



California's Crime or Abuse Victims' Leave Victims of Domestic Violence, Sexual Assault, or Stalking Act Part One

California's Victims of Domestic Violence, Sexual Assault, or Stalking Act (Labor Code 230, 230.1)

Employees who are victims of crime or abuse, including domestic violence, sexual assault, stalking or a crime that caused physical injury or, in certain cases, mental injury, or that resulted in the death of an immediate family member and may need time off for legal proceedings, such as obtaining a restraining order, or for medical treatment. The County has various obligations related to providing such leave.

Time Off for a Legal Proceeding

An employee who is a victim of crime may need to take time off from work to appear in court to comply with a subpoena or other court order or to serve as a witness in any judicial proceeding (see Crime Victims Leave).

The County is subject to the same prohibitions regarding an employee who is the victim of crime or abuse, and who takes off from work to obtain or attempt to obtain any relief, including, but not limited to:

- a temporary restraining order
- restraining order
- other court-order relief, to help ensure the health, safety, or welfare of the victim or his/her child

Time Off for Medical Treatment

Employees who are victims of crime or abuse are protected from termination, discrimination, or retaliation for taking time off from work for the following reasons:

- To seek medical attention for injuries caused by a crime or abuse.
- To obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse.
- To obtain psychological counseling or mental health services related to an experience of a crime or abuse.
- To participate in safety planning and take other actions to increase safety from a future crime or abuse, including temporary or permanent relocation.

This leave is in addition to the requirements related to time off for legal proceedings.

Requesting Leave

Employees who are the victims of crime or abuse are required to give their department's leave personnel reasonable notice of the intent to take time off unless notice is not feasible. The County cannot take action against an employee for taking an unscheduled absence for this reason if the employee provides a certification of the need for leave to their department within a reasonable time.

Certification

Certification may be any of the following:

- A police report indicating that the employee was a victim of crime or abuse including a victim of stalking, domestic violence, or sexual assault.
- A court order protecting or separating the employee from the perpetrator of the act of crime or abuse, stalking, domestic violence, or sexual assault.
- Other evidence from the court or prosecuting attorney that the employee has appeared in court.

- Documentation from a licensed medical professional, domestic violence advocate or advocate for victim of sexual assault, licensed health care provider, or counselor verifying that the employee was undergoing treatment for physical or mental injuries or abuse due to the crime or abuse or resulted in victimization from an act of crime or abuse.
- Any other form of documentation that reasonably verifies that the crime or abuse occurred, including but not limited to, a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the absence is for a purpose authorized under this law.

Eligibility

All County employees are eligible. There are no service or hours worked requirements.

Duration

Leave will be as needed based on certification provided by the employee. Leave for judicial proceedings can be of any length. Victims' leave for medical treatment does not exceed or add to the unpaid leave time that the FMLA allows. This leave is limited to 12 weeks (or 18 weeks for employees with extended FMLA) in a 12-month period. This may include ongoing/long-term counseling sessions.

Pay

The leave is unpaid. However, employees can use available sick leave, vacation, or other PTO accruals.

Discrimination Protection

The County cannot discriminate or retaliate against a victim of crime or abuse for taking time off work for legal proceedings or medical treatment. It is unlawful to discharge or in any manner discriminate or retaliate against an employee because of his/her status as a victim of crime or abuse if either:

- The employee has provided notice of their status as a victim of crime or abuse, or
- The department has actual knowledge of the status

This anti-discrimination protection is irrespective of whether the employee has requested time off.

Accommodating a Victim

The County is required to provide reasonable accommodations for employees who are victims of crime or abuse, and who request an accommodation for their safety while working. The County is not required to provide a reasonable accommodation where the employee has not disclosed his or her status as a victim of crime or abuse.

Reasonable accommodations may include any of the following:

- Implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, changed workstation, or installed lock.
- Assistance in documenting domestic violence, sexual assault, stalking or other crime that occurs in the workplace.
- An implemented safety procedure.
- Other adjustment to a job structure, workplace facility or work requirement in response to domestic violence, sexual assault, or stalking.
- Referral to a victim assistance organization.

Departments' leave personnel must engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations. In determining whether the accommodation is or is not reasonable, the department must consider the exigent circumstance or danger facing the employee.

If circumstances change and the employee needs a new accommodation, the employee must request it and the department's leave personnel must engage in the good faith interactive process again. If an employee no longer needs an accommodation, he/she must notify their department's leave personnel.

The employee would need to submit certification (see above) that demonstrates the employee's status as a victim of crime or abuse, or ongoing circumstances related to the crime or abuse. Recertification of the employee's status would be required every 6 months.

Enforcement

Absence from work for victims of crime or abuse is protected by law. Departments must maintain the confidentiality of any employee who requests leave as a result of crime or abuse. Any documentation, such as a police record or any verbal or written statement that identifies the employee as a victim of crime or abuse must be maintained as confidential. It cannot be disclosed except as required by federal or state law, or as necessary to protect the employee's safety in the workplace. The employee must be given notice before any authorized disclosure.

Employees must be given the [Victims of Domestic Leave Notice](#) at the time of hire and at the time of request for this leave.