

Legislative Update

by Kara Moore*

The following is a list of some of the Acts passed in the 5th session of the 40th Manitoba Legislature in 2016. While every effort has been made to ensure the accuracy of the information provided, lawyers should refer to the specific legislative or regulatory provision. Current versions of Manitoba statutes and regulations are available online at <http://web2.gov.mb.ca/laws/index.php>.

The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave), S.M. 2016, c. 2 (Bill 8, 5th Session, 40th Legislature)

Royal Assent: March 15, 2016

Summary: This Bill amends The Employment Standards Code to enable an employee who is a victim of domestic violence to take up to 10 days of leave, either intermittently or in a continuous period, as well as a continuous period of up to 17 weeks. Up to 5 days are to be paid leave. Domestic violence leave must be for specified purposes relating to the domestic violence. For example, the leave is required to seek medical attention or to seek legal or law enforcement assistance.

Amendments to the Code also enable an employee who is seriously injured or ill to take unpaid leave of up to 17 weeks, and extended the length of the compassionate care leave an employee may take from 8 weeks to 28 weeks. These changes will align Manitoba's leave provisions with employment insurance benefits available under federal legislation. To qualify for compassionate care leave, the minimum period of time that the employee must have worked for the same employer is extended from 30 to 90 days.

Employers and others must maintain confidentiality in respect of all matters relating to an employee's leave, and they are prohibited from disclosing such information except to persons who require the information to carry out their duties.

In Force: By Proclamation

The Domestic Violence and Stalking Amendment Act, S.M. 2016, c. 3 (Bill 11, 5th Session, 40th Legislature)

Royal Assent: March 15, 2016

Summary: *The Domestic Violence and Stalking Act* enables a person to obtain a protection order against someone who has engaged in domestic violence or stalking against the person. A protection order is intended to protect a victim from further domestic violence or stalking by preventing the other person from engaging in conduct that creates a threat to the victim.

This Bill makes a number of changes to the process for obtaining protection order. A family member or other person who provides support to a victim may accompany the victim at the hearing on an application for a protection order. The test for obtaining a protection order is changed to remove a requirement that the victim required imminent and immediate protection before an order would be made. A justice of the peace must consider specific factors relating to

the risk of domestic violence or stalking when considering an application for a protection order, and reasons for a decision must be given.

If a protection order is made and the justice of the peace is satisfied that the person against whom the order is made possesses firearms, the protection order must require the person to surrender the firearms and ammunition to a peace officer. In addition, the chief firearms officer must be notified when a protection order is granted.

The definition of stalking is expanded to include using the Internet to threaten or harass another person.

In Force: By Proclamation

The Path to Reconciliation Act S.M. 2016, c. 5 (Bill 18, 5th Session, 40th Legislature)

Royal Assent: March 15, 2016

Summary: Reconciliation of Indigenous and non-Indigenous peoples is to be guided by the principles of respect, engagement, understanding and action.

This Bill sets out the government's commitment to advancing reconciliation, led by the minister responsible for reconciliation. A strategic path forward is to be developed, and the measures taken to advance reconciliation are to be annually reported.

In Force: Upon Royal Assent

* Kara is starting her 2nd year of law school and was the MBA summer student for 2016. Thank you to Manitoba Justice – Legislative Counsel for reviewing the article.