AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. A new section of Chapter 50, Article 4 NMSA 1978 is enacted to read:
"CERTIFICATION--VERIFICATION.--

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

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

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

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

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

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

"IMPACT OF DOMESTIC ABUSE LEAVE ON OTHER EMPLOYEE
BENEFITS.--

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

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

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

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

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

"ENFORCEMENT.--

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

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

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

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

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

B. Nothing in the Promoting Financial Independence for Victims of Domestic Abuse Act shall supersede any provision of law or contract that provides greater rights than the rights established under that act."
C. The rights provided in the Promoting Financial Independence for Victims of Domestic Abuse Act shall not diminish an employer's obligation to provide greater rights in compliance with another contract, collective bargaining agreement or employment benefit program, policy or plan."

Section 9. EFFECTIVE DATE.—The effective date of the provisions of this act is July 1, 2009.