

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

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



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www.LegalVoice.org

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 and/or
- Someone you live with or lived with in the past and/or
- 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 and/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, and/or stalking, you can find support and resources near you by contacting the Domestic Violence Hotline at 1-800-562-6025. To find the sexual assault victim advocacy program in your area, go to <http://www.wavawnet.org/sa/index.htm>

What are the reasons I could 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 the 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
- help your 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 violence.

Can part-time employees take this leave?

Yes.

What if I work for an employer with less than 8 employees?

All employees in Washington State, regardless of the size of their employer, can take this leave.

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.

Can I be fired or demoted for taking this leave?

No. Your employer is required to give you your job, 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?

You may take “reasonable” leave. This means you may take leave necessary to address the domestic violence, sexual assault or stalking. Sometimes this may mean only a day or an afternoon. Sometimes this may mean several days.

Do I have to take the leave all at once?

The leave can be “intermittent”, meaning you can take occasional days off rather than use it 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 inform you how many days notice he or she expects before an employee can take this leave. If an employer does not have a policy, then you have to give notice “in advance.” If you need to take leave for an emergency, you or someone on your behalf must inform your employer on the first day you leave work. As a practical matter, 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 verify 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. Verification can be 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 verify 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 verification and any other statements about your need for this leave confidential. Your employer cannot share any of this information unless you consent to it, 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 verify 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 verification 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. Verification can be one of the following:

- your written statement
- a birth certificate
- a court order
- other similar documentation

What if my employer refuses to let me take leave or fires me or demotes me?

If your employer fails to 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), at <http://www.lni.wa.gov/> or 1-800-547-8367. L&I may fine your employer and can require him or her to give you your job back. Regardless of what L&I decides, 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.

For more information about your employment rights and referrals to legal services, call our Information & Referral line.

Related Publications available at www.legalvoice.org or by calling our Information and Referral Line:

- *Termination of Employment*
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