

Domestic Violence & Employment

Job-guaranteed time off to obtain services

YOUR LEGAL RIGHTS

Domestic violence survivors often need to take time off from their jobs to obtain assistance from a service provider and may need to go to a shelter to escape the violence. Under California Labor Code 230.1, which is part of the “Survivors of Domestic Violence Employment Leave Act” employees who are survivors of domestic violence may take time off from work to obtain such services.

1. Who can take time off under this law?

Under California Labor Code Section 230.1, employees who identify themselves as domestic violence survivors and who work for employers with 25 or more employees may be entitled to leave under specific circumstances.

For the purpose of this law, “domestic violence” is defined as abuse perpetrated against:

- a spouse or former spouse;
- a registered domestic partner or former domestic partner;
- a child of the perpetrator;
- a person with whom the perpetrator is living or has previously lived with;
- a person the perpetrator has dated or is currently dating;
- a person the perpetrator has had a child with; or
- a person otherwise related by blood to the perpetrator in certain circumstances.

2. When can a domestic violence survivor obtain time off from work under this law?

An employee who is a survivor of domestic violence may be entitled to job-guaranteed leave from work for any of the following reasons:

- to seek medical attention for injuries caused by domestic violence;
- to obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence;
- to obtain psychological counseling relating to an experience of domestic violence; or
- to participate in safety planning or take other actions to enhance safety from future domestic violence, including temporary or permanent relocation.

3. What notice must employees give to employers to take this job-guaranteed leave?

An employee must give his or her employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not possible. Therefore, it is best for the employee to tell the employer as soon as possible about the upcoming absence from work.

If the appointment is unscheduled, or the leave is taken to respond to an emergency or crisis, the employee may be required to provide the employer with written documentation of his or her status as a domestic violence survivor within a reasonable time after the absence from work. That written documentation (or “**certification,**”), *which the employer must keep confidential*, can be any of the following:

- a police report indicating that the employee is a domestic violence survivor;
- a court order protecting or separating the employee from the batterer, or other documentation from the court or the prosecuting attorney that the employee has appeared in court; or
- documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse caused by domestic violence.

4. Can a domestic violence survivor get paid for this job-guaranteed leave?

Labor Code Section 230.1 allows employees to use paid vacation, personal leave or compensatory time off for this leave.

5. Can a domestic violence survivor be fired or demoted for taking leave described under these laws?

No. Employers are prohibited from firing, threatening to fire, demoting, suspending, retaliating or discriminating against an employee who is a survivor of domestic violence for taking leave from work for the reasons described above.

6. What can a survivor of domestic violence do if he or she is fired or harassed for taking this leave?

Employees are entitled to get their jobs back and be paid for lost wages and work benefits caused by the illegal acts of their employer. Employers who refuse to rehire, promote, or otherwise restore an employee or former employee who is eligible for rehiring or promotion by a grievance procedure or a hearing also is guilty of a misdemeanor.

7. Do survivors of domestic violence have any other rights to take leave from work?

Yes. California Labor Code Section 230 entitles domestic violence survivors to take leave to testify at court hearings and obtain relief such as restraining orders. This law applies to all employees in California who are domestic violence survivors, regardless of how many employees work for the employer. (See our Fact Sheet titled “**Domestic Violence and Employment: Job-Guaranteed Time Off to Go to Court**” for more information.)

8. Where can a domestic violence survivor get help regarding his or her employment rights?

An employee who is fired, threatened with termination, demoted, suspended, or in any other way retaliated or discriminated against by his or her employer because he or she has exercised these rights may file a complaint with the Labor Commissioner at the Division of Labor Standards Enforcement. Labor Commissioner offices are located throughout California. The number for the Labor Commissioner office nearest to you can be found in the government pages in your telephone directory or on the Internet at www.dir.ca.gov/dlse. An employee has one year from the date of the termination, demotion, or other form of discrimination to file a complaint with the Labor Commissioner.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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For further information about your employment rights, call:

The Domestic Violence & Employment Project
Toll-free in California: (888) 864-8335 Outside California: (415) 593-0033

The Domestic Violence and Employment Project is a Project of the Legal Aid Society – Employment Law Center (LAS-ELC). The LAS-ELC is a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.

