

Missouri Enacts Victims Economic Safety and Security Act

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On August 28, 2021, Missouri joined the growing list of states with legislation geared toward protecting employees who experience domestic or sexual violence. Missouri's new Victims Economic Safety and Security Act ("VESSA") requires public and private employers with at least twenty (20) employees to provide eligible employees with unpaid leave and reasonable safety accommodations as well as notify both current and future employees of their rights under VESSA.

Unpaid Leave Requirements

Eligible Employees. Employees working for a covered employer are entitled to unpaid leave if they (1) are a victim of domestic or sexual violence, or (2) have a family or household member who is a victim of domestic or sexual violence. Notably, VESSA defines "family or household member" broadly to include spouses, parents, children, "person[s] related by blood or by present or prior marriage," "person[s] who share a relationship through a son or daughter," and persons residing in the same household.

Qualifying Reasons for Leave. Eligible employees may request VESSA leave to do any of the following:

- Seek medical attention for, or recover from, physical or psychological injuries caused by domestic or sexual violence against the employee or the employee's family or household member;
- Obtain services from a victim services organization for the employee or the employee's family or household member;
- Obtain psychological or other counseling for the employee or the employee's family or household member;
- Participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence; or

- Seek legal assistance to ensure the health and safety of the employee or the employee's family or household member, including participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

Limitations on Leave. The duration of leave available to an eligible employee depends on the size of his or her employer:

Number of Employees Duration of Leave

1 – 19	None
20 – 49	One week per year
50 +	Two weeks per year

Employees entitled to VESSA leave may use their allotted time intermittently or on a reduced-work schedule. However, an employee may not take VESSA leave if it would result in the employee taking more leave than the amount permitted under the Family and Medical Leave Act.

Documentation. If an employee intends to take leave, he or she must provide the employer with 48 hours' notice unless it would be impractical under the circumstances. Moreover, an employer may request a sworn statement and documentation from the employee evidencing the employee's eligibility for leave. Sufficient documentation may include a police report, court record, or a statement from an attorney, clergy member, or medical professional. While the employee is on leave, the employer may require periodic reports about the employee's intent to return to work. Employers must maintain any collected documentation "in the strictest of confidence."

Responsibilities of Employer. Employers must maintain health coverage for all employees and their family and household members while the employee is on leave. Upon the employee's return to work, the employer must restore the employee to the same position or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.

Accommodation Requirements

Reasonable Safety Accommodations. Covered employers must provide reasonable safety accommodations to employees who have experienced domestic or sexual violence or employees who have family members who have experienced domestic or sexual violence. Reasonable safety accommodations include:

- Adjusting the employee's job structure, workplace facility, or work requirement;
- Transferring or reassigning the employee;
- Providing leave for the employee;
- Changing the employee's telephone number or seating assignment;
- Installing a lock or implementing a safety procedure; or
- Providing assistance in documenting domestic violence that occurs at the workplace or in work-related settings, in response to actual or threatened domestic violence.

Undue Hardship. Employers must provide reasonable safety accommodations "within a timely manner" unless doing so would impose an undue hardship on the employer. An accommodation imposes an undue hardship when it causes the employer significant difficulty or expense in light of the nature and cost of the accommodation.

Documentation. Employers may require the employee to provide a written statement signed by the employee or an employee's representative certifying that the requested accommodation is for a purpose authorized under VESSA. Again, employers must strictly maintain the confidentiality of any collected

documentation.

Preparing for VESSA Compliance

Notice to Employees. Covered employers must notify their current employees of their rights under VESSA no later than **October 27, 2021**. Such notification must be prepared or approved by the Missouri Department of Labor and Industrial Relations (“DOL”). Although the DOL has not definitively stated what type of notice is required, we recommend using [this poster](#) in the meantime. After October 27, 2021, employers must provide all newly hired employees with notice of their rights under VESSA.

Policy Revisions. Covered employers should update their employee handbooks and manuals to include procedures for requesting leave and reasonable safety accommodations. In doing so, employers should remember to include the notification and documentation requirements outlined above.

Training. Covered employers should provide training for supervisors and human resource departments geared toward identifying circumstances which may trigger the protections afforded by VESSA. Recognizing these circumstances early may bolster the employer’s claim that they provided accommodations “in a timely manner” and reduce the likelihood of future disputes.

*This article is general in nature and does not constitute legal advice. **Please note that the Victims Economic Safety and Security Act presents many novel legal questions, and we encourage you to seek legal advice for the application of this and related laws to your specific situation. Please note that legal requirements are changing on a daily basis.** Readers with legal questions should consult the author, Cody Weyhofen (CWeyhofen@sb-kc.com), or the following shareholders in Seigfreid Bingham’s Employment Law Group, including John Vering (JVerling@sb-kc.com), Mark Opara (MOpara@sb-kc.com), John Neyens (Johnn@sb-kc.com), Brenda Hamilton (BHamilton@sb-kc.com), Shannon Johnson (SJohnson@sb-kc.com), or your regular contact at Seigfreid Bingham at 816-421-4460.*