

Leave for Crime Victims

What is it?

Employees who are victims of a crime, as defined below, are entitled to take up to 40 hours within a 12-month period of paid, job-protected leave to seek services that protect themselves and their children or to attend certain court proceedings related to the underlying crime. Employees who are victims of a crime and who exhaust this paid leave may also request to use accrued paid leave or additional unpaid leave for the same purposes, which may be granted at the discretion of the department.

Employees may use crime victim leave for:

- Medical attention for injuries;
- Services from a domestic violence shelter, program, rape crisis center, or victim services program or agency;
- Psychological counseling or mental health services;
- Safety planning and other actions to increase safety from future crime or abuse, including temporary or permanent relocation;
- Obtaining temporary restraining orders, permanent restraining orders or other injunctive relief; or

- Attendance in court if the employee is:
 - Summoned as a required witness in the court proceeding; or
 - A victim, an immediate family member of a victim, a registered domestic partner of a victim, or a child of a registered domestic partner of a victim, where one of the following crimes was committed against the victim: (A) a violent felony (Penal Code section 667.5(c)), (B) a serious felony (Penal Code section 1192.7(c)), or (C) felony theft or embezzlement.

Employees cannot be fired, discriminated against, or retaliated against because they are crime victims or because they request leave or accommodations related to the crime committed against them, an immediate family member of a victim or a witness summoned to court.

Who is eligible?

Employees who are victims of any of the following crimes:

- A victim of stalking, domestic violence, or sexual assault;
- A victim of human trafficking;
- A victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury.
 - Note: For the purposes of leave to appear as a required witness in court or a court related proceeding, there is no requirement of physical injury.

or

- A person whose immediate family member is deceased as the direct result of any crime.

In addition, when a person is the victim of a violent felony, serious felony, or felony theft or embezzlement, an employee who is a) the victim or b) an immediate family member, domestic partner, or child of a domestic partner of the victim is also eligible to use crime victim leave to attend court proceedings related to the crime.

How long is the leave?

Employees who are eligible crime victims are entitled to up to 40 hours of paid leave in a twelve-month period following the crime. This paid leave does not require employees to exhaust their accrued leave before using it.

If employees need additional leave to obtain crime victim services or attend court proceedings as discussed above, they may request additional leave time and either use accrued paid leave or unpaid leave. Such additional leave will be granted at the reasonable discretion of the department on a case by case basis.

Is it paid?

The first 40 hours of the leave is paid; additional leave granted at the discretion of the department is unpaid. However, in lieu of unpaid leave, an employee may elect to use accrued paid leave, such as sick leave, vacation, or compensatory time, as appropriate.

How do I request the leave?

Talk to your supervisor, manager or Human Resources. Employees must provide reasonable advance notice of the need for leave unless advance notice is not feasible.

An employee may be required to provide certification of the need for leave. Certification may include a police report, court documents, a note from a healthcare provider or victim's advocate who provided care for physical or mental injuries incurred as a result of the crime, or 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 Labor Code section 230 or 230.1..

Accommodations for victims of domestic violence, sexual assault or stalking

You also have the right to reasonable accommodations that may keep you safe at work. Safety needs may include a new work phone number, a transfer, or a different schedule.

How do I request an accommodation?

You can talk to your supervisor, manager or you can contact the County Disability Unit Manager.

An employee may be required to provide certification of the need for accommodation. Certification may include a police report, court documents or a note from a healthcare provider who provided

treatment for physical or mental injuries incurred as a result of the domestic violence, sexual assault or stalking or 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 pursuant to this policy.

Additional resources

- <https://hr.smcgov.org/documents/labor-commissioner%E2%80%99s-office-victims-domestic-violence-sexual-assault-and-stalking-notice>
- <https://hr.smcgov.org/violence-workplace>

Revised Date: 6/13/2023