



COMPLIANCE BULLETIN

HIGHLIGHTS

- New York employers will be required to provide leave to employees whom they know are domestic violence victims.
- The leave must be for a reasonable amount of time and for specified purposes.
- An employer is excepted from the requirement if the leave would cause undue hardship.

IMPORTANT DATES

August 20

Domestic violence victim leave provision signed into law.

November 18

Leave provision becomes effective.

New York Requires Leave for Domestic Violence Victims

OVERVIEW

Beginning **Nov. 18, 2019**, a [New York law](#) will require employers in New York to grant leave to employees whom they know are victims of domestic violence.

Employers will be required to grant leave for a reasonable amount of time for things like seeking medical or psychological treatment, obtaining victim support or legal services, or taking action to increase safety from domestic violence in the future. However, an exception will be granted to employers who show the leave will cause them undue hardship.

Employees may need to provide advance notice of the leave or documentation of the leave when it is not foreseeable.

ACTION STEPS

Employers should review their leave policies to ensure compliance with the new law. Existing leave policies may need to be updated to provide the required legal protections to employees.

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Domestic Violence Victim Leave

On Aug. 20, 2019, as part of amendments to the state Human Rights Law designed to protect domestic violence victims, New York enacted a requirement that employers grant leave as a reasonable accommodation to employee victims of domestic violence. The law goes into effect **Nov. 18, 2019**.

Under the new provision, employers must allow employees whom they know to be victims of domestic violence leave for a reasonable amount of time to:

- ✓ Seek medical attention for injuries caused by domestic violence (including for a child victim);
- ✓ Obtain services from a domestic violence shelter, program or rape crisis center as a result of domestic violence;
- ✓ Obtain psychological counseling related to an incident of domestic violence (including for a child victim);
- ✓ Participate in safety planning and take other actions to increase safety from future incidents of domestic violence, including temporary or permanent relocation; or
- ✓ Obtain legal services, assist in the prosecution of the offense, or appear in court in relation to the incident of domestic violence.

The requirement does not apply where an employer can demonstrate that the employee's absence would cause the employer undue hardship, considering factors like the business's size and type of operation.

Failure to provide the leave as required will constitute an unlawful discriminatory practice and could subject the employer to civil fines and penalties up to \$50,000, or \$100,000 if the violation is found to be willful, wanton or malicious. Victims may also be awarded back pay and damages. Employers must maintain the confidentiality of any information about an employee's status as a victim of domestic violence, to the extent allowed by law.

Undue Hardship Exception

The requirement does not apply in cases where employers can demonstrate that an employee's absence would cause them undue hardship, considering such factors as the size and type of the employer's business, program or enterprise.

Employee Notice Requirements

An employee taking domestic violence leave must provide the employer with reasonable advance notice where feasible. If advance notice is not feasible, after the leave the employee must, on the employer's request, provide a certification in the form of a police report, court order, evidence from the court or

prosecuting attorney that the employee appeared in court, or documentation from certain specified professionals that the employee (or his or her child) was receiving counseling or treatment.

Use of Paid Leave

An employer may require the employee to use any available paid leave as domestic violence leave, unless doing so would violate existing employee policies or collective bargaining provisions. Where paid leave is not available, the leave may be unpaid; however, any employee health insurance must be continued during domestic violence leave.