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# FLORIDA

## EMPLOYMENT LAW LETTER

Part of your Florida Employment Law Service

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### On HRhero.com

#### Harassment

Sexual harassment. Racial harassment. Religious harassment. With so many types of harassment, there's no wonder it's still so prevalent in American workplaces. At [www.HRhero.com/news](http://www.HRhero.com/news), you can find the following tools to help prevent harassment:

- HR Executive Special Report — Workplace Harassment Trail Guide: Avoiding the Avalanche Zone
- HR Sample Policy — Harassment and/or Discrimination
- HR Executive Special Report — Stop It Before It Starts: The HR Manager's Guide to Preventing Sexual Harassment

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### LEGISLATION

## Florida lawmakers broaden domestic violence leave law

*Last August, we reported on the enactment of Florida's new law requiring some employers to provide leave to certain employees who have been victimized by domestic violence. In this spring's legislative session, lawmakers tinkered with that new law, passing a bill that added protection for victims of sexual violence. Governor Charlie Crist is expected to sign the bill. Read on to see what your new obligations will be under the law.*

### 'New and improved' version

The bill amends Florida Statute, Section 741.313, to include victims of "sexual violence" under its protections. It defines "sexual violence," referring to the Criminal Code, as sexual battery, a lewd or lascivious act on or in the presence of someone 16 years or younger, luring or enticing a child, sexual performance by a child, any forcible felony wherein a sexual act is committed or attempted, or "any crime the underlying factual basis of which has been found by a court to include an act of sexual violence."

The new law allows victims of sexual violence all the protections afforded to domestic violence victims by the recent Florida law.

### Refresher on the law

Here are the requirements under the law:

- (1) The law applies to Florida employers with 50 or more employees and covers employees who have worked

for your company for at least three months.

- (2) 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 or sexual violence victim. The leave can be paid or unpaid.
- (3) An employee can use the leave to do a number of things, including seeking an injunction (a court order against the perpetrator), obtaining counseling or legal advice, and securing his home.
- (4) The employee must follow your company policy to obtain the leave, which can include providing appropriate advance notice of the need for leave, if possible, and sufficient documentation of the domestic or sexual violence.
- (5) You must keep the information about the domestic or sexual violence confidential; only people with a need to know in your organization should be made aware of the situation.

Since the new law passed both the Florida House and Senate unanimously, Governor Crist will likely sign the legislation. The law's effective date is set for July 1, 2008.

Harper Gerlach PL — [www.HarperGerlach.com](http://www.HarperGerlach.com) — is a member of the *Employers Counsel Network*



## ***Yet another protected class***

If you don't comply with the new law or if you fire, demote, suspend, or retaliate or discriminate against employees for exercising their rights under it, you may be sued for damages and equitable relief (like reinstatement) in state court. Employees may seek back wages and benefits you would have owed them if the violations hadn't occurred. Essentially, sexual violence victims have now been added to the ever-growing list of protected classes under Florida law.

Although the ink may not yet be dry on your new domestic violence leave policy, you will need to edit it to add victims of sexual violence. The law allows Florida employers a lot of leeway in determining how to handle such a situation. You'll be in a much better position to deal with a crisis if you take a proactive approach.

➔ *If you would like a copy of the new law or our model policy language, send an e-mail to Florida Employment Law editor Tom Harper at [gth@harpergerlach.com](mailto:gth@harpergerlach.com). ♣*

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