

## SURVIVOR STATE EMPLOYMENT GUIDE

# MASSACHUSETTS

### 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

At the time of publication, Massachusetts law does not provide anti-discrimination workplace protections for survivors of domestic violence, sexual assault, or stalking. However, the employer of an employee who is entitled to paid sick leave under [Mass. Gen. Laws Ch. 149 Sec. 148C](#) (see below), or leave to address abusive behavior under [Mass. Gen. L. Ann. ch. 149 §52E](#) (see below) cannot retaliate or discriminate against the employee for taking such leave.

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

### REASONABLE ACCOMMODATIONS

At the time of publication, Massachusetts has not enacted a state law affording reasonable accommodations for domestic violence, sexual assault, or stalking. However, individuals may 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

In Massachusetts, survivors of domestic violence, sexual assault and stalking have several ways they might be able to take time off work to address the violence.

- **Time Off to Address Domestic Violence, Sexual Assault, Stalking:** Under Massachusetts law ([Mass. Gen. L. Ann. ch. 149 §52E](#)), employers who employ 50 or more people must permit their employees to take up to 15 days of leave from work in any 12-month period if the employee or the employee's family member is a victim of abusive behavior. The leave is limited to those employees who are not the perpetrators of such abusive behavior. The definition of abusive behavior includes domestic violence, stalking, sexual assault, and kidnapping. The employer will determine whether the leave is paid or unpaid. Employees must exhaust all other leave, unless the employer makes an exception, before taking leave for abusive behavior.

The employee may use the leave to:

- Seek medical attention, counseling, victim services or legal assistance;
- Secure housing;
- Obtain a protective order;
- Take legal action or attend legal proceedings; or

- Address other issues stemming from the abusive behavior directed at the employee or the employee's family member.
- *Do I need to show proof of domestic violence, sexual assault, or stalking?* The employer may seek proof or documentation that the employee or the employee's family member has been a victim of abusive behavior and that the purpose of the leave is for one of the above listed reasons. The employee may satisfy this requirement by providing one of the following documents:
  - A protective order or another type of court-issued documentation;
  - A police report;
  - Medical documentation;
  - A sworn statement from the employee or the employee's counselor, social worker, health care provider, clergy member, shelter worker, legal advocate or other such professional; or
  - Documentation showing that the perpetrator was either convicted or has admitted to sufficient facts to support a finding of guilt.

Employees must provide their employers with advance notice, except in cases of emergency. When the employee has an unscheduled absence due to abusive behavior, employers may not take adverse action against the employee unless the employee fails to provide any of the documentation listed above within 30 days of that absence.

- **Paid Sick Days:** Under Massachusetts law ([Mass. Gen. Laws Ch. 149 Sec. 148C](#)), employers with 11 or more employees are required to provide one hour of paid sick and safe time for every 30 hours worked, up to 40 hours per year. Employers with fewer than 11 employees must provide unpaid sick time at the same rate and subject to the same annual cap. Employees may use this time to address the psychological, physical or legal effects of domestic violence. If the absence is longer than 24 consecutively scheduled work hours, the employer may require certification in the form of any of the documentation noted above. The employee must provide advance notice when the use of time off is foreseeable. Employers are prohibited from retaliating or discriminating against employees who exercise their rights or support the exercise of other employee's rights under these provisions.
- **Time Off for Crime Victims:** Under Massachusetts law ([Mass Gen. Laws Ch. 258B, § 3\(I\)](#)), a victim or witness of a crime who has received a subpoena to testify cannot be fired, penalized, or be threatened with being fired by their employer for attending the criminal proceeding. However, under Massachusetts law ([Mass Gen. Laws ch. 268, § 14B](#)), the victim or witness must inform their employer the day before they appear in court to receive these protections.

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 Massachusetts law ([Mass. Gen. L. Ann. ch. 151A §25](#)), an individual is not disqualified from receiving unemployment insurance benefits if they can show that the reason they left their employment was due to domestic violence. All of the following instances are considered as leaving employment due to domestic violence:

- Fear of domestic violence at or on the way to or from the place of employment;
- The individual's need to relocate in order to avoid future domestic violence;
- The individual need to address the physical, psychological, and legal effects of domestic violence;

- The individual's need of leave employment as a condition of receiving services or shelter from an agency that supports domestic violence victims; or
- Another situation where the individual felt it was necessary to leave their job for the future safety of themselves or their family.

Under Massachusetts law (**Mass. Gen. L. Ann. ch. 151A §1**), domestic violence under this section is defined as “abuse committed against an employee or the employee’s dependent child by: (1) a current or former spouse of the employee; (2) a person with whom the employee shares a child in common; (3) a person who is cohabitating with or has cohabitated with the employee; (4) a person who is related by blood or marriage; or (5) a person with whom the employee has or had a dating or engagement relationship.” Under this law, “abuse shall include (1) attempting to cause or causing physical harm; (2) placing another in fear of imminent serious physical harm; (3) causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; (4) engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; (5) depriving another of medical care, housing, food or other necessities of life; and (6) restraining the liberty of another.”

- *Do I have to show proof of domestic violence?* Under Massachusetts law (**Mass. Gen. L. Ann. ch. 151A §1**), an individual can show proof of domestic violence by providing one of the following:
  - A restraining order or other documentation similar to this;
  - A police record documenting the abuse;
  - Documentation that the perpetrator of the abuse has been convicted of one or more of the offenses enumerated in **Chapter 265** where the victim was a family or household member;
  - Medical documentation of the abuse;
  - A statement provided by a counselor, social worker, health worker, member of the clergy, shelter worker, legal advocate or other professional who has assisted the individual in addressing the effects of the abuse on the individual or the individual's family; or
  - A sworn statement from the individual attesting to the abuse.

All evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall not be disclosed by the department unless consent for disclosure is given by the individual.