

Kansas Leave Law for Victims of Domestic Violence and Sexual Assault

K.S.A. 44-1131 and 1132 prohibit employment "discrimination and retaliation" against victims **of domestic violence or sexual assault** who take time off for enumerated purposes to address their abuse. (Although the statutory language prohibits "discrimination," it is more accurately classified as a leave law, rather than an antidiscrimination statute. It does NOT add being the victim of domestic violence or sexual assault as a "protected status" under the Kansas Act Against Discrimination.) **This law became effective January 1, 2007.**

Unlike the Kansas Act Against Discrimination, which establishes a coverage threshold of four or more employees, this law has no minimum coverage threshold. It appears *any* Kansas employer is "covered." The Kansas Department of Labor was delegated the authority to enforce the law.

Conduct Prohibited

A Kansas employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence or a victim of sexual assault for taking leave. The employer must also grant the employee leave from work for any of the following reasons:

- to obtain, or attempt to obtain, any relief including a restraining order or other injunctive relief to ensure the health of the victim or the victim's children;
- to seek medical attention for any injuries caused by domestic violence or sexual assault;
- to obtain services from a domestic violence shelter, domestic violence program or rape crisis center; and/or
- to make court appearances in the aftermath of domestic violence or sexual assault.

NOTE: This law does NOT require the victim of domestic abuse to leave the abusive environment as a condition of taking the job-protected leave.

Limits on Leave

An employee who is a victim of domestic violence or sexual assault must be allowed to use any or all of that employee's (paid) accrued leave under the employer's regular policies for any of the qualifying reasons noted above. If the company does not provide any paid leave, or if the leave is exhausted, this Kansas law requires the employer to grant the employee up to eight days per calendar year of **unpaid** leave for the identified purposes.

The statute says "an employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave. The leave may not to exceed a total of eight days per calendar year, unless a longer period of time is available to an employee under the applicable terms of employment or is provided by a collective bargaining agreement." Thus, eight days is a floor, but not necessarily a ceiling.

Notice to Employer

An employee who needs to take time off work for any of the above purposes should give the employer "reasonable advance notice" unless such notice is not feasible. An employee who has provided advance notice has up to 48 hours *after returning from the requested time off* to provide supporting documentation, which may include a police report, a court order or other documentation from an appropriate medical professional, domestic violence advocate or counselor.

If the absence is unscheduled, the employee must provide the support documentation within 48 hours *after the beginning* of the unscheduled leave. As a practical matter, an employer should be very cautious about taking any disciplinary action against an employee for an unscheduled absence until this 48-hour timeframe has elapsed.

Confidentiality

Employers must keep confidential, to the extent allowed by law, both the fact that an employee requests or uses leave under this law, and all supporting documentation regarding the leave.

Family and Medical Leave Act ("FMLA") Overlap

Employers should keep in mind that an absence **to seek medical treatment** for domestic and/or sexual abuse, which is one category of activity that qualifies for protection under this Kansas law, may also be protected by the federal FMLA provided:

- the employer is covered (employs 50 or more employees);
- the employee is eligible (has been employed for at least 12 months and has worked at least 1,250 hours in the 12 months preceding the leave); and
- the related physical or mental condition being treated qualifies as a "serious health condition." (Other absences such as court appointments and pursuit of legal proceedings, which are also protected by this Kansas law, would not qualify as FMLA leave.)

This summary is not intended to provide a comprehensive explanation of this statute. If you have further questions, check with us at [FineLine HR Contact](#)