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Manitoba Employment Standards Legislation to Include Leave for Victims of Domestic Abuse

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On March 15, 2016, Manitoba gave royal assent to [legislation](#) that will provide employees who are victims of domestic violence with both paid and unpaid leave from work. Titled *The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave)* (the “Act”), the law is the first of its kind in Canada.

The Act

The purpose of the Act is to assist victims of domestic violence in getting medical attention for themselves or their child, accessing victim services or professional counseling, moving temporarily or permanently, and obtaining legal or law enforcement assistance. The paid and unpaid leave provided for in the Act may only be used by employees for these purposes.

Under the Act, victims are able to take up to five days paid leave. Additionally, they may also take an unpaid leave of up to 10 days intermittently or in a continuous period, as well as up to 17 weeks in one continuous period. The 10 days could be used as needed throughout the year for medical or legal appointments, while the 17 weeks could be used to move into a new home or to recover from a violent incident or relationship.

To be eligible for this leave, the employee must have been employed for at least 90 days and must be a victim of domestic abuse as defined in the Manitoba *Domestic Violence and Stalking Act*, which includes experiencing threatened or actual bodily harm, sexual assault, confinement, and psychological or emotional abuse.

Employers are entitled to “reasonable verification” of the necessity of the leave. While there is no guidance in the legislation as to what might constitute reasonable verification, proof of Court proceedings or medical notes for the employee or their children will likely suffice. Employers must maintain confidentiality in respect of all matters relating to an employee’s leave.

Impact

Ontario has prepared similar [legislation](#), which passed second reading in the Legislative Assembly of Ontario on March 10, 2016 and was referred to Standing Committee on Justice Policy for further study. If passed, employees would have access to 10 days of annual paid leave and an unspecified period of unpaid leave if they or their child experience domestic or sexual violence. Further, the legislation also requires employers to reasonably accommodate employees who have been threatened with domestic abuse or who have experienced such abuse with modified hours of work or an alternate workplace.

Employers in Manitoba may face issues with the collection of evidence for domestic abuse leave. Employees who require the leave are unlikely to want to share such personal information. Additionally, this sort of personal



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information is of the most sensitive nature, as it combines medical evidence with personal/relationship information. We hope that the government may provide further guidelines as to the scope of evidence employers may collect from employees.

Although the Manitoba and Ontario laws only affect employers and employees in those provinces, it appears there is a general social trend towards supporting legislative pressure on employers to allow leave for victims of domestic abuse. As such, it is possible that other provinces may soon follow suit.

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