



**LEGAL
AID AT
WORK**

**PROJECT
SURVIVE**

Domestic Violence/
Sexual Assault/
Stalking

Employment Rights Toolkit for Survivors

A guide to requesting leaves of absence, workplace safety accommodations, and other employment protections for California survivors of domestic violence, sexual assault, military sexual trauma, or stalking.

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Table of Contents

Overview of Survivors' Employment Rights Toolkit	4
Undocumented Workers	5
Feeling Safe at Work	6
● Overview of Your Rights	6-8
● Sample Request A: Reasonable Safety-Related Accommodation at Work – Employee Request	9-10
● Sample Certification A: Certification from Healthcare Provider or Survivor Advocate Requesting Reasonable Safety-Related Accommodation at Work	11-12
Time Off from Work for Reasons Related to Violence	13
Paid Sick/Safe Days	13
● Overview of Your Rights	13
Leave of Absence to Attend Court	14
● Overview of Your Rights	14
● Sample Request B: Leave to Attend Court– Employee Request	15-16
● Sample Certification B: Certification from Healthcare Provider or Survivor Advocate Requesting Leave to Attend Court	17
Leave to Obtain Medical Attention, Counseling, Safety Planning, or Other Services	18
● Overview of Your Rights	18-19
● Sample Request C: Leave to Obtain Medical Attention, Counseling, Safety Planning, or Other Services– Employee Request	20-21



<ul style="list-style-type: none"> ● Sample Certification C: Certification from Healthcare Provider Requesting Leave to Obtain Medical Attention, Counseling, Safety Planning, or Other Services 	22-23
Leave to Attend to Your Own or a Family Member’s Serious Health Condition	24
<ul style="list-style-type: none"> ● Overview of Your Rights 	24-25
<ul style="list-style-type: none"> ● Sample Request D: Leave to Attend to Your Own or a Family Member’s Serious Health Condition – Employee Request 	26-27
<ul style="list-style-type: none"> ● Sample Certification D: Fair Employment and Housing Commission Certification of Healthcare Provider 	28-32
Leave or Other Reasonable Accommodations for a Mental or Physical Disability	33
<ul style="list-style-type: none"> ● Overview of Your Rights 	33
<ul style="list-style-type: none"> ● Sample Request E: Reasonable Accommodation for Disability (Leave of Absence) – Employee Request 	35-36
<ul style="list-style-type: none"> ● Sample Certification E: Reasonable Accommodation for Disability (Leave of Absence) – Healthcare Provider Request 	37-38
<ul style="list-style-type: none"> ● Sample Request F: Reasonable Accommodation for Disability (Other than Leave of Absence) – Employee Request 	39-40
<ul style="list-style-type: none"> ● Sample Certification F: Reasonable Accommodation for Disability (Other than Leave of Absence) – Healthcare Provider Request 	41-42
Options for Wage Replacement While on Unpaid Leave	43-44
Work Termination and Rights	45
Additional Legal Assistance	46



Overview of Employment Rights Toolkit for Survivors

Domestic violence, sexual assault (including military sexual trauma), or stalking can interfere with a survivor's employment. However, survivors in California are protected by laws providing job-protected leave, accommodations, wage replacement, and prohibitions against workplace discrimination.

When requesting a leave of absence or accommodation, it is always a good idea to put your request in writing. Throughout this toolkit, we have provided references to sample letters and forms that you can use to request the different types of leaves or accommodations detailed below.



If you, your counselor, or your health care provider have any questions about these sample letters, you can contact Project SURVIVE of Legal Aid at Work at **(888) 864-8335** toll-free in California or **(415) 593-0033** outside California.

Undocumented Workers

If you are undocumented, **you still have the right** to be free from discrimination and to take advantage of leaves of absence, accommodations, and other protections available to survivors at the workplace.

Although undocumented workers are not entitled to unemployment insurance, you are entitled to state disability insurance and paid family leave as long as you have paid into California's State Disability Insurance fund. You are also entitled to accrue and use paid sick/safe days.

Disclaimer

This Toolkit is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid At Work cannot ensure the information in this Toolkit is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

Feeling Safe at Work

Overview of Your Rights

California law entitles survivors of domestic violence, sexual assault (including military sexual trauma) or stalking to reasonable safety-related accommodations at the workplace. If you request a reasonable safety accommodation at work related to domestic violence, sexual assault or stalking, the law requires your employer to talk with you about your needs, so that together you can determine what accommodation addresses your safety concerns and is also feasible for your employer. Employers are not required to provide an accommodation that would be unduly expensive or disruptive to the business, but if they deny your requested accommodation for that reason, they should consider and discuss alternative options with you.

Reasonable safety-related accommodations might include the following:



Changing your telephone extension or removing your contact information from the company website to prevent an abuser or stalker from contacting you while at work;



Relocating your workstation, modifying your schedule, reassigning you to a different shift, or allowing you to transfer locations;



Installing locks, surveillance cameras or other security equipment in the workplace.

In addition, in California, employers can get a restraining order and/or injunction on behalf of an employee who has suffered violence or a credible threat of violence that occurred at the workplace or may reasonably occur at the workplace. There is no requirement that the threat be made in person; threats over the phone, by email, and other means may qualify. This may serve as an extra layer of protection even for employees who have already obtained a personal restraining order against their abuser.

The above are just a few examples of possible accommodations. If you are not sure what type of accommodation would help you to stay safe at work, survivors' advocate organizations are available to talk with you about how you can increase your safety, both inside and outside the workplace.



If you are not yet working with a survivors' advocate, counselor or organization, you can find one in your area by contacting the National Domestic Violence Hotline at **(800) 799-SAFE (7233)** or the National Sexual Assault Hotline at **(800) 656-HOPE (4673)**.

After you request a reasonable safety-related accommodation, your employer can ask for a certification that shows that you are a survivor of violence, and can ask you to update this certification every six months. Your employer must keep any certification you provide confidential. You can use any of the following documents as a certification:



A police report indicating that you are a survivor of domestic violence, sexual assault or stalking



A court order, such as a restraining order, related to the domestic violence, sexual assault or stalking



A letter from a domestic violence or sexual assault counselor or a health care provider verifying that you are a survivor of domestic violence, sexual assault, or stalking

It is against the law for your employer to fire, threaten to fire, demote, suspend, retaliate or discriminate against you because you are a survivor of domestic violence, sexual assault or

discriminate against you because you are a survivor of domestic violence, sexual assault or stalking, or because you requested a reasonable safety-related accommodation.

If your employer knows that you are a survivor of domestic violence, sexual assault, or stalking, and refuses to provide you with a reasonable safety-related accommodation, fires you, retaliates against you or discriminates against you because you are a survivor, you may file a complaint with the California Labor Commissioner.

These claims may be time-sensitive; employees have one year from the date of the denial of accommodation, termination, or other forms of discrimination to file a complaint with the California Labor Commissioner.



You may reach the California Labor Commissioner by phone at

(844) 522-6734 or online at

<https://www.dir.ca.gov/dlse/RetaliationComplaintProcedure.htm>.

Helpful Sample Letters/Forms

- **Sample Request A:** Reasonable Safety-Related Accommodation at Work – Employee Request (pages 9-10)
- **Sample Certification A:** Certification from Healthcare Provider or Survivor Advocate Requesting Reasonable Safety-Related Accommodation at Work (pages 11-12)



Sample Request A:

Reasonable Safety-Related Accommodation at Work – Employee Request

When to Use This Letter: The following letter can be used to request a reasonable safety-related accommodation at work, such as a transfer, schedule modification, changed telephone number, or other safety measure to help you maintain safety at your workplace.

If your employer responds to this letter by requesting proof of your status as a survivor of domestic violence, sexual assault and/or stalking, you should ask your healthcare provider (including your mental healthcare provider), counselor or survivor advocate to complete **Sample Certification A** on pages 11-12 of this Toolkit (“Certification from Healthcare Provider or Survivor Advocate Requesting Reasonable Safety-Related Accommodation for Survivor of Domestic Violence, Sexual Assault or Stalking”).

[Date]

Dear [Name of Human Resources Representative, Supervisor, or Manager]:

As a survivor of [domestic violence / sexual assault AND/OR stalking], I am requesting a reasonable safety-related accommodation under California Labor Code 230(f). If you are not the appropriate person to receive this request, please notify me immediately, and forward this letter on to the person who handles requests for reasonable accommodations.

I currently feel unsafe at work, and would like to meet with you to discuss the possibility of a reasonable safety-related accommodation. *[If known, may describe safety accommodation needed. If not, can discuss options with employer.]*

California Labor Code Section 230(f) requires an employer to “provide reasonable

accommodations for a victim of domestic violence, sexual assault, or stalking who requests an accommodation for the safety of the victim while at work.” Such accommodations “may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, or stalking, or referral to a victim assistance organization.”

Please let me know if you require certification of my status as a survivor of violence. I am ready and willing to engage in the interactive process with you to discuss my request for accommodation.

Thank you,

[Signature]



Sample Certification A:

Certification from Healthcare Provider or Survivor Advocate Requesting Reasonable Safety – Related Accommodation at Work

When to Use This Letter: If you request a safety-related accommodation, your employer may request proof that you are a survivor of domestic violence, sexual assault or stalking. In response, you can share this sample letter with your healthcare provider (including your mental healthcare provider), counselor or survivor advocate, and ask him or her to provide you with a similar letter certifying that you are undergoing treatment or counseling related to domestic violence, sexual assault or stalking.

[Letterhead of Healthcare Provider OR Survivor Advocate Organization]

[Date]

To Whom It May Concern:

I am a **[licensed medical/health care professional, domestic violence counselor, OR sexual assault counselor]** from **[Organization]** for **[employee name]**.

[Name] requires a reasonable safety-related accommodation. *[(Note: If nature of needed accommodation is known, may describe in more detail – appropriate accommodations may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, or stalking) related to (domestic violence/sexual assault AND/OR stalking.)]*

By this letter, I certify that **[Name]** is receiving **[treatment/counseling]** for victimization resulting from **[domestic violence/sexual assault AND/OR stalking]** because of which the requested accommodation is necessary.

[Signature]

Time Off from Work for Reasons Related to Violence

Federal and state laws allow you to take job-protected time off for a number of reasons relating to domestic violence, sexual assault or stalking. Below, you will find information on the different types of leave you may request, and references to the sample letters in this toolkit that will aid you in requesting leaves of absence.



Paid Sick/ Paid Safe Days

Overview of Your Rights

Under California law, once you have worked for an employer for 30 days in a calendar year, you are entitled to accrue at least 1 hour of paid sick time per 30 hours worked; your employer may limit that accrual to 6 days (or 48 hours). After working for an employer for 90 days, you may use accrued paid sick/safe days to care for yourself, your child, spouse, registered domestic partner, parent (including stepparents), grandparent, grandchild, or sibling. These paid sick days can also be used as “paid safe days” for you to obtain counseling, safety planning, or other services related to domestic violence, sexual assault, or stalking.

You can request paid sick/safe days from your employer. Your employer must compensate you at the same rate you would normally earn during regular hours. However, your employer can limit your use of paid sick days to 3 days (24 hours) of paid sick time per year.

If you work in San Francisco, you can accrue up to 72 hours (9 days) of paid sick leave per year if you work somewhere with 10 or more workers; if there are less than 10 workers, you can accrue 40 hours (5 days) of paid sick leave. Other cities also require employers to provide additional paid sick days, so check your local ordinances to see if you have the right to additional paid sick days.



Leave of Absence to Attend Court

Overview of Your Rights

California law allows survivors of domestic violence, sexual assault, or stalking to take job-protected time off from work to obtain assistance from a court to ensure your own health, safety or welfare, or that of your child. This assistance includes a temporary restraining order, restraining order, or other “injunctive” relief (such as child support, child custody, or divorce court hearings). This protection applies to survivors working at *any* company or organization in California, regardless of the number of employees. If your child, spouse, parent, guardian, or sibling is a survivor of domestic violence, sexual assault, or stalking, you may take leave to attend a court proceeding where a right of the survivor is at issue. Your employer has the right to request certification of your need for leave for these reasons (see **Sample Certification B** (page 17)).

Helpful Sample Letters/Forms

- **Sample Request B:** Leave to Attend Court – Employee Request (pages 15-16)
- **Sample Certification B:** Certification from Medical Provider or Survivor Advocate Requesting Leave of Absence to Attend Court (page 17)



Sample Request B:

Leave to Attend Court – Employee Request

When to Use This Letter: The following letter can be used to request a job-protected leave of absence from your employer in order to go to court to seek a restraining order or other protection for you or your children against an abuser or stalker.

If your employer responds to this letter by requesting proof of your status as a survivor of domestic violence, sexual assault and/or stalking, you should ask your healthcare provider (including your mental healthcare provider), counselor or survivor advocate to complete **Sample Certification B** on page 17 of this Toolkit (“Certification from Healthcare Provider or Survivor Advocate Requesting Leave of Absence to Attend Court for Survivor of Domestic Violence, Sexual Assault or Stalking”).

[Date]

Dear **[Name of Human Resources Representative, Supervisor, or Manager]:**

As a victim of **[domestic violence/sexual assault AND/OR stalking]** I **[was/will be]** absent from work on **[date(s)]** to obtain or attempt to obtain court relief and protection. If you are not the appropriate person to receive this request, please notify me immediately, and forward this letter on to the person who handles requests for leave.

California Labor Code Section 230(c) requires all employers to allow an employee a job-protected leave of absence “to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.”

Please let me know if you require certification of my status as a survivor of violence.

Thank you,

[Signature]



Sample Certification B:

Certification from Medical Provider or Survivor Advocate Requesting Leave of Absence to Attend Court

When to Use This Letter: If you request a leave of absence to attend court, your employer may request proof that you are a survivor of domestic violence, sexual assault or stalking. In response, you can share this sample letter with your healthcare provider (including your mental healthcare provider), counselor or survivor advocate, and ask him or her to provide you with a similar letter certifying that you are undergoing treatment or counseling related to domestic violence, sexual assault or stalking.

[Letterhead of Healthcare Provider OR Survivor Advocate Organization]

[Date]

To Whom It May Concern:

I am a **[licensed medical/health care professional, domestic violence counselor, OR sexual assault counselor]** from **[Organization]** for **[employee name]**.

As a victim of **[domestic violence/sexual assault AND/OR stalking]**, **[Name]** **[needs/needed]** time off from work on **[date(s)]** to obtain or attempt to obtain court relief to help ensure the health, safety, or welfare of **[herself/himself]** and /or **[her/his child]**.

By this letter, I certify that **[Name]** is receiving **[treatment/counseling]** for victimization resulting from **[domestic violence/sexual assault AND/OR stalking]** because of which the requested leave of absence is necessary.

[Signature]

Leave to Obtain Counseling, Safety Planning, or Other Services Related to Violence

Overview of Your Rights

A survivor who works for an employer with **25 or more employees**, is entitled to up to 12 weeks per year of job-protected time off work to:



seek medical attention for injuries caused by domestic violence, sexual assault, or stalking;



obtain psychological counseling relating to an experience of domestic violence, sexual assault, or stalking;



obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; or



participate in safety planning or take other actions to enhance safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

You should give your employer reasonable advance notice of your intention to take time off, unless advance notice is not possible. In response to a request for this type of leave, your employer has the right to request certification of your status as a survivor of violence (see **Sample Certification C** (pages 22-23)).

Any of the following documents should be sufficient to certify your status as a survivor:



a police report indicating that you are a survivor of domestic violence, sexual assault, or stalking;



a court order protecting or separating you from the batterer or perpetrator, or other documentation from the court or the prosecuting attorney that you have appeared in court; or



documentation from a medical professional, domestic violence or sexual assault advocate, health care provider, or counselor that you were undergoing treatment for physical or mental injuries or abuse caused by domestic violence, sexual assault, or stalking.

Your employer must keep this certification confidential.

Helpful Sample Letters/Forms

- **Sample Request C:** Leave to Obtain Medical Attention, Counseling, Safety Planning, or Other Services – Employee Request” (pages 20-21)
- **Sample Certification C:** Certification from Healthcare Provider or Survivor Advocate Requesting Leave of Absence to Obtain Other Services (pages 22-23)



Sample Request C:

Leave to Obtain Medical Attention, Counseling, Safety Planning, or Other Services – Employee Request

When to Use This Letter: If you work for an employer who has **at least 25 employees**, the following letter can be used to request a job-protected leave of absence from your employer in order to seek medical attention or psychological counseling, obtain services from a counseling center or shelter, participate in safety planning, or take other actions to maintain safety.

If your employer responds to this letter by requesting proof of your status as a survivor of domestic violence, sexual assault or stalking, you should ask your healthcare provider (including your mental healthcare provider), counselor or survivor advocate to complete **Sample Certification C** on pages 22-23 of this Toolkit (“Certification from Healthcare Provider or Survivor Advocate Requesting Leave to Obtain Services for Survivor of Domestic Violence, Sexual Assault or Stalking”).

[Date]

Dear **[Name of Human Resources Representative, Supervisor, or Manager]**:

As a victim of **[domestic violence/sexual assault AND/OR stalking]** I **[was/will be]** absent from work on **[date(s)]** to **[describe type of services or activity for which you need leave from work, such as medical attention, counseling, safety planning, relocation, etc.]**. If you are not the appropriate person to receive this request, please notify me immediately, and forward this letter on to the person who handles requests for leave.

California Labor Code Section 230.1(a) requires employers with at least 25 employees to allow an employee to take a job-protected leave of absence “to seek medical attention,” “obtain services

from a domestic violence shelter, program, or rape crisis center," "obtain psychological counseling," "participate in safety planning," "temporar[ily] or permanent[ly] relocate[e]," and/or "take other actions to increase [his or her] safety from future domestic violence, sexual assault, or stalking."

Please let me know if you require certification of my status as a survivor of violence.

Thank you,

[Signature]



Sample Certification C:

Certification from Healthcare Provider or Survivor Advocate Requesting Leave of Absence to Obtain Other Services

When to Use This Letter: If you request a leave of absence to obtain services such as medical attention, counseling, or safety planning, your employer may request proof that you are a survivor of domestic violence, sexual assault or stalking. In response, you can share this sample letter with your healthcare provider (including your mental healthcare provider), counselor or survivor advocate, and ask him or her to provide you with a similar letter certifying that you are undergoing treatment or counseling related to domestic violence, sexual assault or stalking.

[Letterhead of Healthcare Provider OR Survivor Advocate Organization]

[Date]

To Whom It May Concern:

I am a **[licensed medical/health care professional, domestic violence counselor, OR sexual assault counselor]** from **[Organization]** for **[employee name]**.

[Name] requires a leave of absence on **[date(s)]** to obtain services related to **[domestic violence/sexual assault AND/OR stalking]**. *[Include brief description of services needed; may include (but are not limited to) seeking medical attention, obtaining services from a domestic violence shelter, program, or rape crisis center, obtaining psychological counseling, participating in safety planning, or relocating/obtaining relocation services.]*

By this letter, I certify that **[Name]** is receiving **[treatment/counseling]** for victimization resulting

from **[domestic violence/sexual assault AND/OR stalking]** because of which the requested leave of absence is necessary.

[Signature]

Leave to Attend to Your Own / A Family Member's Serious Health Condition

Overview of Your Rights

Under the Family Medical Leave Act or the California Family Rights Act, qualifying employees are entitled to up to 12 weeks per year of unpaid job-protected leave to tend to their own serious health condition or the serious health condition of a parent, child, spouse, or registered domestic partner.

A **serious health condition** is an illness, injury, impairment, physical condition, or mental condition that causes a period of incapacity (meaning inability to work, attend school or perform other regular daily activities) **and** requires EITHER an overnight stay in a hospital, hospice, or residential medical-care facility OR continuing treatment by a health care provider. Examples of some conditions that may qualify are significant psychological distress, post-traumatic stress disorder, depression, dissociative anxiety or mood disorders, as well as physical injuries. This leave may also be taken to bond with a new child. To qualify for this type of leave, you must:



1. work for an employer who has at least **50 employees** **within a 75-mile radius** of your worksite; and



2. have worked for that employer for **at least one year**; and



3. have worked at least **1250 hours** in the year immediately preceding your need for leave.

If you do not qualify, see: "Leave Because of Your Own Disability," below.

If you qualify for job-protected leave for your own or a family member's serious health condition, a request for this leave **does not require disclosure of the violence**, but may require certification

from a health care provider verifying that you or your family member has a serious health condition. (However, because of California's strict privacy laws, you do not have to disclose the specific diagnosis.) Your employer should provide you with a certification form upon its request for certification. You may also use the certification form included in this Toolkit (**Sample Certification D** (pages 28-32)).

Helpful Sample Letters/Forms

- **Sample Request D:** Leave to Attend to Your Own or a Family Member's Serious Health Condition – Employee Request (pages 26-27)
- **Sample Certification D:** Fair Employment and Housing Commission Certification of Health Care Provider (pages 28-32)



Sample Request D:

Leave to Attend to Your Own or a Family Member's Serious Health Condition – Employee Request

When to Use This Letter: If you work for an employer who has **at least 50 employees**, have worked there for **at least one year**, and have worked **1250 hours** during the year directly preceding your leave request, the following letter can be used to request a job-protected leave of absence from your employer in order to attend to your own serious health condition or the serious health condition of your child, spouse, domestic partner, or parent.

If your employer responds to this letter by requesting certification of your need for leave, you should ask your healthcare provider (including your mental healthcare provider) to complete **Sample Certification D** on the next several pages of this Toolkit (“Fair Employment and Housing Commission Certification of Healthcare Provider”).

[Date]

Dear **[Name of Human Resources Representative, Supervisor, or Manager]**:

This letter is to notify you of my need for leave under the Family and Medical Leave Act and the California Family Rights Act. I require a leave of absence from **[date]** to **[date]**. ***[Note that you can also request periodic, intermittent FMLA/CFRA leave or use this leave to reduce your scheduled hours as needed to tend to your own/your family member's health condition.]***

I have a serious health condition because of which I am temporarily unable to work during this period of time.

[OR]

My **[parent/child/spouse/domestic partner]** has a serious health condition . In order to provide care for **[him/her]**, I will be unable to work during this time.

It is my understanding that I am eligible for up to 12 weeks of leave per year under the Family and Medical Leave Act and the California Family Rights Act, and that I will be reinstated to my job after my leave. ***[If you receive health insurance benefits through your employer:]*** It is also my understanding that the company will continue my health insurance during my leave.

Please let me know immediately and in writing if you require a certification or anything further from me. I appreciate your assistance with this matter.

Sincerely,

[Signature]



Sample Certification D:

Fair Employment and Housing Commission Certification of Health Care Provider

1. Employee's Name: _____

2. Patient's Name (If other than employee):

3. Date medical condition or need for treatment commenced [NOTE: THE HEALTH CARE PROVIDER IS NOT TO DISCLOSE THE UNDERLYING DIAGNOSIS WITHOUT CONSENT OF THE PATIENT]: _____

4. Probable duration of medical leave or need for treatment: _____

5. The attached sheet describes what is meant by a "serious health condition" under both the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Does the patient's condition qualify under any of the categories described? If so, please check the appropriate category:

(1) (2) (3) (4) (5) (6)

6. If the certification is for the serious health condition of the employee, please answer the following:

Yes No

 Is the employee able to perform work of any kind? (If "No," skip next question.)

- Is the employee unable to perform any one or more of the essential functions of the employee's position? (Answer after reviewing statement from employer of essential functions of employee's position, or, if none provided, after discussing with employee.)

7. If the certification is for the care of the employee's family member, please answer the following:

Yes No

- Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety, or transportation?

- After review of the employee's signed statement (See Item 10 below), does the condition warrant the participation of the employee? (This participation may include psychological comfort and/or arranging for third-party care for the family member.)

8. Estimate the period of time care is needed or during which the employee's presence would be beneficial: _____

9. Please answer the following question only if the employee is asking for intermittent leave or a reduced work schedule.

Yes No

- Is it medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal work schedule in order to deal with the serious health condition of the employee or family member?

- □ If the answer to 9 is yes, please indicate the estimated number of doctor's visits, and/or estimated duration of medical treatment, either by the health care practitioner or another provider of health services, upon referral from the health care provider. _____

ITEM 10 IS TO BE COMPLETED BY THE EMPLOYEE NEEDING FAMILY LEAVE.

****TO BE PROVIDED TO THE HEALTH CARE PROVIDER UNDER SEPARATE COVER.

10. When family care leave is needed to care for a seriously-ill family member, the employee shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced work schedule: _____

11. Signature of health care provider: _____
Date: _____

12. Signature of employee: _____
Date: _____

A **“Serious Health Condition”** means an illness, injury, impairment or physical or mental condition that involves one of the following:

1. **Hospital Care:** Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
2. **Absence Plus Treatment:** A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 1. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
 2. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
3. **Pregnancy:** [NOTE: An employee’s own incapacity due to pregnancy is covered as a serious health condition under FMLA but not under CFRA] Any period of incapacity due to pregnancy, or for prenatal care.
4. **Chronic Conditions Requiring Treatment:** A chronic condition which:
 1. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 3. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).
5. **Permanent/Long-term Conditions Requiring Supervision:** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be

effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

- 6. Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of or on referral by, a healthcare provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity or more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy, or kidney disease (dialysis).

Note: Authority cited: Section 12935(a), Government Code. Reference: Section 12945.2, Government Code; Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.; and 29 C.F.R. § 825.

Leave or Other Reasonable Accommodations for a Mental or Physical Disability

Overview of Your Rights

Employees who do not qualify for a leave of absence under the Family Medical Leave Act or California Family Rights Act may qualify for a leave under state and federal disability laws.

If you have a disability resulting from violence (such as post-traumatic stress disorder or another physical or mental disability), you may be entitled to a leave of absence as a reasonable accommodation under state or federal disability law as long as you work for an employer **with at least 5 employees**. This type of request does **not require that you tell your employer about the violence**, but your employer can request medical documentation stating that you have a disability and need a related accommodation.

Reasonable accommodations other than leave may also be requested, if needed to accommodate the disability of an employee. Such accommodations could include a modified schedule, reassignment of non-essential work tasks, the ability to bring an assistance animal to work, transfer to another vacant position, or another change to your job.



If you have a disability and are not sure what accommodation would help you in the workplace, you can contact the Department of Labor's Job Accommodation Network (JAN) at **(800) 526-7234** or visit their website at <http://www.askjan.org>. JAN can provide you with accommodation ideas tailored to your specific disability and workplace.)

Helpful Sample Letters/Forms

- **Sample Request E:** Reasonable Accommodation for Disability (Leave of Absence) – Employee Request (pages 35-36)
- **Sample Certification E:** Reasonable Accommodation for Disability (Leave of Absence) – Healthcare Provider Request (pages 37-38)
- **Sample Request F:** Reasonable Accommodation for Disability (Other than Leave of Absence) – Employee Request (pages 39-40)
- **Sample Certification F:** Reasonable Accommodation for Disability (Other than Leave of Absence) – Healthcare Provider Request (pages 41-42)



Sample Request E:

Reasonable Accommodation for Disability (Leave of Absence) – Employee Request

When to Use This Letter: The following letter can be used to request a leave as a reasonable accommodation for your own disability.

If your employer responds to this letter by requesting proof of your disability, you should ask your healthcare provider (including your mental healthcare provider) to complete **Sample Certification E** on pages 37-38 of this Toolkit (“Reasonable Accommodation for Disability (Leave of Absence) – Healthcare Provider Request”).

[Date]

Dear **[Name of Human Resources Representative, Supervisor, or Manager]**:

This is a request for reasonable accommodation under the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). If you are not the appropriate person to receive this request, please notify me immediately, and forward this letter on to the person who handles requests for reasonable accommodation.

I am a person with a “disability” under state and federal laws. I am requesting a leave of absence beginning on **[date]**. My scheduled return to work date is **[date]**.

According to the federal Equal Employment Opportunity Commission (EEOC), a leave of absence is a form of reasonable accommodation. See the section entitled “Leave” and corresponding examples in *EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act*, available at www.eeoc.gov.

Please let me know if you require reasonable medical documentation of my condition. I am ready and willing to engage in the interactive process with you so that I may continue in my employment.

Thank you,

[Signature]



Sample Certification E:

Reasonable Accommodation for Disability (Leave of Absence) – Healthcare Provider Request

When to Use This Letter: If you request a leave of absence because of a disability, your employer may request medical documentation of your disability. In response, you can share this sample letter with your healthcare provider (including your mental healthcare provider) and ask him or her to provide you with a similar letter documenting your disability and need for a leave of absence.

[Date]

To Whom It May Concern:

I am the treating **[job title or description, such as physician, psychiatrist, psychologist, therapist, social worker, case worker, or health care professional]** for **[Name]**.

[Name] has a medical condition that substantially limits **[his/her]** major life activities, including: **[fill in relevant major life activities, such as: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, or the operation of major bodily function (including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions, or the operation of an individual organ within a body system)].**

As a result of **[Name]**'s disability, **[she/he]** is temporarily unable to work. **[She/he]** needs a leave of absence for treatment and recovery. This leave **[began on/is scheduled to begin on date]**.

I anticipate that [Name] will be able to return to work on [date *(Note that it is important to include an anticipated return-to-work date, even if that date must be extended in the future.)*].

[Signature]



Sample Request F:

Reasonable Accommodation for Disability (Other than Leave of Absence) – Employee Request

When to Use This Letter: The following letter can be used to request a reasonable accommodation for your own disability.

If your employer responds to this letter by requesting proof of your disability, you should ask your healthcare provider (including your mental healthcare provider) to complete **Sample Certification F** on pages 41-42 of this Toolkit (“Reasonable Accommodation for Disability (Other than Leave of Absence) – Healthcare Provider Request”).

[Date]

Dear **[Name of Human Resources Representative, Supervisor, or Manager]**:

This is a request for reasonable accommodation under the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). If you are not the appropriate person to receive this request, please notify me immediately, and forward this letter on to the person who handles requests for reasonable accommodation.

I am a person with a “disability” under state and federal laws. **[Describe situation and how accommodation will assist you by enabling you to perform job or to maintain health. For example:**

- **As a result of my disability, I experience episodes of intense stress. During these episodes, I may need to take a moment to rest and recover. Therefore, as an accommodation for my disability, I need permission to take unscheduled short breaks when these episodes occur.**

- As a result of my disability, I occasionally experience difficulty with memory. Therefore, as an accommodation for my disability, I need a tape recorder and permission to record office meetings.
- As a result of my disability, I experience intense panic and worry regarding being approached by strangers unexpectedly. Therefore, as an accommodation for my disability, I need my workspace moved away from the front entrance.]

Please let me know if you require reasonable medical documentation of my condition. I am ready and willing to engage in the interactive process with you so that I may continue in my employment.

Thank you,

[Signature]



Sample Certification F:

Reasonable Accommodation for Disability (Other than Leave of Absence) – Healthcare Provider Request

When to Use This Letter: If you request a reasonable accommodation because of a disability, your employer may request medical documentation of your disability. In response, you can share this sample letter with your healthcare provider or mental healthcare provider and ask him or her to provide you with a similar letter documenting your disability and need for a leave of absence.

[Date]

To Whom It May Concern:

I am the treating **[job title or description, such as physician, psychiatrist, psychologist, therapist, social worker, case worker, or health care professional]** for **[Name]**.

[Name] has a medical condition that substantially limits **[his/her]** major life activities, including **[fill in relevant major life activities, such as: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, or the operation of major bodily function (including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions, or the operation of an individual organ within a body system)]**

As a result of **[Name]**'s disability, **[she/he]** seeks a workplace accommodation. **[Describe situation and how accommodation will assist employee by enabling him/her to perform job or to maintain health. For example:**

- As a result of [Name]’s disability, [she/he] experiences episodes of intense stress. During these episodes, [Name] may need to take a moment rest and recover. Therefore, as an accommodation for [her/his] disability, [Name] needs permission to take unscheduled short breaks when these episodes occur.
- As a result of [Name]’s disability, [she/he] occasionally experiences difficulty with memory. Therefore, as an accommodation for [his/her] disability, [Name] needs a tape recorder and permission to record office meetings.
- As a result of [Name]’s disability, [she/he] experiences intense panic and worry regarding being approached by strangers unexpectedly. Therefore, [Name] needs, as an accommodation for [his/her] disability, [his/her] workspace moved away from the front entrance.].

[Signature]

Options for Wage Replacement While on Unpaid Leave

California maintains several programs that provide wage replacement if you need time of work to care for yourself or a family member, or if you are terminated or must leave your job to maintain your or your family's safety.



State Disability Insurance

State Disability Insurance (SDI) entitles workers to a maximum of fifty-two weeks of partial pay (60% or 70% of regular weekly wages, depending on income) while off work because of an inability to perform their regular or customary work due to physical or mental injuries, illnesses or other health conditions, including health conditions caused or made worse by domestic violence, sexual assault or stalking.

SDI benefits are administered by the Employment Development Department (EDD). For more information or to apply, call **(800) 480-3287** or visit <http://www.edd.ca.gov/Disability/>.



Paid Family Leave Insurance

Paid Family Leave (PFL) entitles workers who participate in the State Disability Insurance (SDI) program to a maximum of six weeks* of partial pay (60% or 70% of regular weekly wages, depending on income) each year while taking time off from work to care for a child, parent, parent-in-law, spouse, registered domestic partner, sibling, grandparent, or grandchild with a serious health condition, including a condition caused or made worse by domestic violence, sexual

assault or stalking. Care eligible for leave includes providing physical or psychological care, such as arranging third-party care, providing or directly participating in the medical care of the family member, attending to the hygienic, nutritional, and safety needs of the family member, and providing psychological comfort. PFL can also be used while taking time off work to bond with a new baby or adopted or foster child in the home.

***As of July 1, 2020, PFL will provide for a maximum of eight weeks of partial pay.**

PFL benefits are administered by the Employment Development Department (EDD). For more information or to apply, call **(877) 238-4373** or visit http://www.edd.ca.gov/Disability/More_PFL_information.htm.



Unemployment Insurance

Unemployment Insurance (UI) benefits provide partial wage replacement to workers who are able to work but are temporarily unemployed or who are working less through no fault of their own.

Although ordinarily workers who quit their jobs are not eligible for UI, you may be eligible if you had a compelling reason for quitting your job (a “good cause quit”). In California, a survivor of domestic violence who quits their job to protect themselves or their family from domestic violence has “good cause” for leaving that job. In order to demonstrate a “good cause quit,” you typically must show that you gave your employer an opportunity to fix the problem – for instance, by requesting a leave of absence or safety-related reasonable accommodation. If your employer refuses these requests, or if no work-related changes could have addressed your safety concerns, you should be able to show a “good cause quit.”

UI is administered by the Employment Development Department (EDD). For more information or to apply, call **(866) 333-4606** or visit <http://www.edd.ca.gov/Unemployment/>.

Work Termination and Rights

If you work at an employer with 25 or more employees, your employer is required under California law to, upon hire and thereafter upon request by employees, provide written notice of your rights to reasonable safety-related accommodations and job-protected time off work, without threat of retaliation or termination, for domestic violence, sexual assault, or stalking.

If your employer knows you are a survivor of domestic violence, sexual assault or stalking, they may not penalize or fire you for that reason. Further, if you tell your employer you are a survivor of violence and ask for a reasonable, safety-related accommodation, such as changing your telephone extension, your employer cannot punish or terminate you either because you requested an accommodation or because you disclosed your status as a survivor.

If you are fired because you are a survivor of domestic violence, sexual assault, or stalking, or because you requested a reasonable safety-related accommodation because of that violence, you may file a complaint with the Labor Commissioner (the Division of Labor Standards Enforcement), which may order your employer to reinstate you to your job and reimburse you for lost wages and work benefits. Labor Commissioner offices are located throughout California. The number for the Labor Commissioner office nearest to you can be found at <http://www.dir.ca.gov/dlse/DistrictOffices.htm>. An employee has **one year** from the date of the denial of accommodation, termination or other form of discrimination to file a complaint with the Labor Commissioner.

Additional Legal Assistance



Contact **Project SURVIVE** of Legal Aid at Work toll-free at **(888) 864-8335**
toll-free in California or **(415) 593-0033** outside California.