

## **CRIME VICTIM LEAVE**

**PURPOSE:** To comply with changes to Oregon civil rights law effective January 1, 2004.

**SCOPE:** This policy applies to all County Offices and Employees

**POLICY STATEMENT:** Oregon Revised Statutes grants certain crime victims and their immediate family members the right to protected leave from work to attend criminal proceedings. The law applies to any organization that employs six or more persons in Oregon for 20 or more calendar weeks in the calendar year in which the employee takes leave or in the immediately preceding year. A covered employer who denies leave to an eligible employee or who discharges, threatens to discharge, intimidates or coerces because the employee takes leave to attend a criminal proceeding commits an unlawful employment practice.

### 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, Clackamas County 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. The County 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 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 Department of Employee Services 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 the Department of Employee Services 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 the County's policy for such leaves, please contact DES/Personnel Division.

#### **OTHER INTERNET LINKS**

EPP # 6 – Employee Assistance Program (<http://www.clackamas.us/docs/des/epp06.htm>)

EPP # 11 – Leaves of Absence (<http://www.clackamas.us/docs/des/epp11.pdf>)