

SURVIVOR STATE EMPLOYMENT GUIDE

NEW MEXICO

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, New Mexico law does not provide anti-discrimination workplace protections for survivors of domestic violence, sexual assault, or stalking. Note that federal law, local law and/or employers' internal policies may provide other applicable protections. employers' internal policies.

REASONABLE ACCOMMODATIONS

At the time of publication, New Mexico 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

- **Leave for Domestic Abuse:** Under New Mexico's Promoting Financial Independence for Victims of Domestic Abuse Act, employees who are victims of domestic abuse are entitled to "domestic abuse leave," which is paid or unpaid leave time for up to 14 days in any calendar year, taken for up to eight hours in one day. Domestic abuse covers an incident of stalking or sexual assault, whether committed by a household member or not as well as domestic abuse by a household member. The leave may be used to obtain an order of protection or other judicial relief, to meet with law enforcement officials, to consult with attorneys or victim advocates, or to attend court proceedings related to the domestic abuse of the employee or the employee's family member. The employee must give notice to the employer within 24 hours of commencing the leave.
 - *Do I need to show proof of domestic abuse?* An employer may request verification of the need for the leave in one of the following: a police report; an order of protection or other court evidence; or the written statement of an attorney, victim advocate, law enforcement official or a prosecuting attorney. The employer shall not disclose verification information and maintain confidentiality about the domestic abuse, unless the employee consents or when otherwise required by federal or state law.
- **Paid sick leave:** Under the New Mexico Healthy Workplaces Act of 2021, employers must provide all employees with paid sick leave, either as an annual lump sum of at least 64 hours or accrued at a rate of at least one hour of paid sick leave for every 30 hours worked. Leave can be used for a number of factors including absences necessary due to domestic abuse, sexual assault, or stalking suffered by the employee or their family member to obtain medical or psychological treatment, relocate, or participate in legal proceedings.

- **Leave for crime victims:** Under New Mexico law (**NM Stat Ann. 31-26-4(J)**), crime victims also have a right to “employer intercession services” to help encourage the employer to cooperate with the criminal justice system and minimize the employee losing their job, pay, or benefits related to the court 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 New Mexico (**NM Stat. Ann. § 51-1-7(A)(1)(b)**), an employee who leaves work because of circumstances directly resulting from domestic abuse will not be disqualified from receipt of unemployment benefits. To qualify, claimants must indicate at the time they file for benefits that the reason they left work was domestic abuse. Employers are not required to be notified before separation that their employee is leaving due to domestic abuse.

- *Do I need to show proof of domestic violence?* Yes, to qualify a claimant is expected to provide satisfactory documentation in the form of medical documentation, legal documentation or a sworn statement from the claimant.