

DOMA Ruling Will Change FMLA Administration

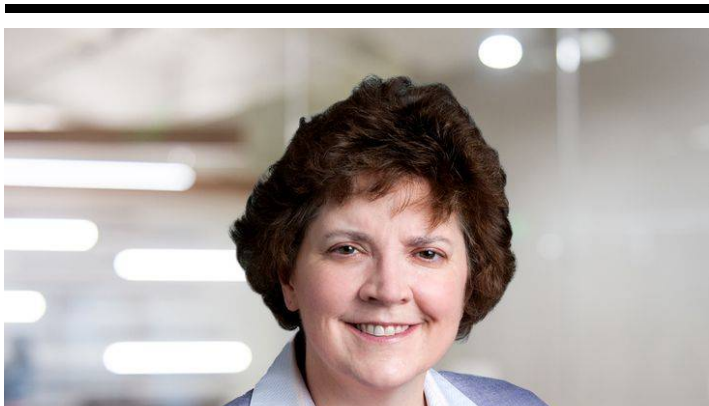
News

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Callan Carter and Myra Creighton were interviewed via e-mail by *SHRM Online* for the July 2 article "[DOMA Ruling Will Change FMLA Administration](#)." Coordination of state leave-law requirements with the federal Family and Medical Leave Act (FMLA) has become more complicated due to the recent Supreme Court ruling that struck down the Defense of Marriage Act (DOMA), allowing same-sex couples Federal marriage benefits. Callan and Myra responded to a *SHRM Online* email asking about the effect the DOMA decision will have on employers. "Now that same-sex spouses are 'spouses' under federal law if they are 'spouses' under state law, all federal laws and regulations that include spouses include the broader same-sex definition in those states where same-sex marriage is legal. FMLA refers to state law for the definition of 'spouse.'" The attorneys added that they recommend that employers in those states which allow same-sex marriage or recognize same-sex marriages performed in other jurisdictions change the way they administer their FMLA policies. They noted: "FMLA administration will be harder for the employer, as the employer will need to keep abreast of states' laws on same-sex marriage, the state of residence of the requesting employee, and the state or jurisdiction in which the marriage occurred to administer an FMLA-leave request." Given the difficulty in FMLA administration that's likely to follow the DOMA decision, Callan and Myra also recommended: "FMLA administrators may want to consider expanding their definition of family member beyond what is federally required and go ahead and honor all same-sex domestic partnerships/civil unions so that each FMLA request does not turn into a full-blown legal-research project."

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