

Publications

Labor and Employment Alert: Nevada Enacts a Domestic Violence Leave Law

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Effective January 1, 2018, Nevada employers will be required to provide leaves of absence to employees who are victims of domestic violence or whose family or household members are domestic violence victims. Under the law, a “family household member” is the spouse, domestic partner, minor child, parent or other adult who is related within the first degree of consanguinity or affinity, or adult who is or was actually residing with the employee at the time the domestic violence occurred.

Domestic Violence Leave Entitlement

An employee who has been employed for at least 90 days and who is a victim of domestic violence or whose family or household member is a victim may use up 160 hours of leave in one 12-month period. The leave must be used within 12 months of the date on which the act of domestic violence occurred and may be used consecutively or intermittently. If the domestic violence leave is taken for a reason that also qualifies for leave under the federal Family and Medical Leave Act (FMLA), the two leaves run concurrently. Domestic violence leave may be paid or unpaid at the employer’s option.

Using Domestic Violence Leave

Leave may be taken only for the diagnosis, care, or treatment of a health condition related to an act of domestic violence; to obtain counseling or assistance; to participate in any court proceedings; and to establish a safety plan. After taking leave upon the occurrence of act of domestic violence, an employee must give not less than 48 hours’ advance notice of the need to use additional hours of leave for any of the above reasons.

An employer may require documentation from the employee that confirms or supports the reason for the requested leave. This documentation includes a police report, an application for a protection order, physician documentation or an affidavit from an organization that provides services to domestic violence victims. Employers must retain such documentation as confidential and in the same way

documentation is retained under the FMLA.

Employment Protections

An employer is prohibited from denying an employee the right to use domestic violence leave; from requiring an employee to find a replacement as a condition of using that leave; or from retaliating against an employee for using that leave. Additionally, it is unlawful for an employer to discharge, discipline, or discriminate against an employee because the employee requested domestic violence leave, participated as a witness in court proceedings which required leave, requested a reasonable accommodation or had an act of domestic violence committed against him or her in the employer's workplace.

Absent an undue hardship, an employer must provide employees with reasonable accommodations to employees who are victims of domestic violence. Such accommodations may include a transfer or reassignment, a modified schedule, a new telephone number of work, or any other reasonable accommodation deemed necessary to ensure the safety of the employee, the workplace, the employer or other employees. An employer may require documentation that confirms or supports the reason for the accommodation.

Notice Requirements

The Nevada Labor Commissioner will prepare a bulletin that sets forth an employee's domestic violence leave rights. Employers must conspicuously post this bulletin in its workplaces. Additionally, employers must maintain records of the use of domestic violence leave for each employee for two years after the leave is taken.

Conclusion

Employers should review their policies and practices to ensure they comply with Nevada's new domestic violence leave requirements. Contact your Vorys lawyer if you have questions about employee leaves of absence.