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New Jersey Enacts Domestic Violence Leave Law: Employers Must Provide 20 Days' Leave For Victims Starting Oct. 1, 2013

By: *Jed L. Marcus*

N.J. Governor Chris Christie has just signed into law a bill providing protected leave to victims of domestic violence or sexual assault.

The bill, which takes effect October 1, 2013, will require New Jersey employers with 25 or more employees to provide 20 days of job-protected leave to eligible employees. The law prohibits employers from taking adverse action against an eligible employee for taking the leave.

Q. Who is eligible for leave?

A. Eligibility requirements are the same as with the New Jersey Family Leave Act: an employee must have worked for the employer for at least 12 months and for at least 1,000 hours during the immediately preceding 12-month period.

Q. What "Qualifying Events" trigger the right to leave?

A. Eligible employees will be able to take leave to: seek or receive medical treatment; obtain services from a victim services organization; obtain psychological or other counseling; participate in safety planning, moving, or taking other actions to increase safety; seek legal assistance; or attend, participate or prepare for criminal or civil court proceedings.

Q. When must the leave be taken?

A. Employees must take the leave within one year of the qualifying event.

Q. May the employer require the employee to use available leave time?

A. Yes. The leave will run concurrently with any other leave entitlements, such as leave under the federal Family and Medical Leave Act, and employers will be permitted to require employees use available accrued leave.

Q. What about intermittent leave?

A. Employees may take intermittent leave, but in increments no shorter than a full day.

Q. What notice and documentation is required?

A. Employees seeking leave must provide their employers with advance written notice when such leave is foreseeable, as far in advance as is reasonably practical under the circumstances. Employers may require documentation from employees to substantiate the need for leave, and the Act provides a list of the types of documentation that would be deemed "sufficient." Documentation may include a copy of a restraining order, a letter from a prosecutor, proof of a conviction, medical documentation, or a certification from an agency or professional involved in assisting the victim, including social workers, shelter workers, or religious leaders.

Q. What remedies are available in the event of a violation?

A. Employers are prohibited from discriminating or retaliating against employees for exercising their rights under the Act. Aggrieved employees can bring (within one year of the alleged violation) a lawsuit in Superior Court and can recover the full range of damages and attorneys' fees. The law also establishes fines of between \$1,000 and \$2,000 for a first violation and up to \$5,000 for subsequent violations.

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Q. Are there notice requirements?

A. Although a form of notice as not been issued, employers will be required to post a notice regarding the leave entitlement.

The Bottom Line.

Since the law will go into effect on October 1, 2013, now is the time for employers to review their existing leave policies to ensure compliance with state and federal laws. Please call us if you have any questions about the new law or would like our assistance. ■

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