

HR/LR Policy #1424

Time Off From Work to Attend Criminal Court Proceedings

Date Issued: 08/2005

Date Revised: N/A

Former PERSLs: N/A

Rebrand Date*: 02/28/2018

Authority: Labor Relations

OVERVIEW

Objective

To provide guidelines to agencies for consistent application of the state law that requires employers to grant reasonable time off from work:

1. To a victim or witness who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony in criminal proceedings related to the victim's case, or
2. To a victim of a heinous crime (as that term is defined in Minn. Stat. § 611A.036 subd. 7), as well as that victim's spouse or next of kin, to attend criminal proceedings related to the victim's case.

Policy Statement

The State of Minnesota will comply with legislation effective August 1, 2005, regarding granting victims or witnesses reasonable time off from work to give testimony in a criminal proceeding related to the victim's case pursuant to a subpoena or informal request by the prosecutor. The State of Minnesota will also comply with legislation effective August 1, 2005, requiring reasonable time off from work for the victim of a heinous crime, or that victim's spouse or next of kin, to attend criminal proceedings related to the victim's case. The new legislation applies to all employers. This policy applies to all State of Minnesota Executive Branch employees.

Scope

Applies to all State of Minnesota Executive Branch employees

Definitions and Key Terms

Crime

Conduct that is prohibited by local ordinance and results in bodily harm to an individual, or which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Heinous Crime

First, second or third degree criminal sexual conduct if the offense was committed with force or violence or if the complainant was a minor at the time of the offense; first, second or third degree murder; or attempted first, second or third degree murder.

Next of Kin

Related by adoption, marriage, or blood, to include parents, spouse, child, sibling, or spouse's parent, child, or sibling.

Reasonable Time Off from Work

Reasonableness must be defined on a case-by-case basis, but time off from work is limited to the actual time of the court proceedings which typically occur between 8:30 a.m. and 4:30 p.m. Monday through Friday except when closed for holidays. Upon the request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace, and the time and duration of the court proceedings.

Exclusions

N/A

Statutory References

Minn. Stat. § 611A.01

GENERAL STANDARDS AND EXPECTATIONS

This policy, and its accompanying Questions & Answers (see below under "Forms and Instructions"), are subject to change by the Employer and are not grievable under collective bargaining agreements.

Procedures and Responsibilities

Applicability: subject to additional guidelines set forth below, employers must give reasonable time off from work to allow a victim or witness who is subpoenaed or informally requested by the prosecutor to testify in criminal court proceedings related to the victim's case. Employers must also allow a victim of a heinous crime, as well as the victim's spouse or next of kin, reasonable time off from work to attend criminal proceedings related to the victim's case.

Notice: employees must give the Appointing Authority 48 hours' notice of the need for the leave unless impracticable or an emergency prevents the employee from doing so.

Verification: employees shall provide verification that supports the employee's reason for being absent from the workplace if the Appointing Authority requests such verification.

Time Off: the employee's leave from work under this policy is unpaid. However, the employee may elect to draw from existing earned vacation or compensatory balances, or adjust their work schedule with a supervisor's approval.

Confidentiality: all information related to the employee's leave pursuant to this section shall be kept confidential by the Employer and Appointing Authority.

Prohibition against Retaliation: employers will not retaliate against an employee who takes reasonable time off from work to attend proceedings covered by this policy.

RESPONSIBILITIES

Agencies are responsible for the request:

Ensuring that employees are afforded their rights under Minnesota Statutes

MMB is responsible for:

Interpreting and providing guidelines to agencies regarding administration of State Statutes

FORMS AND SUPPLEMENTS

Questions and Answers

1. *Is the "reasonable time off" paid or unpaid leave?*

The leave is unpaid, unless the employee elects to use accrued vacation leave or compensatory time, or obtains prior supervisory approval to balance hours of work.

2. *May an employee use sick leave while taking time off to attend criminal proceedings?*

No.

3. *What constitutes "verification" for the reason for the leave?*

Examples of verification include, but are not limited to, the following: copy of the subpoena, letter from the prosecutor, court docket establishing date and time for court proceedings, or a receipt for parking confirming the date and time.

4. *What is the impact of the new legislation on an agency's no call/no show policy?*

Generally, the new legislation should not impact an agency's no call/no show policy. Subject to two exceptions listed in this policy, the new law requires employees to notify their employers 48 hours in advance of the need for leave under this policy. Accordingly, unexpected or unannounced absences should be rare and infrequent. Employees who receive a subpoena to testify must show the subpoena to a supervisor as soon as possible.

5. *Does this policy include time off for all lawsuits?*

No. The law specifically requires employers to give time off for employees to attend court proceedings:

- when the employee, his/her spouse, or his/her next of kin have been the victim of a "heinous crime," or
- when the employee is a victim or witness of a crime who has been subpoenaed to testify or asked by the prosecutor to testify.

The law does not cover other kinds of lawsuits.

6. *Must an employer grant an employee time off to attend any type of court proceeding involving the employee or the employee's next of kin?*

No. An employee seeking to attend court proceedings when s/he is not the victim of a heinous crime or the victim's next of kin is not entitled to leave under this policy. The employee may request leave pursuant to applicable labor agreements or compensation plans.

7. *How often may an employee ask for time off to attend criminal proceedings?*

There are no constraints on the number of times an employee may ask for time off. However, each request should be considered on a case-by-case basis in light of the verification provided.

8. *May an employee be disciplined for requesting time off to attend criminal proceedings?*

The statute specifically prohibits retaliation, in any form, against any employee for requesting such time off. However, if the leave was requested under false pretenses or it can be proven that the time off was not used for the purpose it was intended, the conduct should be examined.

9. *Does this policy cover leave requests submitted before August 1, 2005?*

- No. The policy only applies to requests for time off on or after August 1, 2005.

References

Compensation Plans and Labor Agreements

HR/LR Policy #1425 On Time Off From Work To Obtain A Restraining Order Or An Order For Protection

State of Minnesota Employee Assistance Program (EAP)

VINE (Victim Information and Notification Everyday) <https://www.vinelink.com/vinelink/initMap.do>

United Way 2-1-1

Contacts

Labor Relations Representative

**Date policy content moved to new document template featuring updated branding, logo, formatting, and corrections to typographical errors. No change to policy content.*