

Domestic Violence, Sexual Assault & Work: Job-Guaranteed time off to go to court to comply with a subpoena or court order

YOUR LEGAL RIGHTS

Domestic violence and sexual assault survivors often need to take time off from their jobs to go to court to testify against a batterer. Under California Labor Code 230(b), which is part of the “Survivors of Domestic Violence Employment Leave Act,” survivors of domestic violence and sexual assault are entitled to job-guaranteed time off from work to go to court as a witness to comply with a subpoena or other court order.

1. Who can take time off under this law?

California Labor Code Section 230(b) allows *all* California employees, including domestic violence and sexual assault survivors, to take time off work to serve on juries and to testify in court to comply with a subpoena or other court order. For example, when the district attorney is prosecuting a batterer, the domestic violence survivor can take leave from work to testify against the batterer.

2. What types of court hearings can a domestic violence or sexual assault survivor take time off from work to attend?

California Labor Code Section 230(b) allows an employee to take time off to go to *any* judicial proceeding to comply with a subpoena or court order.

3. When can a domestic violence or sexual assault survivor obtain time off from work under this law?

Any employee, including a survivor of domestic violence or sexual assault, may be entitled to job-guaranteed leave to go to court to comply with a subpoena or other court order.

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

An employee should give his or her employer reasonable advance notice of the employee’s intention to take time off. It is best for the employee to tell the employer as soon as possible about the upcoming absence for work.

5. Can a domestic violence or sexual assault survivor get paid for this job-guaranteed leave?

California Labor Code Section 230(b) allows employees to use paid vacation, personal leave or compensatory time off for this leave.

6. Can a domestic violence or sexual assault 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, including survivors of domestic violence or sexual assault, for taking leave from work for the reasons described above.

7. What can a survivor of domestic violence or sexual assault 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. An employer who refuses 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.

8. Where can a domestic violence or sexual assault 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 six months 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 SURVIVE Project

(888) 864-8335 Toll-free in California **(415) 864-8848** Outside California

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