

Washington Expands Employment Discrimination Protections for Victims of Domestic Violence

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Job applicants and employees in Washington who are survivors of domestic violence, sexual assault, or stalking will have new protections against employment discrimination under a law that will go into effect on June 7, 2018.

“An Act relating to protecting survivors of domestic violence, sexual assault, and stalking from employment discrimination” ([House Bill 2661](#), amending the Revised Code of Washington Chapter 49.76) expands protection against fear of discrimination in the workplace. The Act also adds a new section requiring reasonable safety accommodations.

Prohibitions

Under the Act, all employers in Washington State will be prohibited from:

- Refusing to hire a qualified individual because he or she is an actual or perceived victim of domestic violence, sexual assault, or stalking;
- Discharging, threatening to discharge, demoting, suspending, or in any way discriminating or retaliating against an individual because he or she is an actual or perceived victim of domestic violence, sexual assault, or stalking; and
- Refusing to make a *reasonable safety accommodation* requested by a victim of domestic violence, sexual assault, or stalking, unless such an accommodation would pose an undue hardship on the operation of the employer’s business.

Reasonable Safety Accommodation, Leave

The Act offers examples of a “reasonable safety accommodation”:

- Transfer or reassignment;
- Modified job schedule;
- Change in work telephone number, email address, or workstation;
- Installed locks;
- Implementing safety procedures; or
- Any other adjustment to a job structure, workplace facility, or work requirement in response to an actual or threatened domestic violence, sexual assault, or stalking.

As a condition of taking leave under the Act, the employee must provide his or her employer advance notice of the employee’s intent to take such leave. Leave may be paid (such as sick leave or other paid time off or compensatory time) or unpaid.

If the leave is foreseeable, the employee must provide notice consistent with the employer’s notice policy. If the leave is unforeseeable or based on an emergency due to domestic violence, sexual assault, or stalking, the employee, or his or her designee, must provide notice to the employer no later than the end of the first day of the leave.

An employer may require verification for an employee’s request for leave or a reasonable safety accommodation under the Act. The verification can include, but is not limited to:

- A police report;
- A court order protecting or separating the employee, or the employee's family member, from the perpetrator;
- Other evidence from the court or prosecuting attorney that the employee, or the employee's family member, appeared or is scheduled to appear in court in connection with an incident of domestic violence, sexual assault, or stalking; or
- Documentation from the following persons that the employee, or the employee's family member, is a victim of domestic violence, sexual assault, or stalking: an advocate, attorney, member of the clergy, or medical or other professional(s).

If the employee's family member is the victim of domestic violence, sexual assault, or stalking and the employee must take leave, the employer may require verification of the familial relationship.

Private Right of Action

The Act creates a private right of action for employees and applicants for employment.

An employee is not required to exhaust administrative remedies before filing a civil action to enforce the new law.

Additionally, the Act does not interfere with or diminish any rights or obligations provided by collective bargaining agreements in unionized workplaces.

Next Steps

All employers should review and revise their hiring practices, policies, and procedures to comply with the Act. Employers also should take steps and provide training to ensure compliance with its restrictions.

Jackson Lewis attorneys are available to answer inquiries and provide assistance with this and other workplace issues.

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