## HOUSE BILL 578

## 47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Gail C. Beam

AN ACT

RELATING TO CRIME VICTIMS; REQUIRING EMPLOYERS TO GRANT EMPLOYMENT LEAVE TO CRIME VICTIMS FOR ATTENDING COURT PROCEEDINGS.

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

Section 1. A new section of the Victims of Crime Act is enacted to read:

"[NEW MATERIAL] CRIME VICTIM EMPLOYMENT LEAVE-CONFIDENTIALITY.--

A. An employer that has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year shall allow an employee who is a victim to leave work to exercise the employee's right to be present at proceedings that the victim has a right to attend.

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- В. An employer shall not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to Subsection A of this section.
- An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to Subsection A of this section.
- If an employee leaves work pursuant to Subsection A of this section, the employee may elect to use or an employer may require the employee to use the employee's annual, vacation, personal or sick leave.
- An employee who is a victim of a crime shall not lose seniority or precedence while absent from employment pursuant to Subsection A of this section.
- Before an employee may leave work pursuant to Subsection A of this section, the employee shall:
- provide the employer with a copy of the documents provided by the district attorney pursuant to the provisions of Section 31-26-9 NMSA 1978; and
- if applicable, give the employer a copy of the notice of each scheduled proceeding that is provided to the victim.
- An employer shall not refuse to employ, G. discharge from employment or discriminate against an employee in the terms, conditions or privileges of employment because the employee exercises rights pursuant to this section.

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- H. An employer shall keep confidential all records, documents and other information regarding the employee's leave pursuant to this section.
- I. An employer may limit the leave provided pursuant to this section if the employee's leave creates an undue hardship to the employer's business.
- J. If a victim notifies the district attorney that exercising the victim's right to leave under this section would create an undue hardship for the victim's employer, the district attorney shall communicate that notice to the court during the scheduling of proceedings where the victim has the right to be present. Whenever possible, the court shall take the victim's schedule into consideration when scheduling a proceeding.
- K. As used in this section, "undue hardship" means significant difficulty and expense to a business, taking into account the size and nature of the business and the employer's need of the employee."
- Section 2. Section 31-26-1 NMSA 1978 (being Laws 1994, Chapter 144, Section 1) is amended to read:
- "31-26-1. SHORT TITLE.--[This act] Chapter 31, Article 26

  NMSA 1978 may be cited as the "Victims of Crime Act"."
- Section 3. REPEAL.--Section 31-26-2 NMSA 1978 (being Laws 1994, Chapter 144, Section 2) is repealed.