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*The materials contained herein are for informational purposes only and not for the purpose of providing legal advice. For advice about a particular problem or situation, please contact an attorney.*

## **New Employment Laws Affecting California Employers** August 2017 Update

**1 – New Notice Requirements Re Employee's Sexual Assault / Domestic Violence Leave Rights (Immediate Action Required for employers with 25 or more employees).** Effective January 1, 2017, employers with 25 or more employees have had to provide written notice to new employees, and to current employees upon request, of the time off and accommodation rights under Labor Code §§ 230 and 230.1.

Labor Code § 230 and 230.1 require employers to advise employees of the rights of victims of domestic violence, sexual assault, and stalking. These include the right to:

- Seek medical attention for injuries caused by 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.
- Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
- Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

In August 2017, the California Division of Labor Standards Enforcement (DLSE) released a new form for use by employers. Copies of the new form (in English and Spanish) are attached, or may be downloaded from the California Labor Commissioner's website by following these links: [English version](#), [Spanish version](#).

Employers should note they do not have to use these forms, which also contain information on an employee's rights to reasonable accommodation, to be free from retaliation and discrimination, and how to make a complaint to the DLSE.

**Recommended action:** Include such policies in your employee handbook; consider creating a new form and acknowledgement which should be included in your employee personnel files.

## **New Free Tool To Help Draft Job Descriptions**

The Law Offices of Douglas M. Wade, PLC has been working with MinuteCreator, Inc. to provide a new tool to help employers draft job descriptions. The tool lets employers search The Bureau of Labor Statistics Standard Occupation Classifications for a job title, and then using the Occupational Information Network (O\*Net) lists matching job titles. Users can then click on the search results to preview the job description, and then download the full job description in MS Word (.docx) file format.



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The new free tool can be accessed via this [link](#), or by going to MinuteCreator.biz and clicking on the Job Description Maker link.

Should you have questions about the new Rights of Victims of Domestic Violence, Sexual Assault and Stalking form, job descriptions, or any other workplace law, please contact me at [doug@dmwadelaw.com](mailto:doug@dmwadelaw.com).

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**EMPLOYERS MUST PROVIDE THIS INFORMATION TO NEW WORKERS  
WHEN HIRED AND TO OTHER WORKERS WHO ASK FOR IT**

**RIGHTS OF VICTIMS OF DOMESTIC VIOLENCE,  
SEXUAL ASSAULT AND STALKING**

***Your Right to Take Time Off:***

- You have the right to take time off from work to get help to protect you and your children's health, safety or welfare. You can take time off to get a restraining order or other court order.
- If your company has 25 or more workers, you can take time off from work to get medical attention or services from a domestic violence shelter, program or rape crisis center, psychological counseling, or receive safety planning related to domestic violence, sexual assault, or stalking.
- 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 something different. Even if you don't have paid leave, you still have the right to time off.
- In general, you don't have to give your employer proof to use leave for these reasons.
- If you can, you should tell your employer before you take time off. Even if you cannot tell your employer before, your employer cannot discipline you if you give proof explaining the reason for your absence within a reasonable time. Proof can be a police report, court order or doctor's or counselor's note or similar document.

***Your Right to Reasonable Accommodation:***

- You have the 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 in 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 certifying that your request is for a proper purpose, and may also request proof showing your need for an accommodation. Your employer cannot tell your coworkers or anyone else about your request.

***Your Right to Be Free from Retaliation and Discrimination:***

Your employer cannot treat you differently or fire you because:

- You are a victim of domestic violence, sexual assault, or stalking.
- You asked for leave time to get help.
- You asked your employer for help or changes in the workplace to make sure you are safe at work.

***You can file a complaint with the Labor Commissioner's Office against your employer if he/she retaliates or discriminates against you.***

For more information, contact the California Labor Commissioner's Office. We can help you by phone at 213-897-6595, or you can find a local office on our website: [www.dir.ca.gov/dlse/DistrictOffices.htm](http://www.dir.ca.gov/dlse/DistrictOffices.htm). If you do not speak English, we will provide an interpreter in your language at no cost to you. This Notice explains rights contained in California Labor Code sections 230 and 230.1. Employers may use this Notice or one substantially similar in content and clarity.

**LOS EMPLEADORES DEBEN DAR ESTA INFORMACIÓN A LOS TRABAJADORES NUEVOS CUANDO SON CONTRATADOS Y A AQUELLOS TRABAJADORES QUE LO SOLICITEN**

**DERECHOS DE LAS VÍCTIMAS DE VIOLENCIA DOMÉSTICA, AGRESIÓN SEXUAL Y ACOSO**

***Su derecho a ausentarse por un tiempo:***

- Tiene derecho a pedir y obtener permiso para ausentarse del trabajo para buscar ayuda para proteger la salud, la seguridad o el bienestar suyo y de sus hijos. Puede ausentarse para solicitar una orden de alejamiento u otra orden judicial.
- Si su compañía tiene 25 trabajadores o más, usted puede obtener un permiso laboral para recibir atención médica o hacer uso de los servicios de un refugio contra la violencia doméstica o de un centro de atención para víctimas de violación, recibir asesoría psicológica o recibir planificación de seguridad relacionada con la violencia doméstica, la agresión sexual o el acoso.
- Puede usar sus días de vacaciones disponibles, licencia personal, licencia médica acumulada o tiempo libre compensatorio para ausentarse, a menos que esté bajo un acuerdo sindical que indique algo diferente. Incluso si no tiene licencia pagada, tiene derecho a ausentarse del trabajo.
- Por regla general, no tiene que entregarle prueba alguna a su empleador para ausentarse por estas razones.
- Si puede, debería avisarle a su empleador antes de ausentarse del trabajo. Incluso si no puede avisarle con anticipo, su empleador no puede disciplinarlo si usted justifica su ausencia en un plazo razonable. La prueba puede consistir en un informe policial, una orden del tribunal, un reporte médico o de un asesor, o cualquier documento similar.

***Su derecho a un ajuste razonable:***

- Tiene derecho a solicitar ayuda a su empleador o a hacer cambios en su lugar de trabajo para garantizar su seguridad en el trabajo. Su empleador debe colaborar con usted para ver qué cambios se pueden hacer. Dichas modificaciones pueden incluir que se instalen cerraduras, que cambien su turno o número de teléfono, que lo transfieran de sede o que le asignen otras responsabilidades laborales o colaborar a mantener un registro sobre lo que le ocurrió. Su empleador puede solicitarle una declaración firmada para certificar que el motivo de su solicitud es justo, y puede solicitar evidencia que justifique su necesidad de hacer modificaciones. Su empleador no puede compartir su solicitud con sus colegas ni con nadie más.

***Su derecho a la protección contra la represalia y discriminación:***

Su empleador no puede tratarlo diferente ni despedirlo porque:

- Usted es víctima de violencia doméstica, agresión sexual o acoso.
- Solicitó un permiso para obtener asistencia por estos motivos.
- Pidió ayuda o cambios a su empleador para garantizar su seguridad en el lugar de trabajo.

***Puede presentar un reclamo contra su empleador ante la Oficina del Comisionado Laboral si él/ella toma represalias o lo discrimina.***

Para más información, comuníquese con la Oficina del Comisionado Laboral de California. Podemos ayudarle al número telefónico 213-897-6595 o puede buscar una oficina local en nuestra página web: [www.dir.ca.gov/dlse/DistrictOffices.htm](http://www.dir.ca.gov/dlse/DistrictOffices.htm). Le facilitaremos un intérprete en su idioma sin costo alguno en caso de que no hable inglés. Este aviso explica los derechos contenidos en las Secciones 230 y 230.1 del Código Laboral de California. Los empleadores pueden utilizar este aviso o alguno que se le parezca mucho en contenido y claridad.