

1 **BOARD BILL NO. 261** **INTRODUCED BY**
2 **ALDERWOMAN MEGAN-ELLYIA GREEN,**
3 **ALDERWOMAN CARA SPENCER, ALDERWOMAN CAROL HOWARD,**
4 **ALDERMAN LARRY ARNOWITZ, ALDERMAN CHRIS CARTER,**
5 **AND PRESIDENT LEWIS E. REED**

6 An ordinance requiring employers to provide unpaid leave for victims of domestic
7 violence, sexual violence, and stalking; containing definitions; violations; a penalty
8 clause; and a severability clause.

9 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

10 **SECTION ONE. Definitions.**

11 As used in this Ordinance the following terms and phrases shall be taken to have
12 the meaning ascribed to them in this section, to wit:

13 (1) "Director": the Executive Director of the St. Louis Civil Rights Enforcement
14 Agency;

15 (2) "Domestic violence": the same meaning as in section 455.010 of the Revised
16 Statutes of Missouri;

17 (3) "Employ": the act of employing or state of being employed, engaged, or hired
18 to perform work or services of any kind or character within the City of St. Louis;

19 (4) "Employee": any person performing work or service of any kind or character
20 for hire within the City of St. Louis;

21 (5) "Employer": the City or any agency of the City, a political subdivision of the
22 City, or any person or entity that employs at least fifteen employees;

1 (6) "Employee benefit plan" or "plan": an employee welfare benefit plan or an
2 employee pension benefit plan or a plan which is both an employee welfare benefit plan
3 and an employee pension benefit plan;

4 (7) "Employment benefits": all benefits provided or made available to employees
5 by an employer, including group life insurance, health insurance, disability insurance,
6 sick leave, annual leave, educational benefits, pensions, and profit-sharing, regardless of
7 whether such benefits are provided by a practice or written policy of an employer or
8 through an "employee benefit plan";

9 (8) "Family or household member," for employees with a family or household
10 member who is a victim of domestic violence: a spouse, parent, son, daughter, other
11 person related by blood or by present or prior marriage, other person who shares a
12 relationship through a son or daughter, and persons jointly residing in the same
13 household;

14 (9) "Parent": the biological parent of an employee or an individual who stood in
15 loco parentis to an employee when the employee was a son or daughter;

16 (10) "Person": an individual, partnership, association, corporation, business trust,
17 legal representative, or any organized group of persons;

18 (11) "Public agency": the government of the City or political subdivision thereof,
19 any agency of the City, or of a political subdivision of the City, or any governmental
20 agency;

1 (12) "Public assistance" includes cash, food stamps, medical assistance, housing
2 assistance, and other benefits provided on the basis of income by a public agency or
3 public employer;

4 (13) "Qualified individual", in the case of

5 (a) An applicant or employee of an employer: an individual who,
6 but for being a victim of domestic violence or with a family or
7 household member who is a victim of domestic violence, can
8 perform the essential functions of the employment position that
9 such individual holds or desires; or

10 (b) An applicant for or recipient of public assistance from a public
11 agency: an individual who, but for being a victim of domestic
12 violence or with a family or household member who is a victim
13 of domestic violence, can satisfy the essential requirements of
14 the program providing the public assistance that the individual
15 receives or desires;

16 (14) "Reasonable accommodation": an adjustment to a job structure, workplace
17 facility, or work requirement, including a transfer, reassignment, modified schedule,
18 leave, a changed telephone number or seating assignment, installation of a lock,
19 implementation of a safety procedure, or assistance in documenting domestic violence
20 that occurs at the workplace or in work-related settings, in response to actual or
21 threatened domestic violence. Any exigent circumstances or danger facing the employee

1 or his or her family or household member shall be considered in determining whether the
2 accommodation is reasonable;

3 (15) "Reduced work schedule": a work schedule that reduces the usual number of
4 hours per workweek, or hours per workday, of an employee;

5 (16) "Sexual violence": any act of rape, sexual assault, sexual abuse, or stalking of
6 an adult or minor child, including but not limited to non-consensual sexual conduct or
7 non-consensual sexual penetration and the offenses of rape, child molestation, sexual
8 misconduct, or sexual abuse as those offenses are described in Chapter 566 of the
9 Revised Statutes of Missouri.

10 (17) "Son or daughter": a biological, adopted, or foster child, a stepchild, a legal
11 ward, or a child of a person standing in loco parentis, who is under eighteen years of age,
12 or is eighteen years of age or older and incapable of self-care because of a mental or
13 physical disability;

14 (18) "Stalking": first-degree or second-degree stalking as defined in Chapter 565
15 of the Revised Statutes of Missouri.

16 (19) "Undue hardship": significant difficulty or expense, when considered in light
17 of the following factors:

- 18 (a) The nature and cost of the reasonable accommodation;
- 19 (b) The overall financial resources of the facility involved in the
20 provision of the reasonable accommodation, the number of
21 persons employed at such facility, the effect on expenses and

1 resources, or the impact otherwise of such accommodation on
2 the operation of the facility;

3 (c) The overall financial resources of the employer or public
4 agency, the overall size of the business of an employer or
5 public agency with respect to the number of employees of the
6 employer or public agency, and the number, type, and location
7 of the facilities of an employer or public agency; and

8 (d) The type of operation of the employer or public agency,
9 including the composition, structure, and functions of the
10 workforce of the employer or public agency, the distance of the
11 facility from the employer or public agency, and the
12 administrative or fiscal relationship of the facility to the
13 employer or public agency;

14 (20) "Victim": an individual who has been subjected to domestic violence, sexual
15 violence, or stalking;

16 (21) "Victim services organization": a nonprofit, nongovernmental organization
17 that provides assistance to victims of domestic violence, sexual violence, or stalking; or
18 advocates for such victims, including a rape crisis center, an organization carrying out a
19 domestic violence program, an organization operating a shelter or providing counseling
20 services, or a legal services organization or other organization providing assistance
21 through the legal process;

1 (22) "Work": any job, task, labor, services, or any other activity for which
2 compensation is provided, expected, or due.

3 **SECTION TWO. Leave Requirements.**

4 1. An employee who is a victim of domestic violence, sexual violence, or
5 stalking, or has a family or household member who is a victim of domestic violence,
6 sexual violence, or stalking whose interests are not adverse to the employee as it relates
7 to the domestic violence, sexual violence, or stalking may take unpaid leave from work to
8 address such violence by:

9 (1) Seeking medical attention for, or recovering from, physical or
10 psychological injuries caused by domestic violence, sexual violence, or
11 stalking to the employee or the employee's family or household member;

12 (2) Obtaining services from a victim services organization for the
13 employee or the employee's family or household member;

14 (3) Obtaining psychological or other counseling for the employee
15 or the employee's family or household member;

16 (4) Participating in safety planning, temporarily or permanently
17 relocating, or taking other actions to increase the safety of the employee or
18 the employee's family or household member from future domestic
19 violence, sexual violence, stalking, or ensure economic security; or

20 (5) Seeking legal assistance or remedies to ensure the health and
21 safety of the employee or the employee's family or household member,

1 including preparing for or participating in any civil or criminal legal
2 proceeding related to or derived from domestic violence.

3 2. An employee working for an employer that employs at least fifty
4 employees shall be entitled to a total of two workweeks of leave under subsection 1 of
5 this section during any twelve-month period. An employee working for an employer that
6 employs at least fifteen but not more than forty-nine employees shall be entitled to a total
7 of one workweek of leave during any twelve-month period. The total number of
8 workweeks to which an employee is entitled shall not decrease during the relevant
9 twelve-month period. This Ordinance shall not create a right for an employee to take
10 unpaid leave that exceeds the amount of unpaid leave time allowed under the federal
11 Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

12 3. Leave described in this Ordinance may be taken intermittently or on a
13 reduced work schedule.

14 4. The employee shall provide the employer with at least forty-eight hours'
15 advance notice of the employee's intention to take leave, unless providing such notice is
16 not practicable. When an unscheduled absence occurs, the employer may not take any
17 action against the employee if the employee, upon request of the employer and within a
18 reasonable period after the absence, provides certification under subsection 5 of this
19 section.

20 5. The employer may require the employee to provide certification to the
21 employer that the employee or the employee's family or household member is a victim of
22 domestic violence, sexual violence, or stalking and that the leave is for one of the

1 purposes enumerated in subsection 1 of this section. The employee shall provide such
2 certification to the employer within a reasonable period after the employer requests
3 certification.

4 6. An employee may satisfy the certification requirement of subsection 5 of
5 this section by providing to the employer, a sworn statement of the employee and the
6 following:

7 (1) Documentation from an employee, agent, or volunteer of a
8 victim services organization, an attorney, a member of the clergy, or a
9 medical or other professional from whom the employee or the employee's
10 family or household member has sought assistance in addressing domestic
11 violence, sexual violence, or stalking and the effects of the violence;

12 (2) A police or court record; or

13 (3) Other corroborating evidence.

14 7. All information provided to the employer pursuant to subsection 6 of this
15 section including a statement of the employee or any other documentation, record, or
16 corroborating evidence, and the fact that the employee has requested or obtained leave
17 pursuant to this section, shall be retained in the strictest confidence by the employer,
18 except to the extent that disclosure is requested or consented to in writing by the
19 employee or otherwise required by applicable federal or state law.

20 8. Any employee who takes leave under this section shall be entitled, on
21 return from such leave, to be restored by the employer to the position of employment held

1 by the employee when the leave commenced or an equivalent position with equivalent
2 employment benefits, pay, and other terms and conditions of employment.

3 9. The taking of leave under this Ordinance shall not result in the loss of any
4 employment benefit accrued prior to the date on which the leave commenced. Nothing in
5 this section shall be construed to entitle any restored employee to the accrual of any
6 seniority or employment benefits during any period of leave or any right, benefit, or
7 position of employment other than any right, benefit, or position to which the employee
8 would have been entitled had the employee not taken the leave. Nothing in this section
9 shall be construed to prohibit an employer from requiring an employee on leave under
10 this section to report periodically to the employer on the status and intention of the
11 employee to return to work.

12 **SECTION THREE. Employment and Benefits.**

13 1. During any period that an employee takes leave under this Ordinance, the
14 employer shall maintain coverage for the employee and any family or household member
15 under any group health plan for the duration of such leave at the level and under the
16 conditions coverage would have been provided if the employee had continued in
17 employment continuously for the duration of such leave.

18 2. The employer may recover the premium that the employer paid for
19 maintaining coverage for the employee and the employee's family or household member
20 under such group health plan during any period of leave under this Ordinance if the
21 employee fails to return from leave after the period of leave to which the employee is
22 entitled has expired for a reason other than the continuation, recurrence, or onset of

1 domestic violence, sexual violence, or stalking that entitled the employee to leave under
2 this Ordinance; or other circumstances beyond the control of the employee.

3 3. An employer may require an employee who claims that the employee is
4 unable to return to work because of a reason described in subsection 2 of this section to
5 provide, within a reasonable period after making the claim, certification to the employer
6 that the employee is unable to return to work because of that reason by providing the
7 employer with:

8 (1) A sworn statement of the employee;

9 (2) Documentation from an employee, agent, or volunteer of a
10 victim services organization, an attorney, a member of the clergy, or a
11 medical or other professional from whom the employee has sought
12 assistance in addressing domestic violence, sexual violence, and stalking
13 and the effects of that violence;

14 (3) A police or court record; or

15 (4) Other corroborating evidence.

16 4. All information provided to the employer pursuant to subsection 3 of this
17 section, including a statement of the employee or any other documentation, record, or
18 corroborating evidence, and the fact that the employee is not returning to work because of
19 a reason described in subsection 2 of this section, shall be retained in the strictest
20 confidence by the employer, except to the extent that disclosure is requested or consented
21 to in writing by the employee; or otherwise required by applicable federal or state law.

1 **SECTION FOUR. Violations.**

2 1. It shall be unlawful for any employer to interfere with, restrain, or deny
3 the exercise of or the attempt to exercise any right provided under this Ordinance.

4 2. It shall be unlawful for any employer to discharge or harass any
5 individual, or otherwise discriminate against any individual with respect to compensation,
6 terms, conditions, or privileges of employment of the individual, including retaliation in
7 any form or manner, because the individual exercised any right provided under this
8 Ordinance or opposed any practice made unlawful by this Ordinance.

9 3. It shall be unlawful for any public agency to deny, reduce, or terminate the
10 benefits of, otherwise sanction, or harass any individual, or otherwise discriminate
11 against any individual with respect to the amount, terms, or conditions of public
12 assistance of the individual, including retaliation in any form or manner, because the
13 individual exercised any right provided under this Ordinance or opposed any practice
14 made unlawful by the Ordinance.

15 4. It shall be unlawful for any employer to discharge or in any other manner
16 discriminate, as provided in subsections 2 or 3 of this section, against any individual
17 because such individual has:

18 (1) Filed any charge, or has instituted or caused to be instituted any
19 proceeding under or related to this Ordinance;

20 (2) Given, or is about to give, any information in connection with
21 any inquiry or proceeding relating to any right provided under the

22 Ordinance; or

1 (3) Testified, or is about to testify, in any inquiry or proceeding
2 relating to any right provided under this Ordinance.

3 5. An employer shall not fail to hire, refuse to hire, discharge, constructively
4 discharge, or harass any individual, otherwise discriminate against any individual with
5 respect to the compensation, terms, conditions, or privileges of employment of the
6 individual, or retaliate against an individual in any form or manner, and a public agency
7 shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any
8 individual, otherwise discriminate against any individual with respect to the amount,
9 terms, or conditions of public assistance of the individual, or retaliate against an
10 individual in any form or manner, because:

11 (1) The individual involved is or is perceived to be a victim of
12 domestic violence, sexual violence, or stalking;

13 (2) The individual involved attended, participated in, prepared for,
14 or requested leave to attend, participate in, or prepare for a criminal or
15 civil court proceeding relating to an incident of domestic violence, sexual
16 violence, or stalking of which the individual or a family or household
17 member of the individual was a victim, or requested or took leave for any
18 other reason provided under this Ordinance; or

19 (3) The individual involved requested a reasonable accommodation
20 in response to actual or threatened domestic violence, sexual violence, or
21 stalking, regardless of whether the request was granted; or

1 (4) The workplace is disrupted or threatened by the action of a
2 person whom the individual states has committed or threatened to commit
3 domestic violence, sexual violence, or stalking against the individual or
4 the individual's family or household member.

5 **SECTION FIVE. Reasonable Accommodations.**

6 1. Employers and public agencies shall make reasonable accommodation, in
7 a timely manner, to the known limitations resulting from circumstances relating to being
8 a victim of domestic violence, sexual violence, or stalking or a family or household
9 member being a victim of domestic violence, sexual violence, or stalking of an otherwise
10 qualified individual:

11 (1) Who is:

- 12 (a) An applicant or employee of the employer; or
- 13 (b) An applicant for or recipient of public assistance from a
14 public agency; and

15 (2) Who is:

- 16 (a) A victim of domestic violence, sexual violence or
17 stalking; or
- 18 (b) With a family or household member who is a victim of
19 domestic violence, sexual violence, or stalking whose
20 interests are not adverse to the individual in this
21 subdivision as it relates to the domestic violence, sexual
22 violence, or stalking;

1 2. Subsection 1 of this section shall not apply if the employer or public
2 agency can demonstrate that the accommodation would impose an undue hardship on the
3 operation of the employer or public agency.

4 **SECTION SIX. Penalty.**

5 The City Counselor may investigate alleged or suspected violations of this
6 Ordinance. Any person who violates the provisions of this Ordinance shall be subject to
7 of a fine of not more than five hundred dollars (\$500.00) per violation.

8 **SECTION SEVEN. Notification.**

9 Every employer covered by sections this Ordinance shall post and keep posted, in
10 conspicuous places on the premises of the employer where notices to employees are
11 customarily posted, a notice, to be prepared or approved by the director, summarizing the
12 requirements of this Ordinance.

13 **SECTION EIGHT. Effect on other Laws and Employment Benefits.**

14 1. Nothing in this Ordinance shall be construed to supersede any provision of
15 any federal, state, or local law, collective bargaining agreement, or employment benefits
16 program or plan that provides:

17 (1) Greater leave benefits for victims of domestic violence, sexual
18 violence, or stalking than the rights established under this Ordinance; or

19 (2) Leave benefits for a larger population of victims of domestic
20 violence, sexual violence, or stalking, as defined in such law, agreement,
21 program, or plan, than the victims of domestic violence, sexual violence,
22 or stalking covered under this Ordinance.

1 2. The rights established for applicants and employees who are victims of
2 domestic violence, sexual violence, or stalking and applicants and employees with a
3 family or household member who is a victim of domestic violence, sexual violence, or
4 stalking under this Ordinance shall not be diminished by any federal, state or local law,
5 collective bargaining agreement, or employment benefits program or plan.

6 **SECTION NINE. Severability Clause.**

7 The provisions of this Ordinance shall be severable. In the event that any
8 provision of this Ordinance is found by a court of competent jurisdiction to be
9 unconstitutional, the remaining provisions of this Ordinance are valid unless the court
10 finds the valid provisions of this Ordinance are so essentially and inseparably connected
11 with, and so dependent upon, the void provision that it cannot be presumed that the Board
12 of Aldermen would have enacted the valid provisions without the void ones or unless the
13 Court finds that the valid provisions, standing alone, are incomplete and incapable of
14 being executed in accordance with the legislative intent.