

Wisconsin: JURY DUTY

Summary

- Employers in Wisconsin must excuse employees from work to serve on a jury.
- All employees in Wisconsin may take time off from work to respond to a jury duty summons.
- Employers do not have to compensate an employee for his or her time spent on jury duty.
- Wisconsin law protects an employee's job when the employee serves on a jury.

Employers Obligated to Provide Leave

All employers in Wisconsin must provide jury duty leave to employees.

Employees Qualified for the Leave

All employees in Wisconsin may take time off from work to respond to a jury duty summons. An employer must grant a leave of absence without loss of time in service for the period of jury service.

Compensation During Leave

An employer is *not* required to compensate an employee for time spent on jury service. While not mandated to do so, many employers have jury leave policies that pay employees called to jury or witness duty. In deciding compensation issues, an employer must consider the exempt and nonexempt status of employees.

Exempt Employees

An employee who is *exempt* under the Fair Labor Standards Act (and therefore not entitled to overtime) must be paid for the whole week for any workweek in which he or she served as a juror or witness, but also performed any actual work. The employer may offset any amount received by an exempt employee as jury fees or witness fees for a particular week against the salary due for that week. The employee need not be paid for any workweek during which he or she performs no work; for example, when an employee is on jury duty for an entire workweek.

Nonexempt Employees

The Fair Labor Standards Act does not require employers to pay *nonexempt* employees (typically, hourly workers who are entitled to overtime pay for working more than 40 hours in a workweek) for time spent away from work because of jury or witness obligations. Employers may elect to pay such employees, but deduct the amount paid by the court from any compensation paid. This practice is consistent with the philosophy behind the jury duty protection laws, which are intended to encourage individuals to

perform their civic duty. However, because it is possible that an employee on jury duty may become involved in a long trial, written company policies should specify that any pay that is granted will be calculated as regular base pay only (no overtime) and will be limited to some finite period. If the employer does not intend to pay employees for lengthy jury service, there must be a written policy in place informing employees of that fact (i.e., an employer's policy can indicate that after a certain length of time, the employee's jury service will no longer be paid leave). Failure to specify such limitation of payment could result in having to pay the employee for the entire length of his or her service.

Prohibited Actions

Jury Duty

An employer must not terminate or discipline an employee for absences due to jury duty. Reinstatement after service must be without loss of seniority. + Wis. Stat. Ann. § 756.255.

Court Appearances

An employee is entitled to leave to appear to testify under a lawfully issued subpoena. An employer may not discipline an employee for testifying or terminate an employee because he or she received a subpoena to testify in an action or proceeding relating to a crime or pursuant to Wisconsin Statutes Chapter 48 (Children's Code) or 938 (Juvenile Justice Code).

If an employee is subpoenaed to testify in an action or proceeding as a result of a crime against the employer or as a result of an incident involving the employee during his or her course of employment, the employer cannot withhold or decrease the employee's pay resulting from the employee's compliance with the subpoena. An employee must, however, give the employer notice of a future absence because of a need to comply with a subpoena to testify on or before the first business date after the employee has received the subpoena. + Wis. Stat. § 103.87.