

# How to Create a Jury Duty Leave Policy



The 6 things a jury duty leave of absence policy must address.

Jury duty is a civic responsibility that all Canadian citizens are expected to serve every few years. But heeding the summons for jury duty can also be a hardship if employees must miss work time to show up for court. And every once in a while, employees might find themselves empaneled as a juror on a trial that lasts for weeks, maybe even months. You're not allowed to fire an employee for being on jury duty; but you don't necessarily have to pay the employee for the missed time, either. The best way to deal with this situation is to adopt a policy granting employees unpaid leave of absence for jury duty that meets the [requirements of your jurisdiction](#). Here's how to create such a [policy](#).

## The Law of Jury Duty

Employment standards laws of 6 jurisdictions (FED, BC, NB, NS, NT, PEI) provide an unpaid leave of absence for jury or court duty. The other 8 jurisdictions accomplish the same effect via statutes called "Jury Acts" banning employers from firing, suspending, demoting or taking or threatening any other "discriminatory" or unfavourable employment action against employees because they miss work time for jury duty. Penalties for discrimination are pretty steep, including fines of up to \$10,000, imprisonment or both. In either case, it's important to establish a jury duty leave policy covering 6 things.

### 1. Definition of Jury Duty

First, explain what "jury duty" encompasses. **Explanation:** Employees who summoned for jury duty must show up at court at a specific time and place to receive orientation and wait to be called to participate as a member of a pool of prospective jurors who get questioned by the judge and each side's lawyer. If they're not selected, they go back to the waiting area until their name is called for the next pool. If they're not selected by the end of a day or 2, they're excused and can go home. If they are selected, they must serve as a juror for as long as the trial lasts.

The point is that "jury duty" under your policy must include both serving as a juror and participating in the selection process. In addition, 6 jurisdictions (FED, the Maritimes and NT) also extend jury duty absence rights to those who are required to serve as witnesses during a trial.

## 2. Whether Jury Duty Leave Is Paid or Unpaid

As noted above, there's no requirement that employers pay employees for the time they spend on jury duty leave. The only exception in Newfoundland where employees on jury duty leave are entitled to pay and benefits at their regular rate.

Strategic Pointer: In most jurisdictions, jurors who don't get paid for the time by their employers are entitled to daily fees, which vary by province, as well as allowances covering their travel, meals, accommodation and maybe even childcare costs. Accordingly, it may make sense to pay employees for jury duty leave, provided that they agree to reimburse the juror fees they receive. **Note:** You're not generally allowed to go after the employee's allowances.

| Jurisdiction          | Juror Fee (per day)  |
|-----------------------|--|
| Alberta               | \$50   |
| British Columbia      | Day 1-10: \$20<br>Day 11-50: \$60<br>Day 51 and beyond: \$100  |
| Manitoba              | \$80   |
| New Brunswick         | Day 1-10: \$20 per half day, \$40 per full day<br>After day 10: \$40 per half day, \$80 per full day |
| Nova Scotia           | \$40   |
| Northwest Territories | \$80   |
| Nunavut               | Day 1-5: \$100<br>After day 5: \$150   |
| Ontario               | Day 1-9: \$0<br>Day 10-49: \$40<br>Day 50 and beyond: \$100  |
| Prince Edward Island  | \$25 per half day<br>Day 1-56: \$103 per half day<br>Day 57 and beyond: \$160                        |
| Québec                | <i>Increases if proceedings take place outside of normal work hours</i>                              |
| Saskatchewan          | \$110  |
| Yukon                 | \$80   |

## 3. How Long Jury Duty Leave Lasts

The law requires and your policy should specify that jury duty leave lasts as long as necessary for the employee to perform his/her service as a juror or prospective juror.

## 4. Jury Duty Leave Notification Requirements

Employees generally must give employers written notification of their intent to take jury duty leave and its expected duration, preferably in advance but, if that's not possible, as soon as possible after leave begins. Once leave starts, they must notify employers of changes to their return date.

## 5. Required Verification of Jury Duty Leave

Employers are generally allowed to ask employees to provide some form of documentation verifying their need to take jury duty leave, like a copy of the jury duty summons.

## **6. Ban on Reprisal and Retaliation**

Include specific language noting that employers aren't allowed to or (threaten to) terminate, demote, cut the pay or benefits or take other adverse employment action against employees for taking or asking about their jury duty leave rights.