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New Connecticut Law Requires Leave and Other Employment Protections for Family Violence Victims

On June 7, 2010, Connecticut Governor M. Jodi Rell signed into law Public Act 10-144, implementing numerous recommendations of the Speaker of the House of Representatives' Task Force on Domestic Violence. Among other things, the new law enhances existing protections, and creates additional employment protections for family violence victims, including allowing the use of leave time for employees to attend to issues relating to or arising from family violence.

FAMILY VIOLENCE DEFINED

For purposes of the new law, "family violence" is defined as an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury, or assault between family or household members. Verbal abuse or argument, however, does not constitute family violence unless there is a present danger and the likelihood that physical violence will occur.

"Family or household member" is in turn broadly defined to include (A) spouses and former spouses; (B) parents and their children; (C) persons 18 years of age or older related by blood or marriage; (D) persons 16 years of age or older (other than those persons described in the preceding provision) who are presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.

In addition, an "employer" is defined as a person or entity engaged in business, including the state and any political subdivision of the state, that has at least three employees. Therefore, even smaller employers—who might not otherwise be covered by mandatory leave laws such as the federal or state Family and Medical Leave Act—are nonetheless subject to this new law.

PROHIBITIONS AGAINST ADVERSE ACTION

The law amends an existing statute, which provides certain employment protection to crime victims and witnesses, to add new protections for victims of family violence.

The existing law, codified at section 54-85b of the Connecticut General Statutes, already prohibits employers from taking adverse action against employees in a number of situations, including when employees (1) have been subpoenaed in a criminal case, (2) are crime victims participating in criminal cases, or (3) have protective or restraining orders issued on their behalf.

The new law amends and expands these existing protections by adding provisions that prohibit an employer from terminating, penalizing, threatening, or otherwise coercing employees with respect to their employment because the employees (1) are family violence victims or (2) attend or participate in civil court proceedings related to cases in which they are family violence victims.

NEW REQUIREMENT REGARDING LEAVE TIME

The new law also requires employers to allow family violence victims to take paid or unpaid leave (including compensatory time, vacation time, personal days, or other time off) during any calendar year in which the leave is reasonably necessary for any of the following reasons:

- To seek medical care or counseling for physical or psychological injury or disability
- To obtain services from a victim services organization
- To relocate due to the family violence
- To participate in any civil or criminal proceeding related to or resulting from such family violence

An employer may limit unpaid leave taken for these purposes to 12 days per calendar year, although an employer can provide a longer period of leave if it wishes to do so. The law expressly states that this leave does not affect any other leave provided under state or federal law. Further, the new law does not diminish any rights provided to any employee under the terms of the employee's employment or a collective bargaining agreement nor preempt or override the terms of any collective bargaining agreement in effect.

The law also states that it cannot be construed to require an employer to provide paid leave if (1) the employee is not entitled to paid leave pursuant to the terms and conditions of the employee's employment or (2) the paid leave exceeds the maximum amount of leave due the employee during any calendar year. However, an employer is required to provide unpaid leave to employees for the reasons noted above if paid leave has been exhausted or is not otherwise provided.

Employers can require notice no more than seven days in advance when the need to use leave is foreseeable and as soon as practicable when it is not. An employee using such leave is required to provide, upon the employer's request, a signed written statement certifying that the leave is for one of the authorized purposes.

The employer also can request that the employee provide other documentation verifying that the employee is a victim of family violence such as a police or court record related to the family violence or a signed written statement from one of the following organizations, from whom the employee has sought assistance with respect to family violence:

- A victim services organization
- An attorney
- The Judicial Branch's Office of Victim Services or the Office of the Victim Advocate
- A licensed medical professional
- Another licensed professional

If such written statements or documents are requested, they must be kept confidential. The employer cannot further disclose the information except as required by law or as necessary to protect the employee's safety in the workplace, provided the employee is given notice before such disclosure is made.

ENFORCEMENT PROVISIONS AND EFFECTIVE DATE

An employee has 180 days (increased from the 90 days currently provided under the crime victims protection statute) to bring a civil action for a violation. The employee can seek damages and request a court order requiring the employee's reinstatement or otherwise rescinding the adverse action. If the employee prevails, the employee must be allowed a reasonable attorney's fee that is fixed by the court.

The provisions described above go into effect on October 1, 2010. Therefore, over the next few months, employers may wish to review their existing leave policies and revise them as necessary to incorporate the requirements of the new law.

To receive more information on the new law, or if you would like assistance in developing or revising leave policies, please contact [Jean E. Tomasco](#), [Alice E. DeTora](#) or any of the following members of our Labor and Employment group:

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