

What Employers Need to Know: Washington State Domestic Violence Leave Law

What is domestic violence?

The legal definition of domestic violence means “physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members.” RCW 49.76.020(4)(5); RCW 26.50.010(3). Sexual assault and stalking between family or household members is also considered domestic violence. RCW 26.50.010(3).

How common is domestic violence?

Domestic violence can happen to anyone, and it is not limited to physical violence. Abusers may use emotional, sexual, economic or other environmental tactics to control their partners. In 2014, 44 people died in Washington as a result of domestic violence. Washington State Coalition Against Domestic Violence -2014 Domestic Violence Fatalities in Washington State.

Which employers must comply with the Domestic Violence Leave Law?

Employers with one or more employees must comply with the law. RCW 49.12.005(3)(a); RCW 49.76.020(3).

What rights does the Domestic Violence Leave Law provide to victims?

It allows victims of domestic violence and their family members to take reasonable leave from work to obtain legal assistance, medical treatment, participate in safety planning, or relocate. RCW 49.76.030. Leave may be with or without pay depending on whether the employee can or chooses to use earned leave. RCW 49.76.030.

What are employers required to do when an employee requests leave?

Upon an employee’s request, his or her employer must provide reasonable leave. Employers must keep confidential all information disclosed in connection with the leave, except when consented to by the requesting employee or by court order or other law. RCW 49.76.040(8)(a)-(b).

What are employers required to do during an employee’s leave?

During leave, employers must maintain their employee’s health insurance at the same level as if leave had not been taken. RCW 49.76.050(4).

What are employers required to do when an employee returns?

Upon their employee’s return, employers must place the employee in the same or similar position that he held prior to taking leave. RCW 49.76.050(2).

Is an employee required to give an employer advance notice?

An employee must provide advance notice to his employer that he will be taking leave. RCW 49.76.040(1). If the employer has a policy governing the timing of notice, the employer must follow that policy. RCW 49.76.040(1). However, if an employee needs leave because of an emergency or unforeseen circumstance, he – or a someone he designates – must give notice of the leave no later than the end of the first day on which leave is taken. RCW 49.76.040(1).

May employers request verification?

When a request for domestic violence leave is made, employers are entitled to ask for verification from the employee to support the request. RCW 49.76.040(2). Verification must be provided in a timely manner, or in the case of an emergency or unforeseen circumstance, within a reasonable time during or after leave is taken. RCW 49.76.040(3).

What may an employee provide as verification?

An employee may choose to provide any of the following as verification:

1. A police report indicating the employee or employee's family member was a victim of domestic violence;
2. A court order providing protection to the victim;
3. Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking; or
4. An employee's written statement that the employee or employee's family member is a victim of domestic violence and needs assistance. RCW 49.76.040(4)(a)-(d).

Employees do not need to disclose any information to their employer beyond one of these forms of verification or disclose information that would compromise their safety. RCW 49.76.040(7).

What happens if employers do not comply with the Domestic Violence Leave Law?

Department of Labor and Industries (L&I) enforces and investigates complaints under the Domestic Violence Leave Law. If L&I finds a violation, it issues a notice of infraction. RCW 49.76.070. L&I can fine the employer up to \$500 for the first infraction, and up to \$1,000 for each subsequent infraction committed within three years of a prior infraction. RCW 49.76.080(1). In addition, an employee may file a civil suit against his employer to recover damages, including costs and attorneys' fees. RCW 49.76.100.

***Disclaimer:** This publication is not legal advice. It is intended as legal information only. For legal advice specific to your needs, contact the Law Offices of Alesha Struthers, PS at 800-972-0411.*

Posted April 2016