

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 921

H.P. 640

House of Representatives, March 17, 2015

**An Act To Strengthen the Right of a Victim of Sexual Assault or
Domestic Violence To Take Necessary Leave from Employment**

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DAUGHTRY of Brunswick.
Cosponsored by Representatives: GIDEON of Freeport, HERBIG of Belfast, MAKER of Calais, POULIOT of Augusta, POWERS of Naples, TURNER of Burlington, Senators: KATZ of Kennebec, VOLK of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §850, sub-§1**, as amended by PL 2001, c. 685, §1, is further
3 amended to read:

4 **1. Required leave.** An employer must grant reasonable and necessary leave from
5 work, with or without pay, for an employee to:

6 A. Prepare for and attend court proceedings;

7 B. Receive medical treatment or attend to medical treatment for a victim who is the
8 employee's daughter, son, parent or spouse; or

9 C. Obtain necessary services to remedy a crisis caused by domestic violence, sexual
10 assault or stalking.

11 The leave must be needed because the employee or the employee's daughter, son, parent
12 or spouse is a victim of violence, assault, sexual assaults under Title 17-A, chapter 11,
13 stalking or any act that would support an order for protection under Title 19-A, chapter
14 101. ~~An employer may not sanction an employee or deprive an employee of pay or~~
15 ~~benefits for exercising a right granted by this section.~~

16 **Sec. 2. 26 MRSA §850, sub-§3**, as enacted by PL 1999, c. 435, §1, is repealed.

17 **Sec. 3. 26 MRSA §850, sub-§§3-A to 3-C** are enacted to read:

18 **3-A. Restoration of employment.** An employer of an employee who exercises the
19 right to take leave under subsection 1 shall upon the expiration of the leave restore the
20 employee to the employment position that the employee occupied upon commencement
21 of the leave or to a position of equivalent employment status, including equivalent
22 seniority, benefits, wages and any other term or condition of employment.

23 **3-B. Prohibited acts.** An employer may not:

24 A. Discriminate or retaliate against an employee who exercises a right granted by
25 this section;

26 B. Discharge, coerce, intimidate, threaten or interfere with an employee exercising a
27 right granted by this section;

28 C. Discharge, coerce, intimidate, threaten or interfere with another employee who is
29 assisting an employee in exercising a right under this section or for opposing any act
30 on the part of the employer that violates this section; or

31 D. Oppose or discriminate or retaliate against any employee making a charge or
32 testifying, assisting or participating in an investigation, proceeding or hearing
33 concerning a violation of this section.

34 **3-C. Enforcement.** An employee whose rights have been violated under this section
35 or the Department of Labor acting on behalf of the employee may bring an action in
36 Superior Court against an employer to seek injunctive or other equitable relief to enforce
37 this section and compensatory damages, including lost wages, benefits or other
38 compensation or damages suffered by the employee due to the violation. A plaintiff has a

1 right to a jury trial in an action under this subsection, and the court shall award reasonable
2 attorney's fees and costs to a prevailing plaintiff in addition to any other relief granted.

3

SUMMARY

4 This bill expands the law creating the right to a leave of absence for employees who
5 are victims of violence by requiring that a returning employee be placed in the employee's
6 former employment position or a position of equivalent employment status. The bill
7 prohibits discrimination or retaliation against an employee for exercising the right to take
8 a leave of absence or enforcing the provisions of the law and creates a private right of
9 action to enforce the law, and to seek injunctive or equitable relief and compensatory
10 damages.