AM.

SENATE BILL No. 612

By Committee on Commerce

2-13

Representative Goico
Balloon Amendment
March 14, 2008

House Commerce & Labor
Date: 3-14-08
Attachment # 1

9 AN ACT concerning discrimination in employment; relating to domestic
10 ~~violence and sexual abuse victims~~; authorizing enforcement by the sec-
11 retary of labor.
12

to excused and unexcused absences

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. The secretary of labor shall enforce K.S.A. 2007 Supp. 44-
15 1131 ~~and 44-1132~~, and amendments thereto, and may adopt rules and
16 regulations necessary to implement the provisions of K.S.A. 2007 Supp.
17 44-1131 ~~and 44-1132~~, and amendments thereto.

44-1132 and section 2

18 Sec. 2. This act shall take effect and be in force from and after its
19 publication in the statute book.

See Insert "A" attached

And by renumbering the remaining section accordingly

Sec. 2. (a) An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of physical violence where the offense was motivated entirely or in part by the race, color, religion, ethnicity or national origin of the victim or the perpetrator was motivated by the perpetrator's belief or perception, entirely or in part, of the race, color, religion, ethnicity or national origin of the victim, whether or not the perpetrator's belief or perception was correct, for taking time off from work to:

(1) Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child or children;

(2) seek medical attention for injuries caused by the physical violence;

(3) obtain therapy services as a result of the physical violence; or

(4) make court appearances in the aftermath of the physical violence.

(b) (1) As a condition of taking time off for a purpose set forth in subsection (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless such advance notice is not feasible. Within 48 hours after returning from the requested time off, the employee shall provide documentation which may include, but is not limited to, that described in subsection (b)(2) to support taking time

off for a purpose set forth in subsection (a).

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within seven days after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following:

(A) A police report indicating that the employee was a victim of physical violence;

(B) a court order protecting or separating the employee from the perpetrator of an act of physical violence, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or

(C) documentation from a medical professional, therapist, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of physical violence.

(c) To the extent allowed by law, the employer shall maintain the confidentiality of any employee requesting leave under subsection (a), as well as the confidentiality of any supporting documentation provided by the employee to the employer relating to a purpose set forth in subsection (a).

(d) An employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, as time off for a purpose specified in subsection (a), unless a longer period of time is otherwise available to an employee under the applicable terms of employment or is provided by a collective bargaining

agreement. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(e) As used in this section: "Physical violence" means any crime defined in K.S.A. 21-3412, 21-3412a, 21-3413, 21-3414 or 21-3415, and amendments thereto.