



Labor and Employment News Alert

May 20, 2009

Governor Gregoire Signs Sweeping Domestic Partner Legislation

Earlier this week Governor Chris Gregoire signed into law domestic partner legislation that will amend myriad state laws and provide registered domestic partners with many rights and benefits that have previously been reserved for married couples. It is important for employers to recognize that the new law effectively provides state-registered domestic partners with “spouse” and “family member” status under various existing laws, including Washington's Family Care Act, Military Family Leave Act, Family Leave Act, Family Leave Insurance Act, and under other employment-related laws regarding industrial insurance, unemployment compensation, and wages. The new law will take effect July 26, 2009, unless groups seeking to repeal the law obtain enough signatures before then to get a referendum on the November ballot. Washington employers should act with all due speed to be prepared if the law goes into effect at the end of July.

Who can be considered “domestic partners” for purposes of the new law?

Only state registered same-sex couples, or unmarried heterosexual couples in which one partner is at least 62 years of age, are granted domestic partner status and rights under the new law. While the law establishes additional registration criteria, the key is that the couple must be registered under the state registry. Couples registered only at the city or county level will not be granted domestic partner status under state law.

Will the new law affect health and other benefits offered by employers?

Self-insured employee health plans and other self-insured benefit plans will not be affected by the new law because the federal Employee Retirement Income Security Act (“ERISA”) preempts state laws that would affect the administration of such plans. However, the new law will require any insured employee benefit plan to recognize a Washington State-registered domestic partner as a “spouse” or “family member” for purposes of that plan. Because of the federal Defense of Marriage Act (“DOMA”), there will be no tax-favored status for coverage or benefits for any domestic partner. As a practical matter, employers can almost certainly depend on their insurers to appropriately amend their plans; however, employers should contact their insurer to make sure such matters are properly being attended to.

Does the new law affect federal laws such as the Family and Medical Leave Act (FMLA)?

No. The new law only makes changes to state laws. However, Washington State's Family Leave Act contains similar requirements to the FMLA, and it is affected by the new domestic partner law.

What should employers do now?

Employers should review their policies, procedures, and employee handbooks and, if necessary, update them to comply with the new law. For example, policies regarding family and/or medical leave, sick leave or PTO or affording any spousal benefits or rights, should be reviewed to determine whether they should include registered domestic partners under the new law.

We are happy to answer any questions you may have about this new law or how it will affect your business.

Upcoming Events

June 10, 2009

Breakfast Briefing:

Bob Howie's Annual Employment Update

June 17, 2009

due to overwhelming response, an identical second session has been added

The [Riddell Williams Labor and Employment Group](#) helps businesses comply with labor and employment laws and resolve disputes with employees. Our practice consists of four primary areas: counseling, litigation, training, and traditional labor law.

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