

## DOMESTIC AND SEXUAL VIOLENCE WORKPLACE POLICIES

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Several states now require all state agencies to adopt workplace policies on domestic violence; some of these specifically reference sexual assault and/or stalking as well. Other states have passed laws, issued executive orders, or established government task forces to create model workplace policies for voluntary adoption by public and private employers. Many leading corporations have already adopted such policies. Some states have proposed legislation that would provide monetary incentives for private employers to adopt such policies or to institute domestic and/or sexual violence awareness and training programs at their worksites. This fact sheet tracks legislation or government initiatives requiring or encouraging public and/or private employers to adopt domestic and sexual violence policies.

### RECOMMENDED PROVISIONS FOR DOMESTIC AND SEXUAL VIOLENCE WORKPLACE POLICIES INCLUDE:

- Prohibiting discrimination against employees because they are victims of domestic or sexual violence
- Establishing confidential means for reporting domestic or sexual violence
- Defining domestic or sexual violence broadly to include dating and same-sex violence
- Providing education and training on domestic and sexual violence to all employees and designating a coordinator
- Posting resource and referral information in easily accessible and highly visible locations
- Recognizing that domestic or sexual violence victims may have performance or conduct problems and providing them with assistance and a reasonable amount of time to address these problems
- Adjusting work schedules and providing flexible paid and unpaid leave so that victims can obtain necessary medical care, counseling, or legal assistance
- Increasing the safety of the workplace by reviewing the safety of parking arrangements, strictly enforcing civil protection orders, screening phone calls, developing safety plans with victims, and relocating employees to an alternative worksite, if necessary
- Disciplining, up to and including discharge, employees who threaten or abuse others on work time or use work resources, and consider sanctioning those who perpetrate unlawful violence outside the workplace
- Ensuring that health insurance policies do not discriminate against domestic or sexual violence victims

### STATES AND COUNTIES WITH MANDATORY OR SUGGESTED WORKPLACE POLICIES

**CALIFORNIA, Los Angeles Cty.:** Dep't of Hum. Resources: Pol'y, Proc. & Guidelines 620, 622 (1999). This policy for County employees (a) forbids the disciplining of a County employee "based solely on the fact that the employee has been a victim of domestic violence or because management fears that domestic violence may lead to violence in the workplace," (b) mandates that County supervisors address performance problems that may arise as a result of abusive relationships, (c) requires County supervisors to consider leave time and workplace accommodations, such as telecommuting, temporary assignments, and flexible work schedules, and (d) encourages the employer to obtain a workplace restraining order on behalf of the victim.

**FLORIDA:** [Governor and Cabinet Resolution on Workplace Violence \(1996\)](#).

By cabinet resolution in 1996, the Governor adopted a model policy on domestic violence for state

employers. Since then, state agencies have adopted similar policies. The model policy requires employees who commit violent acts to complete counseling programs and calls for firing some of those who commit the most serious type of violence, even if the violence was committed off-duty and is unrelated to the workplace. This policy also provides leave, with or without pay, and flexible schedule or work assignment adjustments to allow employees to obtain medical treatment, counseling, legal assistance, or to make other necessary arrangements for safety.

**ILLINOIS, Cook County:** Model Policy on Domestic Violence in the Workplace.

Developed by the [Cook County Commission on Women's Issues](#), this policy states that: the county will provide employees who are survivors of domestic violence with support and assistance, such as additional workplace security, work schedule adjustments, leave, or workplace relocation. Where an employee needs to be absent from work due to domestic violence, the policy encourages exploration of paid options, such as paid leave or flexible hours. Where a job performance or conduct problem is a result of domestic violence, a referral for appropriate assistance should be offered to the employee, and sufficient time to obtain assistance should be provided. Employees who perpetrate domestic violence on county premises, during working hours, or at a county-sponsored event, or those who are convicted of a crime as a result of domestic violence where it affects their work performance, may be subject to disciplinary actions, up to and including discharge.

**ILLINOIS:** [20 Ill. Comp. Stat. 605/605-550](#) (previously numbered 605/46.71)

This law mandated the formation of a task force which created a model domestic violence and sexual assault employee awareness and assistance policy for private businesses.

**INDIANA:** Exec. Order. No. 99-6, 22. Ind. Reg. 3569 (1999).

This Executive Order requires all state agencies to adopt a policy of zero tolerance on workplace violence, including domestic violence. It also provides that if an employee chooses to notify management of the existence of a protective order, management must make efforts to maintain and enforce the protective order in the workplace by notifying security personnel. The policy states that “employees are to be sensitive and, to the extent practicable, protect the privacy of victims of violence.” The requirements of the executive order have been incorporated into the state’s [personnel policy](#). The task force and State shall provide technical support, information, and encouragement to businesses to implement this model.

**KENTUCKY:** Exec. Order. No. 2001-1084 and Admin. Orders [HCR 16](#) (BR 233) (Aug. 2001).

This Executive Order, with the implementing Administrative Orders signed by each state-level Constitutional Officer, implements the “Domestic Violence and Sexual Assault in the Public Workplace Policy” for executive branch agencies. The policy requires the state to “make reasonable efforts to assist victims [of domestic violence or sexual assault] who need time off for medical appointments, legal assistance, court appearances, relocation or to make other arrangements for their personal safety. Employees and supervisors are encouraged to explore all viable leave options...The Commonwealth...will make reasonable efforts to provide a flexible work schedule in order to enhance a victim’s safety.” The Commonwealth shall make reasonable efforts to remedy performance problems directly related to domestic violence or sexual assault, including referrals and time to obtain assistance, before resorting to discipline. The policy also requires agencies post information about resources and educational programs; discipline for misuse of state resources to perpetrate domestic violence or sexual assault; and discipline for employees arrested or convicted of domestic violence crimes or sex offenses or subjected to orders of protection, where such action has a direct connection to the employee’s duties. The Governor’s Office of Child Abuse and Domestic Violence Services has created a model policy on domestic violence in the workplace that includes many of the provisions and that it encourages private businesses to adopt.

**LOUISIANA:** The Attorney General’s Domestic Violence in the Workplace Task Force created a [model policy](#) for private businesses. The policy includes nondiscrimination provisions and that employees may take up to 15 days off as unpaid leave or apply for longer leave of absences. The policy also suggests that employers post information about domestic violence and resources for victims and work with victims to make changes in the workplace to protect victims’ safety.

**MARYLAND:** [Exec. Order No. 01.01.1998.25](#), 1998 Reg. LEXIS 18737 (1998).

This Executive Order directs each state agency to adopt domestic violence policies and to provide domestic violence awareness training to all employees. The Department of Human Resources and the Maryland Network Against Domestic Violence jointly developed a workplace policy, curriculum, and training package. According to the policy, an employee may not be disciplined or penalized because she is a victim of domestic violence, and any employee with job performance or conduct problems that are caused by domestic abuse must be referred to the State's Employee Assistance Program.

**MASSACHUSETTS:** [Exec. Order No. 398](#), 824 Mass Reg. 3 (1997); [Exec. Order No. 442](#), 961 Mass. Reg. 3 (2002).

Executive Order 398 mandates that all state agencies and employers adopt a zero tolerance policy for domestic violence. The order provides that state employees experiencing domestic violence shall be entitled to 15 paid leave days to obtain counseling, medical treatment or attend legal proceedings and encourages state agencies to grant employees experiencing domestic violence up to six months unpaid leave. Executive Order 442 reiterates much of the earlier order and includes a section broadly outlining how state employers should respond to workplace violence.

**NEW HAMPSHIRE:** [Exec. Order No. 2000-10](#) (2000).

This Executive Order establishes that New Hampshire will not tolerate domestic violence in the workplace and commits the state to working with employee victims by providing information, outreach and referrals. No employee may be penalized solely for being a victim of domestic violence, and a reasonable effort must be made to accommodate work schedules so employees can obtain medical treatment, counseling, or legal assistance; relocate; or make other arrangements. State agencies are enabled, to the fullest extent possible, to take corrective or disciplinary action against employees who perpetrate domestic violence or harassment in the workplace.

**NEW JERSEY:** [2002 N.J. Laws 49](#) (enacted Aug. 3, 2002).

Establishes a Task Force on Workplace Violence including the Attorney General, other specified government officials, representatives of "the business community" and "organized labor," and an "advocate from the battered women's community." The task force shall issue a report to include a review of the incidence of workplace violence, "analysis of the types of businesses, employees and situations associated with or subject to the greatest danger of workplace violence," and recommendations, including draft legislation, for increasing workplace security and protection of employees.

**NEW YORK:** [N.Y. Lab. Law § 10-b](#) (click on Labor Law, and then Article 2), as explained in [N.Y. Exec. Law § 575](#) (click on Executive Law, and then Article 21).

This law established the New York State Office for the Prevention of Domestic Violence and charged it with, among other things, convening a task force to develop three separate model domestic violence policies for [state](#), [county](#), and [private employers](#). The purpose of the policy for private employers is to "provide businesses with the best practices, policies, protocols, and procedures in order that they ascertain domestic violence awareness in the workplace, assist affected employees, and provide a safe and helpful working environment for employees currently or potentially experiencing the effects of domestic violence." Notably, the [state](#) and [county](#) policies (a) prohibit employers from making staffing decisions based on employees' current or past exposure to domestic violence, (b) require employers to take extensive proactive measures before disciplining employees with work performance problems that result from domestic abuse, (c) require the creation of individualized workplace safety plans, which include options for voluntary transfer or permanent relocation of the work site, (d) mandate flexible use of leave benefits, and (e) allow victims, separated from their partners, to make changes in benefits at any time.

**NORTH CAROLINA:** [N. C. Gen. Stat. § 143B-394.16\(a\)\(3\)](#).

This statute charged the Governor's Commission on Domestic Violence with developing training initiatives and providing advice to state agencies in the area of employer/employee relations. In response, the Commission developed a [workplace violence prevention and management program](#), mandated that all state agencies implement such a policy, began tracking workplace violence, and provided technical assistance and

training to state agencies. The State Domestic Violence Commission also plans to promote this policy to private businesses.

**OREGON:** Or. Rev. Stat. § 659A.003.

This statute establishes a “Task Force on Promotional and Career Opportunities for Women in Oregon.” The task force shall report on the impact of domestic violence on women in the workforce, among other issues.

**SOUTH CAROLINA:** [S.C. Code § 1-1-1410](#).

Every state agency must develop and implement a “workplace domestic violence policy which must include, but is not limited to, a zero tolerance policy statement regarding acts or threats of domestic violence in the workplace and safety and security procedures.”

**SOUTH CAROLINA:** Exec. Order No. 2002-30 (Oct. 10, 2002).

This order “direct[s] all departments within the executive branch of state government... to adopt and enforce a ‘zero tolerance’ policy for workplace violence.” “Management must assess the current level of security and related human resource policy and procedures, including but not limited to, management training, counseling and referral services, leave and benefit policies, and employee education or training programs to create a safe workplace for victims of domestic violence. The Executive Order also “encourage[s] all state agencies to establish policies to prevent and address workplace domestic violence and to provide information and assistance to their employees who are struggling to overcome the problem of domestic violence.”

**UTAH:** [Exec. Order \(Apr. 28, 2005\)](#).

The Governor’s Executive Order Prohibiting Violence Against Women in the Workplace orders the “director of each department in state government to establish a policy prohibiting violence against women in the workplace.” The policy must include a statement of zero tolerance for domestic and sexual violence; procedures to protect the rights and address the needs of victims, including safety procedures, protection of privacy and confidentiality, access to counseling or Employee Assistance program, and adjustments of work schedules or leave; prohibition on the use of state facilities, resources, or time to perpetrate violence against women; and training for managers and supervisors on prevention and appropriate response.

**VERMONT:** Exec. Order No. 18 (Oct. 2000).

This order directs state agencies to make reasonable efforts to (a) assist employees who are victims of domestic violence by adjusting work schedules and/or granting leave, or finding alternative state employment if there is a need to relocate; (b) provide immediate assistance to employees who are victims of domestic violence in a confidential setting and refer them to employee assistance programs, counseling, and other community resources; (c) increase awareness and promote training on domestic violence in the workplace; (d) encourage employees who are perpetrators of domestic violence to seek appropriate assistance; and (e) provide for corrective or disciplinary action against those who misuse state resources to perpetrate domestic violence, harass, or threaten; and against those who commit such acts in the workplace or while conducting state business.

**WASHINGTON:** [Exec. Order No. 96-05](#), Wash. St. Reg. 96-21-011 (1996).

This order directs state agencies to develop policies and procedures responsive to domestic violence. Among other things, the state policies must (a) assure that “every reasonable effort will be made to adjust work schedules and/or grant accrued or unpaid leave,” and (b) “[p]rovide that employees will not be penalized or disciplined solely because they have been victims of domestic violence.” The order further requires the Department of Personnel to provide training and a sample policy. In accordance with these provisions, the state subsequently adopted a [policy](#) applicable to all Governor’s Office employees.

**WASHINGTON, Kings County:** [Executive Order PER 18-1 \(AEO\) \(2000\)](#).

This Executive Order directs the Office of Human Resources Management to develop policies dealing with domestic violence and Kings county employees. In particular, the Executive Order orders the county to make “reasonable efforts” to adjust work schedules, provide unpaid leave for employees who are victims of

domestic violence and to help such employees provide “continued county employment” if the employee needs to relocate because of the domestic violence.

## RECENT LEGISLATIVE PROPOSALS

The following legislation has been introduced in the current or prior legislative sessions. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, you may contact Legal Momentum or the legislative information service at your state or city legislature, or consult your legislature’s web page.

**ILLINOIS:** H.B. 3428, 93d Gen. Assemb. (Ill. 2003).

Provides a tax credit, equal to 40% of the costs incurred by an employer in implementing domestic violence safety or education programs. Such costs must be for the purpose of “ensuring the safety of employees from domestic violence; (2) providing assistance to employees and the spouses and dependents of employees with respect to domestic violence; (3) providing legal or medical services to employees and the spouses and dependents of employees subjected to, or at risk from, domestic violence; (4) educating employees about the issue of domestic violence; or (5) implementing human resource or personnel policies initiated to protect employees from domestic or sexual violence or to support employees who have been victims of domestic violence.” Eligible costs include, but are not limited to, hiring new security personnel, buddy or escort systems to transportation or parking, purchase or installation of new security equipment, establishment of employee assistance services, “including counseling or referral services undertaken in consultation and coordination with national, state, or local domestic violence coalitions or programs,” retention of an attorney to provide legal services, establishment of medical services, retention of a financial expert or accountant to provide financial counseling, establishment of an education program, studies of the cost or impact of domestic violence at the workplace that are made publicly available, publication of educational materials, or implementation of leave policies, flexible work policies, or transfer policies.

**KENTUCKY:** [H.C.R. 16 & B.R. 233](#), 2004 Reg. Sess. (Ky. 2004).

Urges the Legislative Research Commission to join the executive branch and the statewide constitutional officers in adopting Executive Order 2001-1084 [see description above] and implementing the model policy for domestic violence and sexual assault in the public workplace. This bill passed in the Kentucky House of Representatives in January 2004. A similar bill was introduced as H.B. 545 in 2002.

**MASSACHUSETTS:** [S.B. 2338](#), 2005-2006 Reg. Sess. (Mass. 2006).

Section 2 of this bill mandates that the Commissioner of Employment work with the Human Resources Division of the Commonwealth, Jane Doe, Inc., and Employers Against Domestic Violence to develop a “model workplace safety policy, training curriculum and workplace safety procedures and protocols for employers in order to increase awareness, minimize the workplace risks, and help employers properly respond to employees who disclose domestic violence, stalking and sexual assault in the workplace.” It also mandates that the commissioner develop a strategic plan to encourage employers to adopt and implement a workplace safety and training plan. This is new version of S.B. 1091, introduced in 2005.

**NEW YORK:** [A.B. 2596](#), 2005-2006 Reg. Sess. (N.Y. 2005).

Employers shall be eligible for a credit in disability benefit premiums if they implement a domestic violence employee awareness and assistance policy that has been established by the State Office for the Prevention of Domestic Violence, recommended by a domestic violence workplace policy specialist and certified by a proposed Domestic Violence Workplace Policy Panel. The legislation establishes a domestic violence workplace policy panel to certify domestic violence workplace policy specialists. Similar bills introduced in earlier sessions include A.B. 795, introduced in 2003, and A.B. 2543, introduced in 2001.

**NEW YORK:** [A.B. 6254](#), 225th Ann. Leg. Sess. (N.Y. 2003).

Requires all employers with fifty or more employees and all state and government agencies to design and implement a “workplace violence prevention program” including a list of risk factors and methods the

employer will use to prevent occupational assaults and homicides at the workplace. Employers must train their employees on the program. Any employee who believes that a violation of a safety or health standard exists, or that an imminent danger exists, may request an inspection by the Commissioner of Labor. If the Commissioner determines a violation has occurred, he or she may order the employer to remedy the violation and assess a penalty for failure to correct.

**PENNSYLVANIA :** [S.B. 429](#), 2004-04 Reg. Sess. (Pa. 2004-2005).

This legislation establishes a model domestic abuse awareness and assistance program for businesses directed at educating employers and employees to recognize the signs and effects of domestic abuse, offer support and safety to victims while in the workplace, and train security personnel about handling crimes committed in and around the workplace by perpetrators of abuse.

*This fact sheet, with links to cited laws and bills, is available on the Legal Momentum web site, at <http://www.legalmomentum.org/issues/vio/FactsheetPage.shtml>*

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