

## SURVIVOR STATE EMPLOYMENT GUIDE

# MONTANA

### 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 employment handbooks or policies.

### ANTI-DISCRIMINATION PROTECTIONS

At the time of publication, Montana had not enacted a state law prohibiting discrimination on the basis of domestic violence, sexual assault, or stalking. Note that federal law, local law and/or employers' internal policies may provide other applicable protections.

### REASONABLE ACCOMMODATIONS

At the time of publication, Montana had 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 Montana there are a couple of ways an employee may be able to take time off from work as a victim of domestic violence, sexual assault or stalking:

- **Paid sick days:** In Montana, ([Mont. Code Ann. § 46-24-205\[3\]](#)) public employees must be provided with paid sick leave which is accrued at a rate based on years of service. Montana private sector employers are not required by law to provide employees with sick leave, paid or unpaid.
- **Time off for crime victims:** In Montana, ([Mont. Code Ann. §46-24-205](#)) law enforcement and/or prosecutors must assist a crime victim, who requests such assistance, with notifying their employer of the need for the victim to be absent from work in order to cooperate with the criminal case. Employers cannot discipline or terminate an employee who is a crime victim (or crime victim family member) for taking time off work in order to, at the prosecuting attorney's request, prepare for or attend the criminal proceedings.

Note that individuals may also be eligible to take time off under their employer's policy, including vacation time, sick time, 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

In Montana, ([Mont. Code Ann. §39-51-2111](#)) an individual otherwise eligible for unemployment benefits may not be denied said benefits because the person left work or was discharged because of circumstances

resulting from the individual, or a child of the individual, being a victim of domestic violence, sexual assault or stalking (as defined by Montana's statute) or the person left work or was discharged because of an attempt on the person's part to protect themselves or their child from domestic abuse, sexual assault or stalking.

An individual is limited to 28 weeks of benefits in a 12-month period under this protection. (This does not affect the rights of an individual to receive unemployment benefits to which they are entitled under other provisions of Montana law.)

An individual becomes ineligible for these benefits if they remain in or return to the abusive situation that caused the person to leave work or be discharged.

- *Do I have to show proof of domestic violence?* Yes, by providing one or more of the following: an order of protection, a police record, medical documentation, other documentation or certification of the domestic violence, sexual assault or stalking provided by a social worker, clergy member, shelter worker, or other professional person as defined by Montana law who has assisted the individual in dealing with domestic violence, sexual assault or stalking.