

NEW MISSOURI LAW REQUIRES LEAVE AND ACCOMMODATIONS FOR VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE

Effective on Aug. 28, 2021, Missouri's new Victims Economic Safety and Security Act (VESSA) requires Missouri employers with at least 20 employees to provide leave and reasonable safety accommodations to employees who experience domestic or sexual violence. The new statute also includes notice obligations that employers should start preparing to satisfy. Missouri joins 34 other states that have enacted similar protections for employees in recent years.

PEOPLE

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LEAVE REQUIREMENTS

Unpaid Leave. The amount of VESSA leave available to eligible employees will depend on the size of their employer, and all leave required under VESSA can be unpaid:

Number of Employees
1 – 19 employees
20 – 49 employees
> 50 employees

VESSA leave, however, is not available where such leave would result in an employee taking more leave than the amount of unpaid leave allowed under the Family and Medical Leave Act (FMLA). Much like FMLA leave, VESSA leave can be taken intermittently or on a reduced work schedule. Employers must maintain health coverage for an employee on VESSA leave.

Qualifying Reasons for Leave. VESSA leave is available for any of the following reasons:

- seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence against the employee or the employee's family or household member;
- obtaining victim services for the employee or the employee's family or

household member;

- obtaining psychological or other counseling for the employee or the employee's family or household member;
- participating in safety planning, including temporary or permanent relocation, or other actions to increase the employee or the employee's family or household member's safety from future domestic or sexual violence; and
- seeking legal assistance to ensure the health and safety of the employee or the employee's family or household member, including participating in court proceedings related to the violence.

Employee Eligibility. Employees working for an employer covered by VESSA are eligible to take leave under the statute if (1) they are victims of domestic or sexual violence, or (2) they have a family or household member who is a victim of domestic or sexual violence.

Notice and Documentation. Employers can require the following from employees who wish to take VESSA leave:

- at least 48 hours' advance notice of the need for leave unless such notice is impractical, in which case the notice must be given as soon as possible; and
- a sworn statement of the employee and documentation showing that the employee is eligible for the leave, such as a police report or document from a victim services organization, or medical professional corroborating eligibility.

Employers, however, must maintain "the strictest confidence" of all documentation collected in connection with VESSA leave.

ACCOMMODATION REQUIREMENTS

Under VESSA, employers—including public entities and agencies, private entities and persons who employ at least 20 people—are required to make reasonable safety accommodations unless such accommodations would result in undue hardship for the employer. Such an accommodation must be made "in a timely manner" to the known limitations resulting from the domestic or sexual violence experiences of an employee or an employee's family or household member. VESSA defines broadly the term "family or household member" to include spouses, parents, children and "other blood relatives and relatives through a present or prior marriage."

The statute defines the term "reasonable safety accommodations" to encompass the following actions by an employer:

- adjustment to a job structure, workplace facility or work requirement;
- a transfer or reassignment;

- a modified schedule;
- leave from work;
- a changed telephone number or seating assignment;
- installation of a lock or implementation of a safety procedure; or
- assistance in documenting domestic violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic violence.

An employer can ask an employee requesting such accommodation to provide a written statement signed by the employee or someone acting on the employee's behalf certifying the requested accommodation is for purposes authorized under VESSA.

RETALIATION PROHIBITED

VESSA prohibits employers from retaliating against employees for exercising their rights under the statute. Consistent with this principle, the law entitles employees who take VESSA leave to be restored to their job or an equivalent employment position upon returning from leave.

NEXT STEPS

Missouri employers should consider taking several steps to prepare for compliance with VESSA:

- **Policy Revisions.** Updating employee handbooks and policy manuals to include a VESSA leave policy will give employers an opportunity to establish notice and documentation requirements that VESSA permits employers to impose on employees.
- **Notice to Employees.** Covered employers are required to notify employees of their rights under VESSA no later than Oct. 27, 2021. Thereafter, newly hired employees must receive notice of VESSA rights when their employment begins.
- **Training.** Providing training to supervisors and human resources professionals to recognize circumstances triggering VESSA leave rights may be helpful to avoid disputes concerning whether an employer provided required accommodations "in a timely manner" when on notice of domestic or sexual violence experienced by an eligible employee or the employee's "family or household member."

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situation.