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Legal Alert: New Jersey Enacts Domestic Violence Leave Law; Effective Oct. 1, 2013, Employers Must Provide 20 Days' Leave for Victims

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Executive Summary: A bill providing protected leave to victims of domestic violence or sexual assault has been signed into law and is expected to take effect on October 1, 2013. The new law will require New Jersey employers with 25 or more employees to provide 20 days of job-protected leave to eligible employees.

Leave for Victims of Domestic Violence

The "New Jersey Security and Financial Empowerment Act" establishes leave entitlement for victims of domestic violence or sexual assault and for certain family members of victims. Eligible employees are entitled to 20 days of job-protected leave. The law prohibits employers from taking adverse action against an eligible employee for taking the leave.

To be eligible for the leave, an employee must have worked for the employer for at least 12 months and for at least 1,000 hours during the immediately preceding 12-month period.

Eligible employees will be able to take leave to:

- seek or receive medical treatment;
- obtain services from a victim services organization;
- obtain psychological or other counseling;
- participate in safety planning, moving, or taking other actions to increase safety;
- seek legal assistance; or
- attend, participate or prepare for criminal or civil court proceedings.

Employees must take the leave within one year of the qualifying event.

The leave will run concurrently with any other leave entitlements, such as leave under the federal Family and Medical Leave Act, and employers will be permitted to require employees use available accrued leave. Employees may take intermittent leave, but in increments no shorter than a full day.

Employers are permitted to require documentation proving that the leave was necessary. Such documents may include a copy of a restraining order, a letter from a prosecutor, proof of a conviction, medical documentation, or a

certification from an agency or professional involved in assisting the victim, including social workers, shelter workers, or religious leaders.

The law also requires employers to post a notice regarding the new leave entitlement. The form of notice has not yet been issued.

Employers who violate the law may face civil lawsuits brought by employees denied leave or subjected to retaliation because of taking leave. Courts can award prevailing plaintiffs economic damages, reinstatement, and attorneys' fees. The law also establishes fines of between \$1,000 and \$2,000 for a first violation and up to \$5,000 for subsequent violations.

What Does this Mean for Employers?

Employers should become familiar with this new leave entitlement and review existing leave policies to ensure compliance with state and federal laws.

If you have any questions regarding the new law or other labor or employment related issues, please contact the FordHarrison attorney with whom you usually work or the authors of this Alert, [Salvador Simao](mailto:ssimao@fordharrison.com), ssimao@fordharrison.com, or [Joanna Rich](mailto:jrich@fordharrison.com), jrich@fordharrison.com, both of whom are attorneys in our Berkeley Heights, New Jersey office.

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