

1 HOUSE BILL NO. 590

2 INTRODUCED BY S. KERNS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MILITARY MEMBER ON VOLUNTARY OR
5 INVOLUNTARY ORDERS IS ENTITLED TO A LEAVE OF ABSENCE; PROVIDING A REMEDY; AMENDING
6 SECTIONS 10-1-1003, 10-1-1004, AND 10-1-1021, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
7 DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 10-1-1003, MCA, is amended to read:

12 **"10-1-1003. Definitions.** Unless the context requires otherwise, as used in this part, the following
13 definitions apply:

14 (1) "Department" means the department of labor and industry established in 2-15-1701.

15 (2) "Elected official" means an official duly elected or appointed to any state or local judicial,
16 legislative, or executive elective office of the state, a district, or a political subdivision of the state, including a
17 school district or any other local district.

18 (3) (a) "Employer" means any public or private person or entity providing employment in Montana.

19 (b) The term does not include the United States.

20 (4) "Federally funded military duty" means duty, whether voluntary or involuntary, including training,
21 performed pursuant to orders issued under Title 10 or Title 32 of the United States Code and the time period, if
22 any, required pursuant to a licensed physician's certification to recover from an illness or injury incurred while
23 performing the duty.

24 (5) "Member" means a member of the state's organized militia provided for in 10-1-103 or a member
25 of the national guard of another state.

26 (6) "Military service" includes both federally funded military duty and state military duty, whether
27 voluntary or involuntary.

28 (7) (a) "State military duty" means duty, whether voluntary or involuntary, performed by a member

1 pursuant to Article VI, section 13, of the Montana constitution, the authority of the governor of any other state,
2 or 10-1-505 and the time period, if any, required pursuant to a licensed physician's certification to recover from
3 an illness or injury incurred while performing the state military duty.

4 (b) The term does not include federally funded military duty."
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6 **Section 2.** Section 10-1-1004, MCA, is amended to read:

7 **"10-1-1004. Rights under federal law.** A person ordered to federally funded military duty is entitled
8 to all of the employment and reemployment rights and benefits provided pursuant to the federal Uniformed
9 Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301, et seq., and other applicable
10 federal law. The rights provided under the Uniformed Services Employment and Reemployment Rights Act of
11 1994 may be enforced in a lawsuit pursuant to this part."
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13 **Section 3.** Section 10-1-1021, MCA, is amended to read:

14 **"10-1-1021. Court remedies.** (1) In a lawsuit initiated pursuant to this part, the court may provide one
15 or more of the following remedies:

16 (a) require the employer to comply with the provisions of this part;

17 (b) require the employer to compensate the complainant for losses suffered by the complainant
18 because of the employer's violation; or

19 (c) if the court finds that the employer's violation was done willfully, as defined in 1-1-204, require the
20 employer to pay treble the amount of compensation under subsection (1)(b) as liquidated damages and punitive
21 damages.

22 (2) If the complainant is the prevailing party, the court may award reasonable attorney fees to the
23 complainant.

24 (3) The court may use its full equity powers, including temporary or permanent injunctions, temporary
25 restraining orders, and contempt orders, to vindicate fully the rights or benefits of a person under this part."
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27 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.
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