

Victims' Economic Security and Safety Act Amendments

The Victims' Economic Security and Safety Act (VESSA), enacted in 2003 and amended this year effective August 24, promotes employment security, economic stability, and safety for employees coping with domestic or sexual violence.

- VESSA permits eligible employees to take unpaid, job-guaranteed leave from employment to deal with domestic violence, sexual violence, dating violence, or stalking. An employee or a member of the employee's family or household may be the violence survivor. The employee may take a leave to seek medical attention, legal assistance, and remedies such as an order of protection or civil no-contact order, counseling, safety planning, relocation, or for other specified purposes.
- VESSA prohibits covered employers from discrimination regarding the conditions or privileges of employment based on an employee's status as a survivor of domestic or sexual violence or as an employee with a family or household member who is a survivor of domestic or sexual violence, or based on any request for leave or other accommodations allowed under the law.

Prior Law and Amended Law Compared

Eligible Employees. VESSA covers full-time and part-time employees who are survivors of domestic or sexual violence or who have a family or household member who is a survivor of domestic or sexual violence.

- Under the prior law, eligible employees work for the state or any agency of the state; any unit of local government or school district; or a private employer of at least 50 employees.
Under the amended law, the threshold number of employees in private industry is reduced from 50 to 15 or more employees.
- Under prior law, the definition of "family or household member" for whom an employee may take a leave and is protected by the nondiscrimination provisions includes a spouse, parent, son, daughter, and persons jointly residing in the same household.
Under the amended law, the definition of "family or household member" is expanded to include individuals related by blood or by present or prior marriage, and individuals who share a relationship through a son or daughter.

Unpaid Leave. Under the prior law, an employee who works for a covered employer may take up to 12 workweeks of unpaid, job-guaranteed leave during any 12-month period. The employee may take a leave intermittently or on a reduced work schedule.

Under the amended law, an employee who works for a private employer with 50 or more employees remains eligible for up to 12 workweeks of unpaid, job-guaranteed leave. An employee who works for a private employer with between 15 and 49 employees is eligible for up to 8 workweeks of unpaid, job-guaranteed leave during any 12-month period. The employee may take a leave intermittently or on a reduced work schedule.

Nondiscrimination. VESSA prohibits an employer from discriminating, harassing, or retaliating against any individual because

- 1) the individual is or is perceived to be a victim of domestic or sexual violence; or

- 2) the individual attended, participated in, prepared for, or requested leave for a criminal or civil court proceeding related to an incident of domestic or sexual violence of which the individual or a family or household member was the victim; or
- 3) the individual requested a reasonable accommodation (e.g., transfers; reassignments; modified work schedules; leave; change of telephone number; change of seat assignment; installation of a lock; or implementation of safety procedures); or
- 4) the workplace is disrupted or threatened by the action of the perpetrator of the domestic or sexual violence.

Under the amended law, employees who work for a private employer of 15 or more employees are now covered by the nondiscrimination protections.

Other Changes

The amended law also

- 1) tracks the definition of “domestic violence” with the language in the Illinois Domestic Violence Act of 1986;
- 2) clarifies who is a domestic violence perpetrator by adding to the VESSA definition of “domestic violence” a citation to the definition of “family and household member” in the Illinois Domestic Violence Act of 1986;
- 3) updates the definition of “electronic communications”;
- 4) adds references to “civil no-contact order” to update the law since there was no civil no-contact order in 2003;
- 5) clarifies that an employee does not have to substitute accrued paid or unpaid leave for leave provided under VESSA;
- 6) clarifies that a reasonable accommodation must be made in a timely fashion;
- 7) adds language to require an employer to help an employee document violence that takes place on the job, such as harassing phone calls; and
- 8) adds language that says an employer that did not post the required VESSA notice (similar to posting required notices regarding minimum wage, employment discrimination, and sexual harassment) may not rely on the VESSA provision that requires employees to give to the employer a document stating that the employee or a family or household member of the employee’s is a domestic or sexual violence survivor and the reason for the leave (the document may be the employee’s sworn statement).

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