

PUBLICATION

Safe Leave: Employers' Evolving Obligations to Domestic Violence and Stalking Victims

August 29, 2018

Almost every employer in the country is likely to have at least one employee who is dealing with domestic violence in some form or another. To quote the Centers for Disease Control and Prevention (CDC), "intimate partner violence is a serious, preventable public health problem that affects millions of Americans." Recognizing this as a public health issue may have once seemed controversial, but a recent wave of state laws creating obligations on employers to their employees who are victims of domestic violence and/or stalking makes it clear that states are beginning to recognize an obligation to address this crisis.

According to the CDC's 2010 Summary Report, as many as 1 in 3 women and as many as 1 in 4 men have experienced some form of physical violence by an intimate partner, with as many as 1 in 7 women and as many as 1 in 25 men experiencing some form of injury as a result of domestic violence. Victims of domestic violence lose an estimated total of 8,000,000 days of paid work each year. In short, the pervasive nature of domestic violence makes it a workplace issue of which every employer must be sensitive.

Recognizing the impact domestic violence has on employees, a growing number of states have enacted legislation requiring employers to offer paid leave to victims. Arizona, California, Connecticut, Maryland, Massachusetts, New York, Oregon, Rhode Island, Vermont, and Washington already have laws in effect requiring that paid leave be made available to employees to care for either themselves or a loved one who is a victim of domestic violence and/or stalking. Colorado, Florida, and Illinois require unpaid leave be made available.

Recently, New Jersey enacted a law, which will become effective on October 29, 2018, that offers the same protections. Even states that do not currently mandate paid sick leave are contemplating laws that would offer paid sick and safe leave in response to the growing awareness of the pervasiveness of this problem.

It is important for employers with employees in any of these jurisdictions to be aware of the specific requirements applicable to their workforce. However, there are many common elements to these laws that can be described more generally. First, this leave tends to cover a broad range of scenarios. It is not simply to obtain treatment for physical injury. It can be used to obtain crisis counseling, to seek shelter or take other steps to ensure safety from a stalker or intimate partner that has committed or threatened violence, to attend court hearings, or to care for a covered family member who is a victim of domestic violence and/or stalking.

Unlike a plurality of sick leave laws, some of these "safe" or domestic violence leave laws apply even to employers with as little as a single employee within the covered jurisdiction, including the recently enacted New Jersey law. An additional departure from common sick leave laws is that many of these laws prohibit employers from requiring documentation.

Whether currently covered by an existing law or not, all employers should be aware of, and sensitive to, the needs of employees who are victims of domestic violence and/or stalking. If the flood of recent legislation is any indication, states are recognizing the critical nature of this problem, and states that have yet to address

these issues are likely to pass legislation addressing the needs of victims of domestic violence in the coming years.

For assistance in reviewing your company's paid leave policies, contact any member of Baker Donelson's [Labor & Employment Group](#).