

2016 Regular Session

HOUSE BILL NO. 545

BY REPRESENTATIVE HUNTER

EMPLOYMENT/DISCRIMINATION: Prohibits discrimination in employment of victims of domestic abuse, dating violence, or family violence

1 AN ACT

2 To amend and reenact R.S. 23:302 and to enact R.S. 23:335, relative to discrimination in  
3 employment for the victims of domestic abuse, dating violence, or family violence;  
4 to prohibit discrimination against an employee who is a victim of domestic abuse,  
5 dating violence, or family violence in certain circumstances; to provide for  
6 acceptable reasons for absence from work; to provide definitions; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 23:302 is hereby amended and reenacted and R.S. 23:335 is hereby  
10 enacted to read as follows:

11 §302. Definitions

12 For purposes of this Chapter and unless the context clearly indicates  
13 otherwise, the following terms shall have the following meanings ascribed to them:

14 (1) "Dating violence" includes but is not limited to physical or sexual abuse  
15 and any offense against the person, as defined in the Louisiana Criminal Code except  
16 negligent injury and defamation, committed by one dating partner against the other.

17 (2) "Domestic abuse" includes but is not limited to physical or sexual abuse  
18 and any offense against the person, physical or non-physical, as defined in the  
19 Louisiana Criminal Code except negligent injury and defamation, committed by one  
20 family member, household member, or dating partner against another.

1           ~~(1)~~ (3) "Employee" means an individual employed by an employer.

2           ~~(2)~~ (4) "Employer" means a person, association, legal or commercial entity,  
3           the state, or any state agency, board, commission, or political subdivision of the state  
4           receiving services from an employee and, in return, giving compensation of any kind  
5           to an employee. The provisions of this Chapter shall apply only to an employer who  
6           employs twenty or more employees within this state for each working day in each  
7           of twenty or more calendar weeks in the current or preceding calendar year.  
8           "Employer" shall also include an insurer, as defined in R.S. 22:46, with respect to  
9           appointment of agents, regardless of the character of the agent's employment. This  
10          Chapter shall not apply to the following:

11           (a) Employment of an individual by a parent, spouse, or child or to  
12          employment in the domestic service of the employer.

13           (b) Employment of an individual by a private educational or religious  
14          institution or any nonprofit corporation, or the employment by a school, college,  
15          university, or other educational institution or institution of learning of persons having  
16          a particular religion if the school, college, university, or other educational institution  
17          or institution of learning is, in whole or in substantial part, owned, supported,  
18          controlled, or managed by a particular religion or by a particular religious  
19          corporation, association, or society, or if the curriculum of the school, college,  
20          university, other educational institution, or institution of learning is directed toward  
21          the propagation of a particular religion.

22           ~~(3)~~ (5) "Employment agency" means any person or agency, public or private,  
23          regularly undertaking, with or without compensation, the procurement of employees  
24          for an employer or the procurement of opportunities for employees to work for an  
25          employer.

26           (6) "Family violence" includes but is not limited to physical or sexual abuse  
27          and any offense against the person, as defined in the Louisiana Criminal Code, R.S.  
28          14:1, except negligent injury and defamation, committed by one parent against the  
29          other parent or against any of the children. Family violence does not include any

1 reasonable acts of self-defense utilized by one parent to protect himself or a child in  
2 the family from the family violence of the other parent.

3 ~~(4)~~ (7) "Genetic monitoring" means the periodic examination of employees  
4 to evaluate acquired modifications to their genetic material, such as chromosomal  
5 damage or evidence of increased occurrence of mutations, that may have developed  
6 in the course of employment due to exposure to toxic substances in the workplace,  
7 in order to identify, evaluate, respond to the effects of, or control adverse  
8 environmental exposures in the workplace.

9 ~~(5)~~ (8) "Genetic services" means health services, including genetic tests,  
10 provided to obtain, assess, or interpret genetic information for diagnostic or  
11 therapeutic purposes, or for genetic education or counseling.

12 ~~(6)~~ (9) "Genetic test" means the analysis of human DNA, RNA,  
13 chromosomes, and those proteins and metabolites used to detect heritable or somatic  
14 disease-related genotypes or karyotypes for clinical purposes. A genetic test must  
15 be generally accepted in the scientific and medical communities as being specifically  
16 determinative for the presence, absence, or mutation of a gene or chromosome in  
17 order to qualify under this definition. Genetic test does not include a routine  
18 physical examination or a routine analysis, including but not limited to a chemical  
19 analysis, of body fluids, unless conducted specifically to determine the presence,  
20 absence, or mutation of a gene or chromosome.

21 ~~(7)~~ (10) "Labor organization" means any organization which exists for the  
22 purpose, in whole or in part, of collective bargaining or of dealing with employers  
23 concerning grievances, terms, or conditions of employment, or for other mutual aid  
24 or protection in relation to employment or any agent acting for such an organization.

25 ~~(8)~~ (11) "Protected genetic information" means information about an  
26 individual's genetic tests, the genetic tests of an individual's family members, or the  
27 occurrence of a disease, or medical condition or disorder in family members of the  
28 individual.

29 \* \* \*

1        §335. Discrimination of a victim of domestic abuse, dating violence, or family  
2                    violence; procedures for leave; definitions; exceptions

3                    A. No employer shall discharge, threaten to discharge, demote, suspend,  
4                    discipline, retaliate against, or otherwise discriminate against an employee who is a  
5                    victim of domestic abuse, dating violence, or family violence for taking leave for any  
6                    of the following reasons:

7                    (1) To appear in court to comply with a subpoena or other court order as a  
8                    witness in any judicial proceeding relative to the crime in which the employee is a  
9                    victim.

10                    (2) To obtain or attempt to obtain any relief, including but not limited to a  
11                    temporary restraining order, restraining order, or other injunctive relief to help  
12                    ensure the health, safety, or welfare of the victim or his child.

13                    (3) To obtain medical treatment for physical or mental injuries or abuse  
14                    resulting in victimization from an act of domestic abuse, dating violence, or family  
15                    violence for the victim himself or for his child.

16                    (4) To obtain services from a domestic violence shelter, program, or rape  
17                    crisis center as a result of domestic abuse, dating violence, or family violence.

18                    (5) To obtain psychological counseling related to an experience of domestic  
19                    abuse, dating violence, or family violence.

20                    (6) To participate in safety planning and take other actions to increase safety  
21                    from future domestic abuse, dating violence, or family violence, including temporary  
22                    or permanent relocation.

23                    B. As a condition of taking leave for a purpose set forth in Subsection A of  
24                    this Section, the employee shall give the employer reasonable advance notice of the  
25                    his intention to take time off, unless the advance notice is not feasible.

26                    C. When an unscheduled absence occurs, the employer shall not take any  
27                    action against the employee if the employee, within a reasonable time after the  
28                    absence, provides a certification to the employer. Certification shall be sufficient in  
29                    the form of any of the following:

1           (1) A police report indicating that the employee was a victim of domestic  
2           abuse, dating violence, or family violence.

3           (2) A court order or injunction protecting or separating the employee from  
4           the perpetrator of an act of domestic abuse, dating violence, or family violence, or  
5           other evidence from the court or prosecuting attorney that the employee has appeared  
6           in court.

7           (3) Documentation from a licensed healthcare provider or counselor that the  
8           employee was undergoing treatment for physical or mental injuries or abuse resulting  
9           in victimization from an act of domestic abuse, dating violence, or family violence.

10           D. An employer shall not be responsible for discrimination based upon his  
11           actions against the absences of a victim of domestic abuse, dating violence, or family  
12           violence if the employee has not disclosed that he is a victim of such violence.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 545 Original

2016 Regular Session

Hunter

**Abstract:** Prohibits an employer from discharging, threatening to discharge, demoting, suspending, disciplining, retaliating against, or otherwise discriminating against an employee who is a victim of domestic abuse, dating violence, or family violence for taking leave to deal with issues relating to the abuse.

Present law provides definitions relative to discrimination in employment. Proposed law adds definitions for "dating violence", "domestic abuse", and "family violence".

Proposed law prohibits an employer from discharging, threatening to discharge, demoting, suspending, disciplining, retaliating against, or otherwise discriminating against an employee who is a victim of domestic abuse, dating violence, or family violence for taking leave to deal with any of the following issues:

- (1) To appear in court as a result the crime in which the employee is a victim.
- (2) To obtain injunctive relief on behalf of himself or his child.
- (3) To obtain medical treatment for injuries or abuse from an act of domestic abuse, dating violence, or family violence for the victim himself or for his child.
- (4) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic abuse, dating violence, or family violence.

- (5) To obtain psychological counseling related to an experience of domestic abuse, dating violence, or family violence
- (6) To take actions to increase safety from future domestic abuse, dating violence, or family violence, including temporary or permanent relocation.

Proposed law requires that in order to be excused from his absence at work, the employee supply a certification from the facility lending aid during the time of absence.

Proposed law provides that an employer is not responsible for action in response to absences of a victim of domestic abuse, dating violence, or family violence if the employer did not know that the employee is a victim of such violence.

(Amends R.S. 23:302; Adds R.S. 23:335)