

# CAIN HIBBARD

Cain Hibbard & Myers PC | Counselors at Law

## CLIENT ALERT

October 2014

### **New rights for employees who are victims of domestic violence**

On August 8, 2014, Governor Patrick signed into law “An Act Relative to Domestic Violence,” which applies to employers of 50 or more employees. The Act permits an employee, who is a victim of abusive behavior, or whose family member is a victim of abusive behavior, to take up to 15 days of leave from work in any 12 month period. The employee requesting the leave cannot be the perpetrator of the abusive behavior. The leave may be paid or unpaid at the employer’s discretion. The employee must exhaust all vacation, personal and sick leave before requesting or taking the leave, unless the exhaustion requirement is waived by the employer.

**Purpose of the leave.** The leave must be used to seek or obtain services related to the abusive behavior (medical attention, counseling, victim services, legal assistance, housing), to participate in related legal proceedings (appearing before a grand jury, meeting with a district attorney or law enforcement officials, attending child custody proceedings, or obtaining a protective order), or to address other issues directly related to the abusive behavior.

**Notice requirements.** The employee is required to give the employer advance notice of the leave consistent with the employer’s leave policies, unless there is a threat of imminent danger to the employee’s, or family member’s, health or safety, in which case notice must be given within 3 workdays from when the leave is taken. This notice may be communicated by the employee, a member of the employee’s family, a counselor, social worker, healthcare worker, clergy member, shelter worker, legal advocate, or other professional.

**Documentation for leave.** An employer may require the employee to provide, within a reasonable time after request for the leave, documentation evidencing that the employee or employee’s family member has been a victim of abusive behavior and that the leave is taken for permitted purposes. The employer cannot require evidence of arrest, conviction or other law enforcement documentation. Examples of sufficient documentation include a protective order, a police report or statements provided to the police; a document on the letterhead of the court, provider or public agency providing assistance; the victim’s medical documentation; or a sworn statement by the employee or a professional who has assisted the employee, signed under the pains and penalties of perjury.

**Protection from retaliation.** Employers are not permitted to discriminate, interfere with or restrain rights under this Act, or to retaliate against an employee who has taken leave under this Act. If an employee has taken an unscheduled absence, no negative action may be taken against

the employee unless the employee has failed to provide documentation for the leave within 30 days. At the end of the leave, employees must be restored to their original job or equivalent positions with no loss of employment benefits accrued prior to the leave.

**Confidentiality.** The Act provides that all information related to the employee's leave shall be kept confidential and shall not be disclosed without the employee's consent, unless necessary to protect the safety of the employee or others in the workplace, or as required by law.

**Posting of employee's rights.** The Act requires the employer to inform each employee of the rights and obligations under this Act.

If you would like to speak to someone about these or other aspects of the law, please contact Diane DeGiacomo, Chair of our Employment Law Group.

---

Copyright © 2014 Cain Hibbard & Myers PC

Cain Hibbard & Myers PC

[www.cainhibbard.com](http://www.cainhibbard.com)

66 West Street

Pittsfield, MA 01201

Phone: (413) 443-4771

309 Main Street

Great Barrington, MA 01230

Phone: (413) 528-4771

377 Main Street

Williamstown, MA 01267

Phone: 413-884-0006