



Know Your Rights

WELFARE-TO-WORK PROGRAMS

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*Under federal welfare law, states are given a block of money by the federal government to design and run their welfare programs. Each state decides who qualifies for welfare, how much assistance a family can receive, how long a family can receive assistance and the types of programs that will be available to help welfare recipients. (In some states, like California and Illinois, the welfare programs are run at the county level, so county officials are making these decisions.) Families can only receive federal welfare benefits for up to **five years**. A number of states have shortened this time period. In addition, most states have made participation in welfare-to-work programs a condition of receiving welfare benefits unless a person is excused. These time limits and work requirements may pose a problem for survivors of domestic violence, sexual assault, and stalking. For example, the time limits are often not long enough for survivors to become self-supporting. Research has shown that domestic and sexual violence keeps many women from successfully participating in and completing training programs and staying in jobs.*

SURVIVORS OF DOMESTIC OR SEXUAL VIOLENCE, WELFARE, AND WORK

Survivors of domestic violence, sexual assault, or stalking who participate in welfare-to-work programs are affected by the violence in the same way as other survivors who work. Physical beatings, sexual violence, emotional abuse, harassment, and controlling behavior can affect an individual's ability to perform her job. Such abuse and violence can cause an individual to miss or be late for work. For example, an abuser may agree to take care of the children and then, at the last minute refuse to watch them or take them to day care. A stalker or abuser may follow an individual to work or school or harass her on the phone while she's working. Some individuals report that abusers destroy job training or education materials or inflict physical injuries to prevent them from going to work or school. And sometimes survivors are sexually assaulted on the job.

PROVISIONS IN WELFARE LAW TO HELP SURVIVORS OF DOMESTIC OR SEXUAL VIOLENCE

There are three types of welfare provisions that may be available to survivors of domestic or sexual violence receiving welfare. They are the **hardship exemption**, the **family violence option**, and the **child support "good cause" exemption**.

Hardship exemption: The hardship exemption is a federal provision that states can choose to include in their welfare law. This provision allows a state to excuse 20% of its welfare recipients from the welfare time limits (the limit on how long a family may receive welfare) for "reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty." To qualify for the hardship exemption a person must reside in a state that has included this provision in its state welfare law.

Employment and Housing Rights for Survivors of Abuse is a project of Legal Momentum. See the last page of this guide for further information.

Family Violence Option: The family violence option is a separate provision that states can choose to include in their welfare law that allows states to waive specific requirements for domestic violence survivors (including rules about work and job training, how long a person has to live in the state to get welfare, whether a woman will get additional welfare benefits for additional children born while she is on welfare, and how long a family can receive assistance). To qualify for the family violence option a person must reside in a state that has included this provision in its state welfare law.

Child Support “Good Cause” Exemption: Every state welfare agency can grant a woman a “good cause” exemption if she believes that identifying the father of the children for purposes of child support enforcement will jeopardize her safety.

EMPLOYMENT LAWS THAT MAY HELP DOMESTIC VIOLENCE SURVIVORS PARTICIPATING IN WELFARE-TO-WORK PROGRAMS

Some abused women may choose to participate in a welfare-to-work program. Many federal employment laws apply to welfare-to-work workers in the same way that they apply to workers in any other job. Welfare-to-work program participants are covered by federal laws concerning minimum wage, workplace safety, unemployment insurance, and family and medical leave, as well as federal laws that prohibit race, sex, age, national origin, and disability discrimination. These protections were clarified in the regulations implementing the new welfare law.

Employment and Housing Rights for Survivors of Abuse has a number of guides that provide additional information on how some of these federal laws apply to abused women:

- *Disabled Victims of Domestic and Sexual Violence*
- *Employment Discrimination Against Abused Women*
- *Medical Leave For Survivors and Family Members*
- *New York State: Welfare-to-Work*
- *Safety Planning in the Workplace: Protecting Yourself and Your Job*

COMMONLY ASKED QUESTIONS

1. Do all states provide the hardship exemption, the family violence option, and the child support “good cause” exemption?

No. Many states have included the hardship exemption and the family violence option in their state welfare law. Other states provide different services for domestic violence survivors. The child support “good cause” exemption is available in every state.

2. How can I find out if my state has the family violence option?

As of January 2005, forty-one states and the District of Columbia have made the **family violence option** a part of their state welfare law; six additional states have adopted equivalent policies. Legal Momentum has a chart summarizing key provisions of every state’s FVO laws available on its website at http://www.legalmomentum.org/issues/wel/FVO_statebystate.pdf. (For more detail on New York’s law, see the **Employment and Housing Rights for Survivors of Abuse** guide entitled “*New York State: Welfare-to-Work.*”) Some states may screen for domestic violence during the application and/or recertification process. Others may simply notify an applicant of the existence of

the option and will expect an applicant to tell the caseworker if she is a victim of domestic violence. Most states provide some type of notice either verbally or in writing (posters, cards, or pamphlets). You can also contact a local advocacy organization or legal aid office that helps survivors of domestic violence, or contact a state domestic violence coalition for information on whether a particular state has the family violence option and assistance on how to apply for it. (Contact **Legal Momentum** for a list of advocacy organizations.)

3. Is stranger or acquaintance violence covered?

The federal law defines a victim of family violence as someone who has been “battered or subject to extreme cruelty.” The definition in the federal law of “battered or subject to extreme cruelty” is *not* limited to conduct by a family or household member or intimate partner. In other words, under the federal definition, a sexual assault or (potentially) stalking by an acquaintance or stranger could be covered. However, not all states have adopted the federal definition. Some states limit their family violence option to violence and abuse committed by a family or household member or intimate partner. Legal Momentum’s chart summarizing key provisions of every state’s FVO laws, available at http://www.legalmomentum.org/issues/wel/FVO_statebystate.pdf, shows which states cover stranger or acquaintance violence.

4. What can I do if domestic or sexual violence will affect my ability to participate in a welfare-to-work program?

Tell someone—a caseworker, an advocate, or a legal aid lawyer—about the situation and ask them for help and information as to the best way to address the situation. You should also find out whether your state has the **family violence option** and, if these alternatives are available, decide whether they would be good options for you.

5. What if the abuser or perpetrator is also the father of my children? Will I have to identify him to the welfare agency?

Generally, welfare recipients are required to work with the state agency to collect child support. However, if there is “good cause” (such as fearing violence) not to reveal this information, the welfare agency can exempt you from this requirement. Therefore, if you feel that disclosing this information about the father of your children will jeopardize your safety, you should tell your case worker or advocate about your concerns and ask how you can get a “**good cause**” exemption.

6. What if I feel that I qualify for an exemption or waiver, but the welfare agency tells me that I do not?

You should request a fair hearing at any point in the welfare process where you are not getting the benefits or rights to which you are entitled. A welfare recipient or applicant has the right to a fair hearing if benefits are cut or denied entirely. There is usually a specific time period for requesting a fair hearing. Also, in order for an applicant to continue receiving benefits while waiting for a fair hearing, a specific request for continued benefits must be made. This request would be in addition to the request for a fair hearing. Again, there is usually a specific time period for making such a request. A domestic violence advocate, sexual assault advocate, or legal aid lawyer can often provide help with a request for a fair hearing and continued benefits. They may even provide representation at the fair hearing itself.

7. Could my children be taken away if I say that I am a victim of domestic or sexual violence?

Many people with whom a survivor comes in contact, such as caseworkers, hot line workers, police officers, medical professionals, and others may have a duty to tell child protective services if they believe that children are being abused or neglected. This presents a problem where an abuser is abusing both a woman and her children or when a woman is neglecting or abusing her children in response to the domestic abuse or sexual violence that she is facing. If you feel that this is your situation, you may want to consult with a lawyer or legal advocate before you apply for a family violence option waiver. However, remember that you need not disclose anything about domestic or sexual violence in order to apply for welfare benefits. A person only has to disclose that she is a victim of domestic or sexual violence if she wants to access a provision that may be in a state's welfare law to help abused women.

8. What if I am is disabled?

You may be excused from the work requirements if you are physically or mentally unable to work. In this case, you may be entitled to Supplemental Security Income (SSI) or Social Security Disability benefits instead of welfare. (A disabled person may receive welfare benefits while applying for SSI or Social Security Disability benefits.) A domestic violence, sexual assault, or disability rights advocate will have more information about this option.

**CONSULT THE APPROPRIATE AGENCY
OR AN ATTORNEY ABOUT YOUR RIGHTS.**

This guide is intended to provide accurate, general information regarding legal rights relating to employment. Yet, because laws and legal procedures are subject to frequent change and differing interpretations, Legal Momentum cannot ensure the information in this guide is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your particular situation. If you need assistance in finding a lawyer, contact Legal Momentum, the bar association in your state, or your local legal services office, domestic violence coalition, sexual assault coalition, or service provider.

For more information or assistance, please contact 212-925-6635 or ehrsa@legalmomentum.org.

This guide is available for downloading at www.legalmomentum.org.

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