



Florida EMPLOYMENT

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LawLetter

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LEGISLATION

New Florida law requires days off for some domestic violence victims

With little fanfare, Governor Charlie Crist signed into law "An Act Relating to Domestic Violence," which became effective on July 1. The law says certain Florida employers must provide leave to certain employees who have been victimized by domestic violence. Let's look at whom and what the new law covers.

Does the law affect you?

It does if you're a Florida employer with at least 50 employees. Any leave request is covered if you've employed the individual for at least three months.

What are you required to do?

You must permit an employee to request and take up to three working days of leave in a 12-month period if he or a family or household member is a domestic violence victim. That's correct — the law covers not just employees who are victims but also those who have a family member or someone living in their household who is a victim! The leave may be paid or unpaid (at your discretion).

How may an employee use the leave?

An employee may use the leave to:

- (1) seek an injunction for protection against domestic, dating, or sexual violence;
- (2) obtain medical care and/or mental health counseling (for either the employee or a family/household member);
- (3) obtain services from a victim-services organization;
- (4) make the employee's home secure from the perpetrator or find new housing; or

- (5) seek legal assistance for issues involving the domestic violence situation.

What must an employee do to obtain leave?

Add domestic violence leave to your company's leave policy. You can require employees to exhaust all annual or vacation leave, personal leave, and sick leave available before receiving domestic violence leave. They also must provide you with appropriate advance notice of the leave as required by your policy, plus sufficient documentation of the act of domestic violence, unless the employee or a family or household member is in imminent danger.

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Who can be privy to the information?

Only those people within your organization who need to know should be told of the situation. The new law requires employers to keep all information strictly confidential.

New protected class in Florida

If you don't comply with the new law or you fire, demote, suspend, retaliate, or discriminate against employees for exercising their rights under it, you may be sued for damages and equitable relief (such as reinstatement) in state court. The aggrieved employees may seek back wages and benefits that would have been owed if the violations hadn't occurred.

Essentially, Florida has created a new class of protected employees. (By our count there are now 31 protected classes in the state!) Employees who qualify for coverage will be able to claim that they've been fired, demoted, retaliated against, and so on because they or someone in their household was a domestic violence victim!

What you need to do now

You need to define some terms and refine your employment policies. You need to determine what "appropriate advance notice" of the need for leave is. You need to determine what kind of documentation or substantiation of the domestic violence you'll require. You need to decide if the leave will be paid or unpaid and if the employee must exhaust other leave first. And you need to ensure you have a system in place that will respect the confidential nature of a domestic violence leave request.

The new law allows you to fill in a lot of gaps and determine how a domestic violence situation will be handled.

If you wait to address the issues, however, you may be simply reacting to the situation and set a bad precedent. Make the decisions as soon as possible to protect your business.

If you would like to have a copy of the new law or see our model policy language, send an e-mail to Florida Employment Law Letter editor Tom Harper at gth@HarperGerlach.com. ❖

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Completing EEO-1 reports

Many employers have to file EEO-1 reports every fall, and this year brings a new EEO-1 form. At HRhero.com, which is part of your newsletter services, you can find information to get you acquainted with the new form and other reporting requirements. To learn more, look for the following items at www.HRhero.com/news.

- **Article** — New EEO-1 form must be used starting in fall
- **Audio Conference** — EEO-1 Reporting Requirements: What HR Needs to Know
- **Forms** — EEO-1 Instruction Booklet ❖