

New York Revises Employment Protections for Domestic Violence Victims, Adds Accommodation Obligations

By Joseph J. Lynett & Richard I. Greenberg

August 23, 2019

Meet the Authors



Joseph J. Lynett

(Joe)

Principal

212-545-4000

Joseph.Lynett@jacksonlewis.com



Richard I. Greenberg

(Rich)

Principal

(212) 545-4080

Richard.Greenberg@jacksonlewis.com

Related Services

Disability, Leave and Health
Management
Technology

New York has amended its Human Rights Law to expand protection from employment discrimination for victims of domestic violence.

Signed by Governor Andrew Cuomo on August 20, 2019, the [new law](#) amends the New York State Human Rights Law with respect to victims of domestic violence. It also requires employers to provide reasonable accommodations. The new law will become effective on November 18, 2019.

Victim of Domestic Violence

A “victim of domestic violence” is defined as any person who is older than 16, married, or a parent accompanied by the parent’s minor child in a situation where the person or their minor child is the victim of an act committed by a family or household member that would violate the penal law. The act must have resulted in actual physical or emotional injury or created a substantial risk of physical or emotional harm to the person or their child.

Unlawful Discriminatory Practices

It will be an unlawful discriminatory practice for employers to:

- Refuse to hire or employ someone because they are a victim of domestic violence;
- Terminate someone because they are a victim of domestic violence;
- Discriminate against a victim of domestic violence with respect to compensation or the terms, conditions, or privileges of their employment;
- Print or circulate a statement, advertisement, or publication that expresses any limitation, specification, or discrimination about someone’s status as a victim of domestic violence; or
- Use an employment application or make an employment inquiry that expresses any limitation, specification, or discrimination about someone’s status as a victim of domestic violence.

Reasonable Accommodations

Employers will be required to provide reasonable accommodations to employees who are known to be victims of domestic violence who must be absent from work for a reasonable time, unless such accommodation would pose an “undue hardship” on the employer’s business.

Covered employees may take reasonable time off:

- To seek medical attention for injuries caused by domestic violence, including for a child who is the victim of domestic violence;

- To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence;
- To obtain psychological counseling related to an incident or incidents of domestic violence, including for a child who is the victim of domestic violence;
- To participate in safety planning or other action taken to increase safety from future incidents of domestic violence (*e.g.*, temporary or permanent relocation);
or
- To obtain legal services, assist in the prosecution of an offense, or appear in court related to an incident of domestic violence.

The time off may be charged against any paid time off to which the employee may be entitled. If the employee has no available paid time off (such as vacation), the time off may be treated as unpaid time.

Notice

The new law requires employees to provide their employers with reasonable advance notice, if possible.

Employees who must be absent from work without advance notice must provide a certification of the need for an accommodation when requested by the employer.

Other Provisions

The law also addresses existing collective bargaining agreements, employee handbooks or policies, and continuation of health insurance coverage.

Employers must carefully scrutinize the interplay among federal, state, and local leave laws in order to determine the correct course. For example, employers in New York also may have obligations to victims of domestic violence under the [New York City Paid Safe and Sick Leave Law](#) and the [Westchester County's Safe Time Leave for Victims of Domestic Violence and Human Trafficking Law](#). (For details of the New York City law, see our article, [New York City Council Expands Earned Sick Time Law to Include Safe Time](#).)

For more on New York's legislative activity, see our articles:

- [New York Expands Harassment Laws, Protections of Religious Attire, Clothing, or Facial Hair](#)
- [New York Governor Signs Bills Aimed at Combating Salary Inequality](#)
- [New York Enacts SHIELD Act, Adding Data Security Requirements and Strengthening Data Breach Requirements](#)
- [New York Expands Telemedicine Regulations](#)

Please contact a Jackson Lewis attorney with any questions.

©2019 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.