



New York Expands Workplace Protections For Domestic Violence Victims

Insights

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Governor Andrew Cuomo just signed into effect an amendment to New York law expanding the protections employers must provide to employees who are victims of domestic violence. In addition to expanded protections against discrimination, the amendment obligates employers to provide reasonable accommodations to domestic violence victims who must be absent from work for certain specified reasons. The amendment, signed on August 20, becomes effective November 18, 2019. What do you need to know in order to be in compliance come November?

What Does The Amendment Entail?

The New York State Human Rights Law (NYSHRL) has long prohibited workplace discrimination based on domestic violence victim status. The new amendment broadens the definition of “victim of domestic violence” to be consistent with the state’s Domestic Violence Prevention Act, NY Soc. Serv. Law § 459-A.

Specifically, for purposes of the NYSHRL’s workplace protections, “victim of domestic violence” is now defined as any person over the age of 16, any married person, or any parent accompanied by his or her 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 violates the penal law (such as acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation). The act must result in, or create a substantial risk of, physical or emotional injury to the person or the person’s minor child.

The amended law enumerates certain unlawful discriminatory practices with respect to victims of domestic violence in the workplace, including:

- Refusing to hire or terminating someone because they are a victim of domestic violence;
- Discriminating against a victim of domestic violence with respect to compensation, or terms, conditions, or privileges of employment;
- Printing or circulating a statement, advertisement, or publication expressing any limitation, specification, or discrimination about someone’s status as a victim of domestic violence; or

- Using an employment application or making an inquiry about prospective employment expressing any limitation, specification, or discrimination about someone's status as a victim of domestic violence.

The amendment requires employers to provide certain reasonable accommodations to an employee who is known by the employer to be a victim of domestic violence. Specifically, employers must allow the employee reasonable time off for the following reasons:

- To seek medical attention for injuries caused by domestic violence;
- To obtain services from a domestic violence shelter, program, or rape crisis center;
- To obtain psychological counseling related to an incident of domestic violence;
- To participate in safety planning or to take other actions to increase safety from future incidents of domestic violence; or
- To obtain legal services, assist in the prosecution of the offense, or appear in court in relation to the incident of domestic violence.

Employers will be required to provide the accommodation unless the employee's absence would constitute an undue hardship to the employer, looking at the size of the business, number of employees, type of facilities, budget, and composition and structure of the workforce. The employer may charge the time off given as an accommodation to any paid time off that the employee has available; if no paid time off is available, the time off may be treated as leave without pay.

Victims of domestic violence who must be absent from work must provide their employer with advance notice. If advance notice is not feasible, the employee must provide a certification to the employer within a reasonable time after the absence, such as a police report, court order, or documentation from a medical professional, advocate, or counselor.

What Do New York Employers Need To Do Now?

New York employers should take steps to prepare for the amendment in advance of the November 18 effective date. You should review your policies and procedures to comply with the broadened scope of protections for domestic violence victims in the workplace and to provide a mechanism for employees to request a reasonable accommodation. Additionally, you should train managers and supervisors on handling reasonable accommodation requests from victims of domestic violence.

We will continue to monitor further developments and provide updates on this issue and other labor and employment issues affecting New York employers, so make sure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, or any attorney in our [New York City office](#).

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