

News Release

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Assistance for Victims of Domestic Violence

(Tampa, Florida (May, 2013). A recent article in the March 19, 2013 edition of USA Today by Matthew Daneman titled, “More States Offer Job Protections for Abuse Victims” addressed the steps that a growing number of states have taken to require employers to provide job protections for workers caught in abusive situations. These steps include a given number of unpaid days off in any 12 month period to have the opportunity to obtain a restraining order, medical care or to have time to move (e.g., Colorado 2002, Connecticut 2010, Hawaii 2012), specific statutes related to providing protection for domestic violence victims, and eligibility for unemployment insurance due to having to leave a job due to episodes of domestic violence.

In the July 9, 2007 edition of The HR Specialist: Florida Employment Law, an article titled “Florida Enacts Law Providing Leave to Deal With Domestic Violence” addresses the state of Florida’s Domestic Violence Leave Law that had been recently passed. This law provides time off to employees who suffer domestic abuse, or who have family or household members who have been abused and covers all employers with 50 or more employees. Employers are required to grant up to three days of domestic abuse leave annually, as long as workers have been employed for at least three months and employers have the right to decide whether the leave will be paid or unpaid.

The 2012 Florida Statutes (741.313 Unlawful Action Against Employees Seeking Protection) defines domestic violence (i.e., statute 741.28) and sexual violence (i.e., statute 784.046) according to identified statutes or any crime where an underlying factual basis has been found by a court to include an act of domestic or sexual violence. According to Florida statutes an employee is permitted to use leave from work for:

- **Seeking an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence;**
- **Obtaining medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence or sexual violence;**
- **Obtaining services from a victim services organization, including, but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence or sexual violence;**
- **Making the employee's home secure from the perpetrator of the domestic violence or sexual violence or to seek new housing to escape the perpetrator; or**
- **Seeking legal assistance in addressing issues arising from the act of domestic violence or sexual violence or to attend and prepare for court-related proceedings arising from the act of domestic violence or sexual violence.**

Except in cases of imminent danger to the health or safety of the employee, or to the health or safety of a family or household member, an employee seeking leave from work under this section must provide to their employer appropriate advance notice of the leave as required by the employer's policy along with sufficient documentation of the act of domestic violence or sexual violence as required by the employer. An employee seeking leave under this section must, before receiving the leave, exhaust all annual or vacation leave, personal leave, and sick leave, if applicable, that is available to the employee, unless the employer waives this requirement.

Due to the safety issues inherent in domestic or sexual violence, the statute requires that a private employer must keep all information relating to the employee's leave under this section confidential and may not interfere with, restrain, or deny the exercise of or any attempt by an employee to exercise any right provided under this section. In addition, an employer may not discharge, demote, suspend, retaliate, or in any other manner discriminate against an employee for exercising his or her rights under this section.

Other statute requirements state that an employee has no greater rights to continued employment or other benefits than if the employee was not entitled to leave under this section of the statute and does not limit the employer's right to discipline or terminate any employee for any reason.

Legislators made the requirement that employees must provide employers with "appropriate advance notice" of the need for leave, quite flexible due to safety factors inherent in domestic violence situations. Employers also have to designate leave as domestic violence leave on a case-by-case basis and while there is no given time allotment as in FMLA, this leave may be considered part of FMLA since employees who seek medical care or counseling may have a serious medical condition as defined by the FMLA. Or, employees who tend to children injured in domestic violence incidents or attend a child's domestic violence-related counseling session may meet the FMLA's definition of caring for an immediate family member with a serious health condition. As with any other FMLA-related absence, employees do not have to ask for FMLA leave, but employers must designate the leave as being FMLA leave or not within two business days of being notified of the leave.

Another factor addressed under Florida's new law is the expanded scope of confidential information employers are required to maintain again due to the safety factors inherent in domestic violence.

Since this article is generic and not intended to offer legal advice, it is important that anyone interested in taking domestic violence leave be aware of state laws and how the given laws tie in with FMLA. An organization's Human Resource Department representative can clarify for an individual how the organizations' policies may benefit a victim of domestic violence. Other good resources are local domestic violence programs that often have attorneys available to assist individuals in terms of clarifying what options are available. And of course, the EAP is available as a first step of assistance.

What can you do if you recognize yourself or a loved one in need of the above information? Call your EAP. If you have wondered about what you can do if caught in a cycle of violence, call the EAP. You can explore in a confidential setting the concerns that you have and receive assistance to determine how to remain safe. Remember that when you need to sort out your feelings about what is happening in your life help is a phone call away. The EAP can help you find a new path so that the changes you need to make can be managed. Remember that the Employee Assistance Program (EAP) is a benefit available to you and your dependents Help is available 24-hours a day, 7 days a week.

EAP is a tool for personal and professional growth. Above all, keep in mind that concerns develop over time but the way you address them can be changed. The EAP representative will help you find the best solution for your particular situation and help is just a phone call away. Call: (813) 870-0392 (Hillsborough County, Florida), (727) 576-5164 (Pinellas County, Florida), or (800) 343-4670 (out of area toll free).

Remember that the Employee Assistance Program (EAP) is a benefit available to all employees and dependents of companies contracted with Wood & Associates for providing EAP services.

About Wood & Associates

Wood & Associates is an Employee Assistance Program and behavioral health consulting firm that helps employers maintain productivity, safety and behavioral health in the workplace. Wood & Associates is a pioneer in the Employee Assistance Program (EAP) industry and has served employers and employees in the greater Tampa Bay area and nationwide since 1982. The firm's diverse group of clients includes a number of major employers who also contract for its mental health and substance abuse services.

Gary L. Wood, Psy.D., founder of the Wood & Associates consulting practice, is a pioneer in the field of Employee Assistance Program (EAP) services. Since 1979, his practice has centered on providing solutions to employee and organizational problems. Wood is a licensed clinical psychologist, a member of the National Register of Health Service Providers in Psychology, and a graduate of Rutgers University, West Georgia College and Mercer University.

Patricia N. Alexander earned a Ph.D. in mental health counseling at the University of Florida. Trained in critical incident stress management through the International Critical Incident Stress Foundation, she is a Florida Licensed Mental Health Counselor and nationally certified counselor. Through her work experience she has addressed all types of critical incident situations, including explosions, multiple homicides, suicides, line-of-duty deaths, serious accidents and robberies. Alexander conducts training on stress management for law enforcement and businesses, and has developed peer support programs for law enforcement and industry. Alexander is an educator and consultant on a wide variety of behavioral health concerns.