

LAW & POLICY GROUP

GRIST

NEW YORK BOOSTS JOB, LEAVE RIGHTS FOR DOMESTIC VIOLENCE VICTIMS

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Victims of domestic violence will have expanded employment protections under legislation (2019 Ch. 176 ([A5618](#), [S1040](#))) [signed](#) by New York's governor that takes effect Nov. 18 — 90 days after becoming law. The law makes domestic violence victims a class protected from discrimination under the state's [Human Rights Law](#) and specifies what leave and accommodations employers must provide to victims.

HIGHLIGHTS

Domestic violence. The law defines domestic violence as an incident that causes or creates the risk of physical or emotional injury to an individual or the individual's child. The term includes disorderly conduct, harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder and strangulation.

Nondiscrimination protections. Employers will engage in unlawful discrimination if they use an individual's status as a domestic violence victim as grounds for refusal to hire, differences in pay or treatment, or discharge.

Leave. Employers will have to provide reasonable time off to victims of domestic violence, unless the absence would cause undue hardship. Employers can require use of paid leave first, unless a collective bargaining agreement or an employee handbook or policy provides otherwise. Domestic violence victims who have no paid leave available may take unpaid leave. Health insurance must continue during the leave.

Reasons. Employees may take domestic violence leave to obtain medical attention or victim services, including for domestic violence or rape crisis counseling, safety planning or relocation; seek legal services; cooperate with prosecution; or appear in court. Employees older than 16 may use this leave when they, their spouse or their child is harmed in a criminal act by a family or household member.

Notification. Employees will have to provide reasonable advance notice of the absence whenever feasible. If an employee is unable to give advance notice, employers can request certification of the reason for the leave within a reasonable time after the absence. Certification examples include:

- A police report
- A court order
- Other evidence from the court or prosecuting attorney
- Documentation from a medical professional, domestic violence advocate, healthcare provider or counselor.

Confidentiality. Employers shall keep the related information confidential to the extent permitted by law.

RELATED RESOURCES

- [S 1040](#) (New York State Senate)
- [A 5618](#) (New York State Assembly)
- [Press Release](#) (Governor's Office, Aug. 20, 2019)
- [New York State Human Rights Law](#) (Division of Human Rights)

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