

Leave for Domestic Violence, Sexual Assault or Stalking

Policy Number: 2021-0015
Issue Date: 08/05/2008
Revision Date: 10/08/2021
Replaces: 2008-0006

POLICY

Under Washington State Law, employees who are experiencing domestic violence or whose family members are experiencing domestic violence, sexual assault or stalking may take a reasonable period of leave, intermittent leave, or leave on a reduced leave schedule to seek legal or law enforcement assistance, prepare for or attend legal proceedings, receive medical treatment, relocate or address safety concerns.

DEFINITIONS

Dating Relationship means a social relationship of a romantic nature. Factors that may be considered in making this determination include:

- The length of time the relationship has existed;
- The nature of the relationship; and
- The frequency of interaction between the parties.

Domestic Violence means:

- Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;
- Sexual assault of one family or household member by another;
- A pattern of behavior in which a family or household member, or someone in a dating relationship uses physical violence, coercion, threats, intimidation, isolation and emotional, sexual or economic abuse to control and change the behavior of another family or household member, or other person in a dating relationship; or
- Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

Family Member means any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship.

Intermittent Leave means leave taken in separate blocks of time due to a single qualifying reason.

Reduced Leave Schedule means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Sexual assault means one or more of the following:

- Rape or rape of a child;
- Assault with intent to commit rape or rape of a child;
- Incest or indecent liberties;
- Child molestation;
- Sexual misconduct with a minor;
- Custodial sexual misconduct;
- Crimes with a sexual motivation;

- Sexual exploitation or commercial sex abuse of a minor;
- Promoting prostitution; or
- An attempt to commit any of the offenses mentioned above.

Stalking means that a person without lawful authority and under circumstances not amounting to a felony attempt of another crime:

- Intentionally and repeatedly harasses or repeatedly follows another person; and
- The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person.

The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and the stalker either:

- Intends to frighten, intimidate, or harass the person; or
- Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

PROCEDURES

Employee must give notice:

An employee who needs leave due to domestic violence, sexual assault or stalking must provide advance notice consistent with the work unit's usual leave request process. Where advance notice cannot be given because of an emergency or unforeseen circumstance, the employee or the employee's designee must notify the employer before the end of the first day of leave.

The manager or supervisor may grant leave to provide the employee assistance:

In accordance with the [Domestic Violence in the Workplace](#) policy, if a manager or supervisor becomes aware that an employee is experiencing domestic violence, the manager may grant accrued or unpaid leave as one method of providing the employee assistance.

Leave is paid or unpaid:

The employee may elect to use sick leave, other paid time off, compensatory time, or unpaid leave time. The leave is in addition to rights provided by state and federal law. The leave would run consecutive to leave provided under the federal Family Medical Leave Act, but concurrent with King County Family Medical Leave.

Reasons for leave:

An employee may take Domestic Violence leave to:

- Receive treatment for physical or mental injuries, or attend such treatment with a family member;
- Obtain or assist a family member in obtaining mental health counseling;
- Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or family members, including time off to prepare for or participate in related legal proceedings;
- Obtain services from a domestic violence shelter, rape crisis center, or other social services program or assist a family member in obtaining such services; or
- Participate in creating a safety plan, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, sexual assault, or stalking.

Verification may be requested:

The county may require verification that the employee or family member is experiencing domestic violence, sexual assault, or stalking, and that the leave is being taken for one of the allowable reasons. However, details or information that would compromise the safety of the employee or family member may not be requested. Verification must be provided in a timely manner and, if the verification cannot be provided in advance because of an emergency or unforeseen circumstance, it may be provided within a reasonable time period during or after the leave. An employee may satisfy the verification requirement by providing one or more of the following:

- A police report indicating the employee or employee's family member was a victim of domestic violence, sexual assault, or stalking;
- A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking;
- Documentation that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking from a domestic violence advocate, attorney, member of the clergy or a medical or other professional; or
- An employee's own written statement that the employee or employee's family member is a victim of domestic violence, sexual assault, or stalking.

The county may also require verification of the family relationship. The employee must provide the verification in a timely manner. What is timely will be based upon what is reasonable under the circumstances. The verification may include:

- a statement from the employee,
- a birth certificate,
- a court document, or
- other similar documentation.

Benefits continue:

While the employee is on leave, the employer must maintain health insurance for the employee. That is the case even if the employee chooses unpaid leave and is in an unpaid status for any period of time.

Other rights:

The county must keep the matter confidential, including the fact that the employee requested Domestic Violence leave.

The county may not refuse to hire an otherwise qualified individual or discharge, threaten to discharge, demote, deny a promotion to, sanction, discipline, retaliate against, harass, or otherwise discriminate against an employee with regard to compensation, or other terms, conditions, or privileges of employment because the employee is actually experiencing or perceived to have experienced domestic violence, sexual assault, or stalking, or because the employee took leave, filed a complaint that the employer violated the leave law, or assisted another employee in exercising rights under the law.

After the leave period ends, generally, the employee must be restored to the same position held by the employee when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Restoration does not apply if the employee was hired for a specific term or only to perform work on a discrete project, the employment

term or project is over, and the employer would not otherwise have continued to employ the employee.

Employer sanctions for violations:

Where the Washington State Department of Labor and Industries find violations of an employer's obligations under the law, it may assess administrative penalties of \$500 for the first infraction and \$1,000 for a subsequent infraction within three years of a previous infraction. It can also order that the employee be restored to his or her former or an equivalent position. The employee also has the right to file suit for violations of an employer's obligations under the law and may request as a remedy actual damages and attorney's fees.

QUESTIONS or COMMENTS

Refer all questions or comments to your department's [Human Resources Manager](#) or to the Department of Human Resources.