

Leave from Work for Survivors of Domestic Violence, Sexual Assault, or Stalking

Washington State has a law that allows employees to take time off from work to address domestic violence, sexual assault, or stalking. Read this memo to learn more about your rights.



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What Are Domestic Violence, Sexual Assault, and Stalking?

Domestic violence is a pattern of physically and/or emotionally abusive behavior used to control another person with whom the abusive person has an intimate or family relationship. The legal definition of domestic violence is similar. Under Washington law, domestic violence exists when a person:

- Hits you, assaults you, or harms you physically in any way, or;
- Causes you to fear immediate physical harm, assault or injury.

The person causing the harm or threatening you must be:

- A family member;
- Someone you live with or have lived with in the past;
- Someone you are dating or have dated, or;
- Someone you have a child with.

Restraining your freedom of movement, stalking you, destroying your property or making verbal threats about hurting you are examples of incidents that can cause you to fear immediate harm.

Sexual assault is any unwanted sexual contact, including unwanted sexual touching, molestation, rape, or attempted rape.

Stalking is any intentional incident of threatening, harassing, following, surveillance, or coercive behavior that occurs more than once and causes you to fear for your safety, the safety of someone you know, or your property.

No one has the right to threaten or hurt you. If you are a victim of domestic violence, sexual assault, or stalking, you can find support and resources near you by contacting the Washington State Domestic Violence Hotline (see Resources.)

What Are the Reasons I Can Take Time off from Work if I Am a Victim of Domestic Violence, Sexual Assault, or Stalking?

There are many things that survivors of domestic violence, sexual assault, or stalking may need to do to recover from abuse and get safe. For example, you can take time off from work to:

- File a police report about the domestic violence, sexual assault, or stalking;
- Participate in civil or criminal court proceedings related to the domestic violence, sexual assault, or stalking, like getting a protection order or divorce or testifying in a criminal trial;
- Get medical treatment, including mental health counseling;
- Work with an advocacy program, such as a domestic violence program or a rape crisis center;
- Move to a domestic violence shelter;
- Take other actions you may need to take to protect your safety; and
- Help a family member do one or more of these things.

Who Can Take Time off from Work?

Any employee who is a victim of domestic violence, sexual assault, or stalking may take time off from work to address the violence. Also, an employee whose child, spouse, intimate partner, parent, grandparent, or parent-in-law has been a victim may take time off from work to help that family member address the domestic violence, sexual assault, or stalking.

Can Part-Time Employees Take This Leave?

Yes.

Do All Employers Have to Follow This Law?

Yes. All employers in Washington, regardless of their size, must give this leave to their employees. Both public and private employers have to follow this law.

Does an Employer Have to Pay Me During My Leave?

No, but you may use any sick or other paid leave that you have available, or the employer may choose to give you paid leave.

If you work in Seattle, your employer may have to pay you during your leave. See “Seattle Paid Sick and Safe Time” in the Resources section below.

Can I Be Fired or Demoted for Taking This Leave?

No. Your employer must give you your job back, at the same level of pay and benefits that you had when you took the leave, or give you an equivalent position. The only employers that do not have to give you your job back are temporary staffing agencies that had assigned you to a temporary job.

How Many Days Can I Take off Work?

The law says you may take reasonable leave. This means you may take as much time as you need to address the domestic violence, sexual assault, or stalking. Sometimes this may be only a day or an afternoon. Sometimes this may be several days.

Do I Have to Take the Leave All at Once?

No. You can take occasional days off rather than use your leave all at once, if that is necessary to address the domestic violence, sexual assault, or stalking. For example, you may take a day off to testify in court, and then be told that the court has continued the hearing to another day. This law allows you to take another day off when you need to.

Do I Have to Tell My Employer Before I Take the Leave?

Yes, unless you need to take leave immediately because of an emergency. If it is not an emergency, you have to tell your employer in advance. Employers have the right to set their own notice policy. Your employer should tell you how many days' notice he or she expects before you can take this leave. If an employer does not have a policy, then you have to give notice some time before you take leave. If you need to take leave for an emergency, you must tell your employer on the first day you leave work. If you cannot tell your employer yourself, you can have someone else tell them on your behalf. It is a good idea to give your employer as much notice as possible.

Do I Have to Prove to My Employer That I Need This Leave?

Your employer may ask you to prove that you or your family member is a victim of domestic violence, sexual assault, or stalking, and that you need the leave for one of the reasons allowed by this law. You can prove that you need to take leave by giving your employer one of the following:

- Your written statement;
- A police report;

- A court order, such as an order for protection or a criminal no-contact order, or some kind of court document showing that you or your family member appeared in court;
- A written statement or document from a professional that helped you or your family member, such as a domestic violence or sexual assault victim advocate, a member of the clergy, or a healthcare provider.

Do I Have to Give My Employer All the Details About the Violence?

No. It is only necessary to give your employer enough information to prove that you or your family member is a victim of domestic violence, sexual assault, or stalking and that you need the leave for one of the reasons allowed under the law.

How Can I Protect My Privacy?

Your employer must keep your proof and any other statements about your need for this leave confidential. Your employer cannot share any of this information unless you say it's ok, or the employer is ordered by a court to share it, or the employer is required by another law to share it. Also, if you prove your need for this leave by giving your employer information about a professional who is helping you, your discussions with that professional are still confidential and protected by law.

If I Need to Take Leave to Help a Family Member Who Has Been a Victim of Domestic Violence, Sexual Assault, or Stalking, Do I Have to Prove This Relationship to My Employer?

Your employer may ask for proof that this person is your child, spouse, intimate partner, parent, grandparent, or parent-in-law. The legal term for intimate partner in this law is “in a dating relationship,” which means a social relationship of a romantic nature. That may include someone you are dating, your registered domestic partner, or your committed intimate partner. You can prove that the person is your family member by giving your employer one of the following:

- Your written statement;
- A birth certificate;
- A court order, or;
- Other similar documentation.

What if My Employer Refuses to Let Me Take Leave or Fires or Demotes Me?

If your employer does not follow the law, you can file a civil action in court, or you can file a complaint with the Department of Labor and Industries (L&I). To file a complaint with L&I, fill

out a Protected Leave Complaint or call L&I's claims line. If L&I finds that your employer did not follow the law, they may issue a notice of infraction and fine your employer (\$500 for the first offense, or \$1,000 for other infractions within three years). L&I may also make your employer give you your job back.

Regardless of whether L&I decides to issue a notice or fine, you may file a civil action in court. In the civil action, you can ask the court to order your employer to give you your job back, and/or pay you money to compensate you for your lost wages and other damages.

Resources

For more information on Domestic Violence Leave

- **Publication:** "Domestic Violence Leave for Victims and Family Members"
- **Online:** www.lni.wa.gov; click on "Workplace Rights," then "Leave from Work," then "Domestic Violence Leave"
- **By Phone:** L&I's Employment Standards Program: 1-866-219-7321 (toll-free)

Washington State Domestic Violence Hotline

- **Publication:** "Washington State Domestic Violence Hotline"
- **Online:** www.dshs.wa.gov; click on "Health & Medical" tab, then under "Crisis Phones and Hotlines" click "Domestic violence hotline"
- **By phone:** 1-800-562-6025 (toll-free)

To make a complaint to The Department of Labor and Industries (L&I)

- **Form:** "Protected Leave Complaint"
- **Online:** www.lni.wa.gov; click on "Workplace Rights," then "Leave from Work," then "File a Protected Leave Complaint"
- **By phone:** 1-800-LISTENS (1-800-547-8367) (toll-free)

Seattle Paid Sick and Safe Time Ordinance

- **Online:** www.seattle.gov/civilrights/SickLeave.htm

Related publications from Legal Voice:

- **Online:** www.legalvoice.org/tools/employment-rights.html
 - *Termination of Employment*
 - *Employment Discrimination*
 - *Family Leave Laws*

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of July 2014. (*Revised 07/03/2014 by Lauren Akamine*)

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