

Missouri Employers Now Required To Provide Unpaid Leave To Victims Of Domestic Or Sexual Violence

Labor & Employment Law Update

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As a part of Missouri's new Victims Economic Safety and Security Act (VESSA), employers in the state with at least 20 employees must now provide unpaid leave to employees who are victims of domestic or sexual violence, or who have family or household members who are victims of the same. Effective August 28, 2021, all covered

employers are required to notify employees of their right to unpaid leave under the law by or before October 27, 2021. The Missouri Department of Labor has published a poster which, if prominently posted, will meet this requirement.

The new mandate is designed to provide domestic and sexual abuse victims, and their families, the opportunity to:

- Seek medical attention for, or recover from, physical, or psychological injuries;
- Obtain victim services;
- Obtain counseling;
- Participate in safety planning;
- Relocate, temporarily, or permanently;
- Take actions to increase safety for themselves or family members; and/or
- Seek legal assistance.

Employees seeking such leave must provide their employer at least 48 hours' advance written notice, unless doing so is not practicable under the circumstances. To determine if a requesting employee is eligible for VESSA leave, an employer may require the employee to provide certification that either the

employee or his/her family or household member is the domestic or sexual violence victim seeking the type of assistance described above. This certification can come by way of:

- Written documentation from a victims services organization, attorney, clergy member, or medical professional;
- Police or court records; or
- Other corroborating evidence.

Employees are required to provide such certification within a reasonable period of making the request for leave. However, when an unscheduled absence occurs, an employer cannot take adverse action against an employee when, upon the employer's request, the employee does provide this information within a reasonable time.

Again, VESSA only applies to employers with 20 or more employees and then dictates that the amount of leave available to eligible employees is based on the number of the employer's employees:

- 0-19 employees: no leave required
- 20-49 employees: 1 week of unpaid leave required per year
- 50+ employees: 2 weeks of unpaid leave required per year

If eligible, an employee may take this unpaid leave intermittently or on a reduced work schedule. Any eligible employee must be returned to the same, or similarly equivalent, position upon return to work. Finally, if the employee taking leave is covered by an employer's group health plan, the employee's (and any covered family or household member's) coverage must be maintained during the eligible leave. However, under certain circumstances, the premiums paid by the employer during the leave may be recovered from the employee if they fail to return to work once the leave period has expired.

The bottom line is that this is a new unpaid leave mandate for nearly all Missouri employers. Employers would be well advised to post the VESSA notice as soon as possible and update their employee handbooks to reflect these new requirements.

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