

What is Retaliation?

Retaliation occurs when an employer punishes you for engaging in activity that is protected by the law, such as taking time off to get a restraining order against your abuser.

Right to Be Free from Retaliation



Your employer cannot treat you differently or discipline you because you:

- ◇ Are a victim of **domestic violence, sexual assault, stalking**, a crime that caused **physical injury or that caused mental injury with a threat of physical injury** or you are a person whose **immediate family member died as a direct result of a crime**;
- ◇ **Requested or took leave time to get help**, such as a temporary restraining order or restraining order;
- ◇ **Requested or took leave time to appear in court to comply with a subpoena or court order** as a witness in a court proceeding; or
- ◇ **Asked your employer for help or changes in the workplace** to make sure you are safe at work.

Deadline to File a Retaliation Claim

A retaliation claim must be filed within **one-year** of the retaliatory act.



Tips When Exercising Protections

1. Give your employer **as much advance notice as possible** about your need to take time off for an authorized purpose. Notice can be verbal but it's **best to document in writing**.
2. If you have an **unscheduled absence**, your employer can require you provide **proof** within a reasonable time after the absence that the crime/abuse occurred. Among other things, proof includes a written statement signed by you or your advocate certifying the absence is for an authorized purpose. **Provide proof as soon as possible**.
3. If your employer disciplines you for requesting/taking time off for a protected purpose, **file a retaliation claim as soon as possible**.
4. Your employer has a right to establish company rules. **Follow your employer's rules**, as long as the rules don't violate your rights.

Possible Remedies for Retaliation

Depending on the circumstances of your case, the following remedies may be available:

- ◇ Lost wages and penalties
- ◇ Reinstatement to your former position
- ◇ Deleting any reference to the retaliation in your personnel file
- ◇ Posting an employee notice regarding the retaliation

contact us

- ◇ **Call Us:** (833) 526 - 4636
- ◇ **Visit Our Website:** www.dir.ca.gov/dlse
- ◇ **Email Us:** retaliation@dir.ca.gov

Workplace Protections for Victims of Crimes



LABOR CODE SECTIONS 230, 230.1, AND 230.2 PROVIDE RIGHTS TO WORKERS WHO ARE VICTIMS OF CRIMES

Workers in California who are victims of certain crimes have the right to take time off from work and to request help or changes in their workplace to make sure they are safe at work.

Employers cannot retaliate against crime victims for exercising their rights. Workers who are retaliated against may file a claim with the Labor Commissioner's Office Retaliation Complaint Investigation (RCI) Unit.

WORKERS MAY FILE A CLAIM REGARDLESS OF THEIR IMMIGRATION STATUS. WE WILL NOT REPORT A WORKER'S IMMIGRATION STATUS TO OTHER AGENCIES.

Rights of Victims* of Crimes to Take Time Off

- à Right to take time off to appear in court to **comply with a subpoena or other court order** as a witness in a court proceeding.
- à Right to take time off to get help to **protect you or your child's health, safety, or welfare.**
- ◇ If your employer has **25 or more workers**, you can take time off to:
 - ⇒ Get **medical attention or services** from a domestic violence shelter, rape crisis center, or victim services organization.
 - ⇒ Get **psychological counseling.**
 - ⇒ Get **mental health services.**
 - ⇒ **Partiipate in safety planning and take other acts to increase safety** from future crime or abuse.
- ◇ **Victims of crimes, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim** have the right to take time off to **attend court proceedings related to that crime.**
- ◇ You may use **available vacation, personal leave, accrued paid sick leave or compensatory time off** for your leave unless you are covered by a union agreement that says otherwise. Even if you don't have paid leave, you still have the right to time off.

**Victim is defined according to the right exercised. Various definitions apply. Contact us if you are not sure if you are covered.*



Right of Victims of Domestic Violence, Sexual Assault, or Stalking to Reasonable Accommodations

- ◇ Right to **ask your employer for help or changes in your workplace** to make sure you are safe at work. Your employer must work with you to see what changes can be made.
- ◇ Changes in the workplace may include **putting locks, changing your shift or phone number, transferring or reassigning you,** or help with keeping a record of what happened to you.
- ◇ Your employer can ask you for a **signed statement by you or your advocate** certifying that your request is for an authorized purpose, and **may also request proof** showing your status as a victim of domestic violence, sexual assault, or stalking.
- ◇ Your employer **must keep information identifying you as a victim confidential,** unless there is an authorized reason to disclose.



Retaliation Claim Process

