

Law protects violence victims in the workplace

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WAILUKU - The plight of a West Maui woman who was fired after her employer learned she had obtained a restraining order has helped spur a new state law that advocates say could help protect victims of domestic violence in some work situations.

"As far as we can tell, this is pretty landmark legislation," said state Sen. Roz Baker, who introduced the bill that outlaws discrimination in hiring and firing of victims of domestic or sexual violence. "It closes a loophole. You don't get re-victimized at work.

"A lot of times, it's where victims are most vulnerable. They're having to get away from their abuser, having to take care of young children. I think this measure's going to be very, very important."

Passed by the Legislature this year, Senate Bill 229 was signed earlier this month by Gov. Neil Abercrombie, culminating a two-year effort that began with Women Helping Women advocate Pema Gilman and the West Maui Domestic Violence Task Force.

The law adds domestic or sexual violence victim status to the types of discrimination outlawed in some employment situations, including hiring and firing. The law applies if an employer has been told or knows that someone is a victim of domestic violence.

It's already illegal for employers to refuse to hire or to fire people based on race, age, sex, sexual orientation, religion, disability, arrest and court record.

A new portion of the law requires employers to make "reasonable accommodations" in the workplace for employees who are victims of domestic or sexual violence. Accommodations include screening an employee's telephone calls, restructuring job functions, changing a work location, installing locks and other security devices, and allowing for flexible work hours. Employers aren't required to make the accommodations if they cause "undue hardship" on business operations.

Before making accommodations, employers can verify an employee's status as a domestic or sexual violence victim by asking for a police or court record or a signed written statement from the employee's attorney or advocate, victim services organization, medical or health care professional, or a member of the clergy.

If an employee is denied reasonable accommodations by an employer, the employee may sue to enforce the requirement and recover costs.

"Victims of domestic violence really haven't done anything wrong, but they're being punished for (the abuser's) behavior," said Stacey Moniz, executive director of Women Helping Women, which runs a domestic violence shelter and other programs on Maui. "This law will help protect these women."

Baker, a member of the West Maui Domestic Violence Task Force, said the impetus for the measure came from Women Helping Women.

In 2009, Gilman, an advocate in the nonprofit agency's West Maui Advocacy Center, worked with a client who needed a copy of a restraining order to take to her child's school. Because the woman wouldn't get off work until after the Women Helping Women office would be closed, she asked her

employer if she could have the restraining order faxed to the restaurant where she was working. The employer said yes.

But a day or two later, Gilman said, the woman called and said she had been fired.

Gilman said a manager had called the woman in as soon as the restraining order was faxed, saying he had to let her go "because you've got too much going on."

"She begged him, saying she needed the job to support her children," Gilman said. "He said OK. The next day, the assistant manager called her in to say she was being let go."

The woman had been in her first week on the job that she had worked hard to get, Gilman said. "Here's someone trying to get on her feet," Gilman said. "How they made her feel was pretty horrible."

Upset and worried about how she would pay the rent, the woman didn't know what to do, Gilman said. "I said, 'I don't know what to do either. This seems totally wrong. Let me make some phone calls,'" Gilman said.

She learned that the woman's only remedy was to file a complaint with the Hawaii Civil Rights Commission.

After talking with other advocates, Gilman said, she heard of a couple of cases in Central Maui where women were fired after asking for unpaid time off to go to court in restraining order cases. Gilman said Hawaii law requires businesses to allow employees a certain number of unpaid leave days.

"This is very important," Gilman said. "One of the reasons I knew that we had to do something about it is because it wasn't just this one woman."

Gilman took the issue to the task force and Baker, who recognized the injustice in the situations.

"That's not right," Baker said. "You don't want somebody being re-victimized. It's not fair and now it's going to be against the law."

In drafting the bill, Baker said research showed there were other laws about enforcing restraining orders and helping people discriminated against in housing, but nothing addressing employment discrimination against domestic violence victims.

Baker said she doesn't view the new law as anti-business. "I think many employers want to do the right thing," she said.

Last year, Women Helping Women held a seminar for employers in West Maui. "We've had a lot of employers really step to the plate and want to do the right thing and be a safe haven and assist their employees who may be in a very difficult situation," Baker said.

Baker, Gilman, state Rep. Gil Keith-Agaran of Kahului and Tom Blackburn-Rodriguez, coordinator of the Maui Domestic Violence Task Forces, attended the bill-signing ceremony in Honolulu on July 8.

After first introducing the bill in the 2010 legislative session, Baker fought to get the measure passed this year, Moniz said. "She's a champion for many women," Moniz said.

As head of the House Judiciary Committee, Keith-Agaran "was key in getting the bill through the House," Blackburn-Rodriguez said. He said the Legislative Women's Caucus and Hawaii State Coalition Against Domestic Violence also worked with the Maui Domestic Violence Task Forces to back the legislation.

"Not only was it seen as a West Maui issue, but based on what we were hearing anecdotally, it was a statewide issue," Blackburn-Rodriguez said. "Testimony and support came in from all over the islands. We took a page out of the Egyptian revolution and utilized Internet and social media to spread the word."

After taking time to celebrate Thursday afternoon at a meeting of the West Maui Domestic Violence Task Force in Lahaina, the focus turned to educating employers about the new law.

Gilman said that after she first told people about how her client had been fired, some suggested picketing the restaurant. But Gilman wanted to pursue a more far-reaching and educational solution.

"It's not about the individual business," Gilman said. "All people in the business community need to wake up and stop acting like domestic violence and the safety of their employees is not their business. It is their business.

"We will do what we can to get the word out."

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