

## SURVIVOR STATE EMPLOYMENT GUIDE

# DELAWARE

### 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 Delaware law (**Del. Code. Ann. tit. 19 ch. 17 sec. 711(h)**), it is illegal for an employer to fail or refuse to hire, fire, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because the individual was the victim of domestic violence, a sexual offense, or stalking. Under this section (**Del. Code. Ann. tit. 19 ch. 17 sec. 710(7)**), an employer is defined as a person employing four or more people within the state at the time of the violation. Under this section (**Del. Code. Ann. tit. 19 ch. 17 sec. 710**), the domestic violence, sexual offense, or stalking can be verified by an official document, such as a court order, or by a reliable third-party professional, including a law enforcement agency or officer, a domestic violence or domestic abuse service provider, or health-care provider.

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

### REASONABLE ACCOMMODATIONS

Under Delaware law (**Del. Code. Ann. tit. 19 ch. 17 sec. 711(h)**), employers must reasonably accommodate known limitations related to the employee's status as a victim of domestic violence, sexual assault, or stalking unless it would be an "undue hardship" on the operation of the employer's business.

- *Examples of a reasonable accommodation?* Under this section, a reasonable accommodation can be reasonable changes in the schedule or duties that would accommodate the person who was the victim of domestic violence, a sexual offense, or stalking or allowing the individual to use accrued leave to address the domestic abuse, sexual offense, or stalking.

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

- **Time Off for Crime Victims:** Under Delaware law (**Del. Code Ann. tit. 11, § 9409**), a victim of a crime and representatives of victims can be granted time off to respond to a subpoena. Please see the statute (**Del. Code. Ann. tit. 11 sec. 9401**) for definitions of a victim of a crime and what constitutes a crime for this section of the law. Under Delaware law, an employer can't discharge or discipline a victim of a crime or a representative of the victim for:

- Participating at the prosecutor's request in preparation for a criminal justice proceeding; or
- Attending a criminal justice proceeding if the attendance is reasonably necessary to protect the interests of the victim or in response to a subpoena.

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 Delaware law (**Del. Code. Ann. title 19, chapter 33, 3314(1)**), an individual who leaves work "due to circumstances directly resulting from the individual's experience of domestic violence" will not be disqualified from receiving unemployment insurance. The circumstances must be one of the following: (1) the individual had a reasonable fear of future domestic violence at or en route to or from the individual's place of employment; (2) the individual relocated to another geographic area to avoid future domestic violence against the individual or their spouse, a child under the age of 18, or parent; or (3) any other circumstance in which domestic violence causes the individual to reasonably believe that absence from work is necessary for the future safety of the individual or their spouse, a child under the age of 18, or parent.

- *Do I have to show proof of domestic violence?* The Division of Unemployment Insurance shall require the individual to provide documentation of the domestic violence for compensation purposes. Documentation can include the police or court record or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. The Division of Unemployment Insurance cannot disclose the information provided unless the individual gives consent.