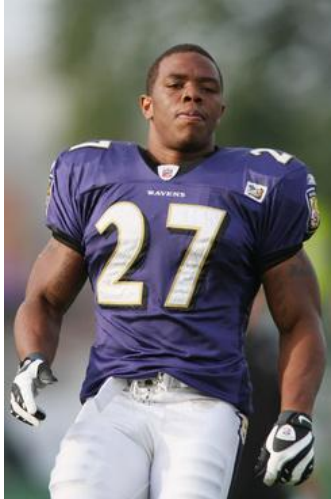


After Ray Rice Scandal, A Timely Review of Employee Domestic-Violence Leave

Andrew Rodman, *Daily Business Review*

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The long-awaited football season has arrived. Sports fans and fantasy fanatics should be elated. There's one problem: From allegations of child abuse to domestic violence, off-the-field NFL issues have dominated the news. As just one example, Ray Rice was let go by the Baltimore Ravens and suspended by the National Football League after the release of a video that appears to show him striking his fiancée (now wife).

Unfortunately, it frequently takes a high-profile "bad actor" to shine the spotlight on often overlooked issues. In light of the recent attention drawn to issues of domestic violence, employers should take a moment to become reacquainted with issues pertaining to domestic-violence leave for employees.

Federal law does not expressly govern time-off for domestic-violence victims. Physical and psychological disabilities stemming from domestic violence may, however, trigger reasonable accommodation obligations under the Americans with Disabilities Act. "Serious health conditions" stemming from domestic violence also may trigger leave rights under the Family and Medical Leave Act.

State Laws

Florida law (Fla. Stat. §741.313), which defines domestic violence broadly, expressly provides for leave necessitated by domestic and sexual violence. Florida employers with at least 50 employees must permit an eligible employee, who is employed for at least three months, to take up to three working days of leave in any 12-month period if an employee or a family or household member of an employee is the victim of domestic or sexual violence, and if the leave is taken to:

- Seek an injunction;
- Obtain medical care or mental health counseling;
- Obtain services from a victim services organization, such as a domestic-violence shelter or a rape crisis center;
- Make the employee's home secure from the perpetrator, or seek new housing to escape the perpetrator or;
- Seek legal assistance or prepare for and attend court-related proceedings.

Leave under the Florida law may be with or without pay, at the employer's discretion. An employee seeking leave is required to exhaust all available vacation, personal and sick leave, unless the employer waives this requirement.

Except in cases of imminent danger, an employee may be required to provide advance notice of the need for leave, in accordance with an employer's policy.

An employer may not interfere with or deny the exercise of an employee's right to domestic or sexual violence leave, nor may an employer discharge, demote, suspend, retaliate or discriminate against an employee for exercising rights under the statute. Similar to the FMLA, however, an employee taking leave has no greater right to continued employment, or to other benefits or conditions of employment, than if the employee had not taken leave under the statute.

An employee may commence a civil action in circuit court seeking equitable relief, wages, and benefits arising from a violation of the statute.

Local Laws

A Miami-Dade County ordinance (§11A-60, et. seq.) provides greater rights to employees seeking leave arising out of domestic abuse.

Covered employers are those with 50 or more employees working in Miami-Dade County during 20 or more calendar weeks in the current or preceding calendar year. Those employers must provide eligible employees—those employed in the county for at least 90 days and for at least 308 hours during the previous 90 days—up to 30 days of unpaid domestic-violence leave during any 12-month period to:

- Obtain medical and/or dental treatment as a result of domestic violence, including treatment for dependent children;
- Obtain and receive legal assistance relating to domestic violence;
- Attend court appearances relating to domestic violence;
- Attend counseling or support services, including services for dependent children or;
- Make other arrangements to provide for the employee's safety.

Similar to the FMLA, leave under the ordinance may be taken intermittently or on a reduced leave schedule. Upon return from leave, the employee must be placed back into the position held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

It is unlawful under the ordinance for an employer to interfere with, restrain or deny an employee's rights. It also is unlawful to retaliate against an employee who has opposed a practice made unlawful under the ordinance. Employees may file complaints with the Miami-Dade County Commission on Human Rights alleging violation of the domestic-leave ordinance.

Employers should have policies in place governing leave for domestic violence. Also, those responsible for addressing employee leave requests should be trained in the ins-and-outs of federal, state and local laws potentially triggered by incidents of domestic and sexual violence.

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