

## **DOMESTIC AND SEXUAL VIOLENCE WORKPLACE POLICIES**

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Several jurisdictions now require all state agencies to adopt workplace policies on domestic violence; some of these specifically reference sexual assault and/or stalking as well. Others have passed laws, issued executive orders, or established government task forces to create model workplace policies for voluntary adoption by public and private employers. This guide 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

Legal Momentum's [model domestic violence policy](http://www.legalmomentum.org) for businesses can be found at [www.legalmomentum.org](http://www.legalmomentum.org).

### **JURISDICTIONS 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.

**COLORADO:** [Executive Order No. D 023 09](#) (2009).

The order directs the Department of Personnel and Administration (DPA) to develop a universal policy addressing workplace violence, including domestic violence affecting the workplace. The DPA shall distribute the universal policy, along with sample protocols and procedures, to each state department no later than March 1, 2010. Each state agency is required formulate protocols and procedures for implementing the universal policy by August 1, 2010.

**DENVER, COLORADO:** [Executive Order No. 112, 112A, 112 B](#) (2006).

The mayor's executive order established a violence in the workplace policy to be used by all city departments and agencies. The policy includes procedures for agencies and their responsibilities in the case of workplace violence, discipline for perpetrators who are employees, and assistance for victim employees, including changes to work schedules, telephone extensions, and time off.

**DELAWARE:** [Executive Order No. 12](#) (2009).

The Human Resources Management Section of the Office of Management and Budget is directed to draft a state-wide policy to address issues of domestic violence affecting employees of State agencies. The policy shall include reasonable guidelines, practices, procedures and protocols for State employees, and shall prohibit discrimination against employees who are victims of domestic violence. The Order applies to all cabinet departments and executive agencies of the state.

**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.

**IDAHO:** [Exec. Order No. 2007-18](#) (2007).

The order directs all state agencies, offices, departments and divisions to ensure that their personnel policies and procedures prohibit discrimination against victims of domestic violence; to inform employees of available resources; and to include information domestic violence and its workplace effects in training for human resources personnel.

**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. The law was [amended](#) in 2009 to indicate that the Department of Commerce may (instead of "shall") survey businesses within four years of the date of the original enactment to determine the level of model policy adoption among businesses and shall take steps necessary to promote the further adoption of such policy.

**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. Order [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.

**MAINE:** [Exec. Order No. 25](#) (2004).

This executive order requires each state agency to convene a diverse team of employees to develop a workplace domestic violence policy. The team shall partner with the Maine Coalition to End Domestic Violence to provide initial domestic violence training for the team and additional guidance in the development of the policy. This executive order requires each state agency to construct a domestic violence workplace policy, requires employee training, directs agencies to review existing personnel policies and procedures to ensure responsiveness to needs of victims of domestic violence and prevent discrimination, and requires conspicuous posting about domestic violence and sexual assault, and community resources. The Maine Attorney General's Office established [a workplace domestic violence policy](#) for state agencies.

**MARYLAND:** [Exec. Order No. 01.01.1998.25](#) (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. 442, 961 Mass. Reg. 3 (2002); [Exec. Order No. 491](#) (2007). Executive Order 491 revokes and supersedes Executive Order 398 of 1997. Order 491 mandates that all state agencies adopt a zero tolerance policy for domestic violence, sexual assault, and stalking in the workplace. The policy must be in writing and must include a statement that use of work time or workplace facilities to commit or threaten to commit such violence, or any acts of such violence regardless of whether they occur at the workplace, are cause for discipline up to and including dismissal. Among other things, the order provides that state employees experiencing domestic violence shall be entitled to 15 paid leave days to obtain counseling, medical treatment, attend legal proceedings, or carry out other necessary activities, and encourages state agencies to grant employees experiencing domestic violence up to six months unpaid leave. Executive Order 442 reiterates much of Order 398 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](#) (2002); [Exec. Order No. 110](#) (2000).

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 MEXICO:** [Exec. Order No. 2008-047](#) (2008).

This executive order requires all state agencies to develop and implement a preventative policy to address domestic violence, sexual assault and stalking and workplace with the assistance of the New Mexico Domestic Violence Leadership Commission. The policy includes procedures for addressing the workplace effects of such violence, a protocol to ensure safety, posting lists of resources, a reporting procedure for witnesses of such violence, a prohibition on discrimination against employees on the basis of victimization, and the availability of leave for victims. The Commission developed a [model policy](#).

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

This law established the New York State Office for the Prevention of Domestic Violence (OPDV) 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.

**NEW YORK:** [Exec. Order No. 19](#) (2007).

Orders the state Office for the Prevention of Domestic Violence (OPDV) to review the model domestic violence and the workplace policy formulated in 2000 for state agencies (mentioned above) and revise as appropriate, and formulate model written procedures for implementation of the [revised model policy](#). All state agencies were required to formulate and implement their own domestic violence and the workplace policy by August 2008.

**NEW YORK:** [N.Y. Lab. Law § 27-b](#) (2006).

This law requires public employers (including the state, a political subdivision of the state, a public authority, a public benefit corporation and any other governmental agency or instrumentality, other than schools covered under the school safety plan requirements of the education law) to perform a workplace evaluation or risk evaluation at each worksite and to develop and implement programs to prevent and minimize workplace violence caused by assaults and homicides. The law is designed to ensure that the risk of workplace assaults and homicides are regularly evaluated by public employers and that workplace violence protection programs are implemented to prevent and minimize the hazard to public employees. The Department of Labor developed a [program guideline](#) in March 2007. The proposed Workplace Violence Prevention Rule is available in the [State Register](#).

**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 [a policy](#), began tracking workplace violence, and provided technical assistance and training to state agencies.

**OHIO:** [Exec. Order No. 2008-08S](#) (2008).

This order creates a policy regarding workplace domestic violence among State employees, as well as a committee to report to the Governor on these issues. [The policy](#) (08-26) mandates that state agencies, in their capacity as employers, provide resources for survivors; accommodations including modifying duties and locations, granting of leave requests, and working with the Ohio Employee Assistance Program in evaluating victims' job performance; and referrals and short-term counseling for perpetrators. State agencies also must take corrective action against perpetrators, maintain non-discriminatory practices, and respect victims' confidentiality. All state agencies must be in compliance with all provisions of this policy by July 1, 2009.

**OREGON:** [Exec. Order No. EO 07-17](#) (2007).

The order directs the Department of Administrative Services (DAS) to adopt a statewide policy on domestic violence, sexual assault or stalking involving state agency employees. The policy is to include several elements, including: a prohibition on discrimination against employees on the basis of their victimization; a prohibition of the threat or commission of domestic violence, sexual assault or stalking by an agency employee at the workplace; guidance for employees and management in addressing incidents of such violence in the workplace and available assistance; a pledge to respect the confidentiality of victims; a requirement that the agency post in public areas a list of statewide resources; and the expectation that agency employees who witness threats or incidents of such violence in the workplace report the event immediately to their manager, human resources, or security. Each agency is to provide guidance and training on the policy and regarding issues of domestic violence, sexual assault and stalking.

**OREGON:** [Department of Human Services Administrative Policy, Workplace Effects of Domestic Violence, DHS-060-032](#) (2008).

This policy, which applies to all state executive branch agencies, addresses employees domestic violence, sexual assault and stalking and their effects in the workplace and is meant to supplement any other DHS policies regarding workplace violence and harassment.

**PENNSYLVANIA:** [Governor's Office Management Directive 505.31](#) (2004).

The directive, which applies to employees in all agencies, boards, commissions, and councils under the Governor's jurisdiction, provides guidance and identifies resources for agencies, managers, and supervisors for the purpose of supporting employees that seek assistance for problems associated with domestic violence. The directive emphasizes the need for communication, coordination with internal resources, and the development of a customized plan of action in order to provide maximum support to the victims of domestic violence and to enhance employee retention.

**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](#) (2002).

This order directs 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 encourages 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 2005-0006](#) (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. The State Employees Domestic Violence Prevention Guidelines Handbook issued by the Office of the Governor contains a policy. Utah issued a similar Executive Order in 1999.

**VERMONT:** [Exec. Order No. 04-06](#) (2006).

This executive order creates a Vermont Council on Domestic Violence to assist the community domestic violence task forces in their efforts to eliminate domestic violence by facilitating the coordination of services and the sharing of information. The Council will provide a forum for the discussion of strategies for improving the statewide coordinated response to domestic violence and addressing systemic obstacles to victim safety and offender accountability, including promoting effective prevention, intervention and treatment techniques, and fostering community responsibility for preventing domestic violence. Exec. Order No. 00-18 (2000) directed 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. In accordance with the order, the county then issued a domestic violence workplace [policy](#).

## 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 (1) 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](#), 184<sup>th</sup> 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 bill passed the Senate but not the House.

**NEW YORK:** A.B. 2596, 227<sup>th</sup> Leg. 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.

**PENNSYLVANIA:** [S.B. 449](#), 190<sup>th</sup> Gen. Assem., Reg. Sess. (Pa. 2007).

This bill would create the Domestic Abuse Assistance and Awareness in the Workplace Act, and require the Pennsylvania Secretary of Labor and Industry develop a model domestic abuse awareness and assistance program for use by employers, in consultation with the Physician General, the Pennsylvania Coalition Against Domestic Violence, the Pennsylvania State Police, and any other relevant entities. The bill was previously introduced as [S.B. 429](#) in 2005 and died in the Senate.

*This state law guide, with links to cited laws and bills, is available on the Legal Momentum web site at <http://www.legalmomentum.org/our-work/domestic-violence/state-law-guides.html>. For more information, contact Senior Staff Attorney Maya Raghu, [mraghu@legalmomentum.org](mailto:mraghu@legalmomentum.org) at (212) 925-6635.*