

## **CRIME VICTIM LEAVE**

**PURPOSE:** To comply with changes to California civil rights law effective January 1, 2014.

**SCOPE:** This policy applies to all Care Staffing Professionals employees.

**POLICY STATEMENT:** The update to the California Civil Rights Act prohibits employers from discharging, discriminating or retaliating against employees who are victims of certain offenses for taking time off work to appear in a criminal proceeding in which they are classified as the victim. The legislation broadly defines “victim” to include “any person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act.” A “victim” also includes the person’s “spouse, parent, child, sibling, or guardian.” The law applies to victims of the following offenses (as they are defined in the California Vehicle Code or Penal Code):

- vehicular manslaughter while intoxicated;
- felony child abuse likely to produce great bodily harm or a death;
- assault resulting in the death of a child under eight years of age;
- felony domestic violence;
- felony physical abuse of an elder or dependent adult;
- felony stalking;
- solicitation for murder;
- a serious felony;
- hit-and-run causing death or injury;
- felony driving under the influence causing injury; and
- sexual assault.

### **Eligibility**

To be eligible for Crime Victim Leave, the employee must have worked an average of 25 hours per week for at least 180 days immediately before the leave begins. The employee or an immediate family member must have been a crime victim who has “suffered financial, social, psychological, or physical harm as the result of a person felony.” Under this law, immediate family is defined as spouse, domestic partner, father, mother, sibling, child, stepchild or grandparent.

### **Amount Of Leave**

There is no specific time limit on the amount of Crime Victim Leave an employee may take. However, an employer may limit the leave if it creates an undue hardship, meaning a “significant difficulty and expense,” taking into consideration the size of the business and any critical need for the employee. If an employer limits the employee’s leave due to undue hardship, the employee

may notify the prosecuting attorney who is then required to notify the court. The court must then take the employee's work schedule into consideration when scheduling the criminal proceeding.

### **Leave With Or Without Pay**

Crime Victim Leave is unpaid leave. However, as permitted by the law, Care Staffing Professionals will allow employees to use any accrued vacation, floating holiday or compensatory leave. The floating holiday must be used as a complete day of leave unless otherwise allowed by collective bargaining agreement. Employees who are exempt from the Fair Labor Standards Act (FLSA) and who worked at least four (4) hours in a work day will not be charged with vacation time or other paid leave time for taking Crime Victim Leave that same day. Employees may not use sick leave for Crime Victim Leave.

### **Employee Responsibility**

The law requires that the employee provide the employer with reasonable notice of intention to utilize Crime Victim Leave. Care Staffing Professionals requires the employee to notify his/her supervisor of the need for Crime Victim Leave at least fifteen (15) calendar days in advance of the beginning of the leave. However, in the event the employee was unaware of the need for leave fifteen (15) calendar days prior, the employee must notify his/her supervisor as soon as possible, but no later than one work day before the first day of the absence. The employee must also provide copies of scheduled criminal proceedings (a subpoena) that the employee receives from the court or a law enforcement agency. The employee will also provide the supervisor with documentation of schedule changes. The employer must treat any such documentation as confidential records.

### **Supervisor Responsibility**

Upon notification of the need for leave, the supervisor will verify that the request for leave falls under the Crime Victim Leave policy as described in this Employment Policy and Practice. Depending on the circumstances, Crime Victim Leave may overlap with other types of unpaid leave, including family and medical leave and Domestic Violence Victim leave. All documents provided by the employee to the supervisor supporting the eligibility for Crime Victim Leave will be forwarded to the Operations Division where they will be placed in a restricted and confidential file. Documents pertaining to an employee's leave should be kept in a separate file from the employee's personnel file with restricted access. The supervisor will forward written approval of the leave to Operations Division as part of the confidential file.

#### **Timesheets:**

Upon notice and verification of the leave and receipt of the documentation of scheduled criminal proceedings, the supervisor will submit a Personnel Action form coded as Miscellaneous Leave/ Crime Victim Leave, using paid or unpaid time (check timesheet codes).

If you have any questions on Crime Victim Leave or Care Staffing Professionals' policy for such leaves, please contact Operations Division.

### **Internet Links**

California Labor Code

([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=230.2.&lawCode=LAB](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=230.2.&lawCode=LAB))

## **Additional Resources**

Also see:

- EPP 6 – Employee Assistance Program
- EPP 11 – Family and Medical Leave Policy
- EPP 13 – Leaves of Absence