

## **New Philadelphia Ordinance Requires Unpaid Leave for Victims of Domestic or Sexual Violence and Their Families**

**January 14, 2009**

The City of Philadelphia has enacted a new ordinance requiring that employers provide up to eight weeks of unpaid leave annually to victims of domestic abuse, sexual assault, or stalking. All employers within the City of Philadelphia—including employers that are not subject to the federal Family and Medical Leave Act (FMLA)—are required to comply with the new ordinance and post a notice summarizing the new leave entitlement.

Under the new law, Philadelphia employers now have the obligation to provide unpaid leave to an employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence, to enable the employee to do any of the following for themselves or for a family member:

- Seek medical attention for physical or psychological injuries
- Obtain help from an organization that provides services to domestic or sexual violence victims
- Obtain counseling or therapy
- Make safety plans, including possibly relocating to increase safety
- Seek legal assistance relating to the domestic or sexual violence

The amount of leave required to be provided by employers varies depending upon, among other things, the size of the employer's workforce. As a general rule, an employer who has 50 or more employees must provide eight workweeks of leave during any 12-month period. An employer who has fewer than 50 employees must provide four workweeks of unpaid leave during any 12-month period. The new domestic violence leave may run concurrently with any leave under the FMLA if the leave is taken for a qualifying reason under both statutes. In that case, an employee's entitlement is capped at the 12 weeks of unpaid leave time allowed under the FMLA.

While the new, local domestic violence leave entitlement is different from any leave pursuant to the FMLA, the new ordinance works in many ways like the FMLA. Like leave pursuant to the FMLA, for example, domestic violence leave may be taken in a continuous block of time or taken intermittently. There also are certification and confidentiality requirements similar to the FMLA's. Employees may substitute accrued, paid leave time for some or all of their leave time under the ordinance, as under the FMLA. In addition, the domestic violence leave provisions require that employers reinstate employees upon return from leave to the same or equivalent position with equivalent benefits, pay, and other terms and conditions of employment, and the ordinance bars employers from interfering with an employee's

rights under the law. Also, and similar to the FMLA, an employer must continue the health benefits of the employee and his or her family or household members during the course of a domestic violence leave on the same terms as if the employee were not on leave.

## Conclusion

Philadelphia employers need to be aware of their obligations under the new ordinance and post a notice immediately to ensure compliance going forward. (A copy of the notice is available at [http://www.phila.gov/humanrelations/pdfs/Domestic\\_Violence\\_Le.pdf](http://www.phila.gov/humanrelations/pdfs/Domestic_Violence_Le.pdf).) Small employers—especially those with fewer than 50 employees that may not regularly track leave entitlements—should plan ahead to ensure that any leave requests will be handled appropriately.

We encourage all Philadelphia employers to review these materials and to speak with one of the following attorneys—or with any member of the firm’s Philadelphia Labor and Employment Practice—if they have any questions.

## Philadelphia

Sarah E. Bouchard	215.963.5077	<a href="mailto:sbouchard@morganlewis.com">sbouchard@morganlewis.com</a>
Michael J. Ossip	215.963.5761	<a href="mailto:mossip@morganlewis.com">mossip@morganlewis.com</a>
Michael J. Puma	215.963.5305	<a href="mailto:mpuma@morganlewis.com">mpuma@morganlewis.com</a>

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