

SURVIVOR STATE EMPLOYMENT GUIDE

CALIFORNIA

INTRODUCTION

The resource below is for informational purposes only and may not reflect new protections enacted after its publication date. While this resource is not intended to provide legal advice, it can be used as a starting point to guide you in identifying workplace protections for survivors of domestic violence, sexual assault, and stalking in your state. Note that in addition to possible other protections enacted since this resource was last updated, there may be local or federal protections available. Employers may also provide additional protections that may be reflected in employee handbooks or policies.

ANTI-DISCRIMINATION PROTECTIONS

Under California Law (**Cal. Lab. Code § 230**), employers are prohibited from discriminating or retaliating against an employee because of the employee's status as a victim of domestic violence, sexual assault, or stalking. To be covered, an employee must provide notice regarding their status or the employer had actual knowledge of the status.

Note that federal law, local law and/or employers' internal policies may provide other applicable protections.

REASONABLE ACCOMMODATIONS

Under California law (**Cal. Lab. Code § 230**), an employer is required to provide reasonable accommodations at work for a victim of domestic violence, sexual assault, or stalking who requests one related to their safety at work, and employers can't retaliate against an employee for requesting an accommodation at work, even if they didn't provide the accommodation. However, an employee can only receive these accommodations if their employer is aware they are a victim of domestic violence, sexual assault, or stalking. To request an accommodation, an employee must submit a signed written statement outlining the accommodation requested, stating that the accommodation is related to domestic violence, sexual assault, or stalking. Employers are required to work with employees to provide an accommodation and to do so in a timely manner. An employer may request additional documentation to establish the need and to verify your status.

- *Examples of reasonable accommodation?* The law includes a non-exhaustive list of examples of reasonable accommodations, including job transfer, job reassignment, a modified schedule, changing a work telephone, changing workstations, installing locks, assisting the survivor in documenting abuse at work, putting in place an office safety procedure, referral to a victim services organization, or other accommodations.
- *Is this process confidential?* Under California law, employers cannot share any written or verbal statements, police or court records, or other materials submitted to prove an employee's status as a victim of domestic violence, sexual assault, or stalking unless required by federal or state court or if necessary to protect an employee's safety at work. Employees must be notified before any information is shared in these scenarios.

Individuals may also be eligible for reasonable accommodations under other laws or policies, including those that might afford reasonable accommodations for a disability related to domestic violence or sexual assault. Note that federal law, local law and/or employers' internal policies may provide other applicable protections.

LEAVE/TIME OFF WORK

Under California Law, there are several ways an employee may be able to seek time off as a victim of domestic violence, sexual assault, or stalking.

- **Paid Sick and Safe Days:** In California (**Cal. Lab. Code § 246.5**), an employer is required to provide an employee paid sick days if the employee requests a sick day and they are a victim of domestic violence, stalking, and sexual assault. An employer also can't fire, discriminate, or retaliate against anyone who uses their sick days for this purpose. Employees are entitled to paid sick days if they have worked for their employer for more than 30 days within a year. Employees can earn 1 hour for every 30 hours worked, but employers may be able to cap the number of days you can earn by 48 hours/6 days or by 24 hours/3 days for the year.¹
- **Time Off for Court:** In California, an employer can't fire an employee, discriminate against them, or retaliate against them for taking time off to appear in court to comply with a subpoena or court order (**Cal. Lab. Code § 230**) or to obtain any relief, including a temporary restraining order, restraining order, or something else in court related to the health, safety, and welfare of the victim and their family. (**Cal. Lab. Code § 230(b)**). However, the employee needs to provide reasonable advance notice to their employer if possible. **Cal. Lab. Code § 230(c), (d)(1)**. Employees who cannot provide advance notice, can provide certification and may be required to submit verifying documentation (**Cal. Lab. Code § 230(d)(2)**).
- **Time Off for Crime Victims:** In California (**Cal. Lab. Code § 230.1**), employers with 25 or more employees cannot fire or discriminate against employees for taking time off related to being the victim of a crime. The law defines victim as a victim of domestic violence, sexual assault, or stalking, a victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury, or a person whose immediate family member died due to a crime. Employees are required to give their employer reasonable advance notice and employers can ask for certification of an absence that was not scheduled in advance. Covered individuals can take time off for any of the following reasons: to seek medical attention related to the crime or abuse, obtain services from a domestic violence shelter or program, rape crisis center, or other victim services organization related to the crime or abuse, to get psychological counseling or mental health treatment related to the crime or abuse, to participate in safety planning (ex. moving). Further, an employer cannot fire, discriminate against, or retaliate against an employee who takes time off to appear in court if they are the victim of felony domestic violence, felony stalking and sexual assault (**Cal. Lab. Code § 230.5**).

Note that individuals may also be eligible to take time off under their employer's policy, including vacation time, sick time, and personal days, under other state laws or protections, or under federal protections such as the Family and Medical Leave Act, which may afford unpaid leave for a severe medical condition.

UNEMPLOYMENT INSURANCE

Under California law (**Cal. UIC 1256**), an employee can only get unemployment insurance after quitting a job if they can show they have "good cause." Good cause is determined by the Employment Development Department (EDD) of California. Under California law, a domestic violence survivor who left their job to protect their family or themselves has "good cause" when applying for unemployment insurance. But, in order to show good cause to EDD, a domestic violence survivor must have tried to keep their job. The law doesn't specify how someone must try to keep their job.

- *Do I have to show proof of domestic violence?* According to the EDD, a survivor trying to get unemployment insurance on these grounds will likely need to show proof of the abuse that occurred that led to leaving the job. EDD will also confirm with employers that an employee tried to stay in the job prior to quitting.²

OTHER RESOURCES

https://www.dir.ca.gov/dlse/victims_of_domestic_violence_leave_notice.pdf

¹ Additional resource: <https://www.workplacefairness.org/domestic-violence-workplace#CALIFORNIA>; <https://legalaidatwork.org/factsheet/domestic-violence-and-sexual-assault-guaranteed-leave-to-go-to-court-obtain-services/>

² Additional resources: [Employment Development Department “Services for Victims of Domestic Violence Abuse” Information Sheet](#); [Legal Aid at Work “Domestic Violence, Sexual Violence, and Stalking: Unemployment Insurance if You Must Quit”](#)