

# Domestic Violence & Employment

## Job-Guaranteed time off to go to court

### YOUR LEGAL RIGHTS

*Domestic violence survivors often need to take time off from their jobs to go to court to testify against a batterer or to get a restraining order to protect themselves and their children. Under California Labor Code 230, which is part of the “Survivors of Domestic Violence Employment Leave Act,” survivors of domestic violence are entitled to job-guaranteed time off from work to testify in court as a witness or to ensure the health and safety of themselves and their children.*

## 1. Who can take time off under this law?

California Labor Code Section 230 allows *all* California employees, including domestic violence 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.

This law also entitles employees who are domestic violence survivors to take leave from work to go to court to get a restraining order. However, employees must identify themselves as survivors of domestic violence to their employer in order to obtain the benefits of this part of the law.

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

Domestic violence survivors may take time off from work to obtain assistance from court to ensure one’s own health, safety, or welfare, or that of one’s child. This assistance includes a temporary restraining order, restraining order, or other “injunctive” relief.

This law may cover many types of situations, including time off from work to attend child support, child custody, or divorce court hearings as long as the purpose of the hearing is to ensure the health, safety, or welfare of the domestic violence survivor or his or her child.

### 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 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. 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.

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

Yes. California Labor Code Section 230.1 entitles domestic violence survivors to job-guaranteed leave to obtain medical attention, assistance from domestic violence shelters or programs, counseling, or workplace safety planning. This law covers employers with 25 or more employees. (See our Fact Sheet titled “**Domestic Violence and Employment: Job-Guaranteed Time Off to Obtain Services**” 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](http://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**  
**(888) 864-8335** Toll-free in California **(415) 593-0033** Outside California

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