

## New York Increases Employment Protections for Victims of Domestic Violence

On August 20, 2019, Governor Andrew Cuomo signed an [amendment](#) to the New York Human Rights Law which grants additional employment protections to victims of domestic violence, similar to those already provided by the New York City Human Rights Law. Beginning on November 18, 2019, employers in New York State will be required to provide certain reasonable accommodations to employees who are victims of domestic violence or parents of children who are victims of domestic violence.

The reasonable accommodations required to be provided under the law are time off from work for a reasonable time for the following reasons:

1. To seek medical attention for injuries caused by domestic violence (including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator);
2. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence;
3. To obtain psychological counseling relating to domestic violence (including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator);
4. To participate in safety planning and to take other actions to increase safety from future incidents of domestic violence, including temporary or permanent relocation; or
5. To obtain legal services in relation to domestic violence, to assist in the prosecution of a domestic violence offense, or to appear in court in relation to incidents of domestic violence.

Employers are required to provide employees with time off from work for the reasons listed unless it would cause the employer to suffer an undue hardship. In determining whether an undue hardship exists, the factors considered are:

1. The overall size of the business with respect to the number of employees, the number and type of facilities, and the size of the budget; and
2. The type of operation in which the business is engaged, including the composition and structure of the workforce.

Employees granted leave as a reasonable accommodation due to domestic violence may be required by their employer to use paid leave when available, and any absence that cannot be charged to paid leave may be treated as unpaid leave. The amendment also requires that employees give reasonable advance notice when feasible if they plan to take leave as a reasonable accommodation due to their status as a victim of domestic violence. If advance notice is not feasible, an employer can require an employee who takes leave as a reasonable accommodation to provide certification for the absence(s) in the form of:

1. A police report indicating that the employee or his or her child was a victim of domestic violence;
2. A court order protecting or separating the employee or his or her child from the perpetrator of domestic violence;
3. Evidence from a court or prosecuting attorney that the employee appeared in court; or
4. Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee or his or her child was undergoing treatment or counseling for physical or mental injuries resulting from domestic violence.

Employers should update their leave policies and other applicable provisions of their employee handbook to reflect this new legal requirement. In addition, it would be a good idea to communicate this new potential leave entitlement to supervisory and managerial employees and train them to properly respond to leave requests from employees who may be victims of domestic violence. Employers should consult with legal counsel if they require assistance with updating policies, training managers and supervisors, or responding to requests by employees for time off as a result of domestic violence.

If you have any questions about this Information Memo, please contact [Nicholas P. Jacobson](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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