

## **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

### **JURISDICTIONS WITH MANDATORY OR SUGGESTED WORKPLACE POLICIES**

**FEDERAL:** United States Office of Personnel Management, [Guidance for Agency-Specific Domestic Violence, Sexual Assault, and Stalking Policies](#) (2013).

This Guidance was issued in response to the [Presidential Memorandum of April 18, 2012](#). Recognizing the importance of addressing the impact of intimate partner violence on the workplace, this Memorandum ordered all federal agencies to establish policies to respond to the effects of domestic violence, sexual assault, and stalking on their workforce. Further, to ensure that the federal government could serve as a model for all employers, the Memorandum also tasked the Office of Personnel Management with developing guidance for the agencies to follow in formulating these policies. The guidance was intended to include guidelines on assisting employee victims, establishing appropriate leave policies, taking disciplinary action against victimized employees, improving workplace safety, and identifying steps agencies could take to prevent and intervene in domestic violence in the workplace. The Guidance was ultimately issued in February 2013.

Under the Guidance, federal agencies are prohibited from discriminating against any potential or current employee on the basis of that employee's status as a victim of domestic violence, sexual assault or stalking. Further, agencies are required to make efforts to assist victimized employees, including but not limited to referring the employee to a resource within the agency for support and assistance, treating the violence as a mitigating factor before taking any disciplinary action against the employee, implementing individualized workplace safety plans in cooperation with the employee, and providing the employee with any applicable leave option. Leave options may encompass sick leave, leave without pay, excused absence, FMLA leave, donated annual leave, compensatory time off and absence without leave. Additionally, agencies must also consider providing their employees with various workplace flexibilities such as telework and flexible work schedules.

In circumstances where the perpetrator and the victim are both employed by the agency, agencies must consider a range of safety measures, including switching tours of duty, changing work locations, granting telework, issuing a cease/desist order, and providing both parties with a directive to avoid contact in the form of a Memorandum of Instruction. If the victim has obtained a protective order against the perpetrator, agencies should assist the victim in enforcing that order. Where appropriate, agencies should cooperate with law enforcement as well as their own multi-disciplinary Domestic Violence, Sexual Assault and Stalking Response Teams to assess the level of risk posed by the perpetrator and implement appropriate safety measures. Any records regarding employee's victimization should be kept in strict confidence. Disclosure should only occur with prior notice to the victim in cases where maintaining confidentiality would compromise the security of the workplace or an ongoing criminal investigation.

**CALIFORNIA**, Los Angeles Cty.: [Dep't of Hum. Resources: Pol'y, Proc. & Guidelines 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.

**COLORADO**: Colorado Department of Human Services, [Workplace Violence and Domestic Violence Affecting the Workplace](#), Policy No. 3.5 (2000).

This policy mandates zero tolerance for violence, threats, harassment, intimidation and other disruptive behaviors in the workplace, including oral or written statements, gestures or expressions that communicate a direct or indirect intent to commit physical or psychological harm. Employees who witness workplace violence such as instances of domestic abuse on the job are required to report such incidents to their supervisors. In case of an immediate threat, employees must contact law enforcement in addition to speaking with their supervisors. Supervisors are required to submit a report to their Deputy Executive Directors in all cases where there are allegations of firearms or deadly weapons in the workplace or where an employee is a party to a protective order. Additionally, a Threat Assessment Team must be formed to conduct risk assessments and implement plans for preventing workplace violence.

Internal investigations of workplace violence should be combined with short-term steps to reduce acute risks. Such measures may include, among the following, relocation of the affected employee, increase in security personnel, 'buddy' system procedures and placement of the affected employee on an Administrative Leave. Division directors are required to ensure that all personnel attend appropriate "Workplace Violence Prevention" training courses.

**DENVER, COLORADO:** Executive Order No. 112 (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.

**DENVER, COLORADO:** [Domestic Violence in the Workplace](#).

Pursuant to the Executive Order, this policy establishes duties of managers and employees, including victims and perpetrators, in cases of workplace violence. Among other things, managers who receive notice from the employee or become aware of a violation of the Executive Order, are obligated to: contact law enforcement in an emergency situation; speak with the building security and follow any applicable safety measures; inform personnel if that personnel is in danger; contact City's workplace violence coordinator; ensure a prompt and adequate response to any incident of violence that impacts the workplace; allow employees to take up to three days of leave to address the violence; and, take reasonable steps to ensure the safety of any employee or member of the public who has been threatened or harmed. In cases where the employee discloses violence to the supervisor, the supervisor must also take a variety of actions, including but not limited to, inquiring whether the employee is in danger, considering obtaining a protective order for the agency, assuring confidentiality, offering flexibility in the employee's work schedule, honoring all protective orders issued by the court, speaking with the security and arranging for the victim to take time off to address the violence.

Employees who are aware that the Executive Order is about to be violated must contact law enforcement in case of an emergency, immediately report to their supervisors or the agency's violence contact person, cooperate in any subsequent investigation and respect their co-workers' privacy. In cases where a co-worker discloses that the perpetrator may try to harm the victim at work or any other employee or the public, the employee must make a report to their supervisors. Additionally, employees must make a report to their supervisors if they are charged with a crime, are subjects of a restraining order, were charged with a crime within the past year or otherwise have any pending criminal charges against them.

Lastly, this policy establishes duties of employees who are either victims or perpetrators of domestic violence. Victims must contact law enforcement in an emergency situation, immediately report to their supervisor or the agency's violence contact person any violation of the Executive Order and cooperate in any investigation of a violation of that Order. Perpetrators must make a report to their supervisors if they are charged with a crime, are subjects of a restraining order, were charged with a crime within the past year or otherwise have any pending criminal charges against them. All incidents, concerns and actions taken must be documented.

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

The Human Resources Management Section of the Office of Management and Budget drafted [a state-wide policy](#) to address issues of domestic violence affecting employees of State agencies. The policy includes reasonable guidelines, practices, procedures and protocols for State employees, and prohibits discrimination against employees who are victims of domestic violence. The Order applies to all cabinet departments and executive agencies of the state.

**DELAWARE:** [State of Delaware Domestic Violence Policy](#).

This policy establishes guidelines for addressing domestic violence in the workplace consistent with the Executive Order. In particular, agencies are prohibited from discriminating against their employees on account of the employees' status as a victim of current or past domestic violence incidents. Additionally, each agency is required to designate an individual to assist with domestic violence issues within that agency. Such individual may refer victims to various service providers, help them obtain time off from work to address the violence and develop and implement various safety measures, including but not limited to relocating, alerting co-workers to the victim's circumstances and screening victims' telephone calls. All information disclosed by the victim must be kept in strict confidence, unless the disclosure is necessary to ensure the safety of the victim and other employees. In cases where the victim and the perpetrator are employed at the same work site, the agency must consider victim's request for a reassignment, relocation or a modification of her duties. Employees who witness or experience domestic violence in the workplace must report that incident to their supervisors, managers or the human resource staff.

**DELAWARE:** [Model Policy on Domestic Violence in the Workplace](#) (2001).

This Model Policy seeks to implement early intervention strategies to avoid or minimize the occurrence and effects of domestic violence in the workplace, including notifying all employees of available resources, providing training to employees on the employer's domestic violence policy, allowing victims to take time off or arrange flexible work hours and permitting employees whose job performance has suffered as the result of the violence to obtain assistance in remedying the effects of the violence. All managers must, among other things, participate in domestic violence trainings, train staff on how to identify waning signs of potential violence, be responsive to employees who are either victims or perpetrators when they ask for help, work with victims to develop a personal workplace safety plan, adjust victim/employee's work schedule or grant time off if possible, post information about domestic violence in conspicuous locations within the agency and help ensure that the victim is relocated to a workspace where she will have no contact with the perpetrator in cases where both parties work in the same agency and the victim has obtained a protective order.

Employees who are victims of domestic violence may speak with their supervisor about possible leave of absence, submit photographs of their abusers to help the employer in identifying and removing the abuser from the workplace, participate in the development of their safety plan and obtain assistance for and documentation of any physical or mental health consequences of the abuse from their workplace occupational health office. Employees who perpetrate domestic violence may contact the Employment Assistance Program for confidential consultation and resources as well as contact a batterer's intervention program. Lastly, employees who are concerned about domestic violence may refer the employee they suspect to be victimized to the appropriate service provider, report any threats or violence they experience to the higher-ranked personnel and organize workplace drives for domestic violence shelters.

**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.

**IDAHO:** [Governor's Workplace Domestic Violence Policy](#) (2009).

The domestic violence policy of the Idaho state bars retaliation against employees who are victims of domestic violence, mandates provision of information on resources for domestic violence victims to all employees, and assures confidentiality of the affected employees' disclosures of violence to their supervisors. Additionally, state agencies must work with affected employees to implement individualized workplace safety plans. These safety plans may include a variety of measures, including but not limited to screening telephone calls, setting an alternate work schedule or saving any threatening emails or voicemails. Agencies are responsible for coordinating discussions with agency legal counsel or local law enforcement in response to an employee's notification of a domestic violence situation. Employees who suffer work performance issues as the result of the domestic violence must be given the opportunity to correct such problems. All employees must be given notice of this policy.

**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 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.

**MAINE:** [Executive Order No. 16](#) (2011).

This executive order compels every state agency to issue a "Domestic Violence and the Workplace" policy. Such policy must, among other things, contain references to the state's Equal Employment Opportunity Policy and the Harassment Policy. The policy must be implemented via employee training. The training must include information as to the dynamics and effects of domestic violence, available resources for victims and perpetrators, and the ways in which an employee can assist a co-worker who is experiencing or perpetrating domestic violence. Additionally, the already existing personnel policies and procedures must be reviewed to ensure that they do not discriminate against, and are responsive to, victims of domestic violence. Information about domestic violence and sexual assault, as well as available resources, must be posted in conspicuous locations within each agency.

**MAINE:** [Office of the Attorney General's Domestic Violence Workplace Policy](#) (2003).

This policy guarantees confidentiality of all domestic violence disclosures made by employees, excepting cases where the abuser presents a threat to the safety of any person, where the employee has expressed homicidal or suicidal intentions, or where a reasonable cause exists to suspect abuse, neglect, or exploitation of children or incapacitated or dependent adults. Further, the policy proscribes measures that may be taken in order to assist the victimized employee in addressing the violence. These measures may include, but are not limited to, referrals to the Employment Assistance Program, assessment of the employee's need for time off, and the development of an individualized workplace safety plan. To foster employee awareness, the policy provides for the creation of an Education and Outreach Committee, which must publish and maintain a list of resources available to survivors of domestic violence in conspicuous locations throughout the agency. Employees who commit domestic violence, sexual assault or stalking may be disciplined by the agency even when such behavior occurs off-duty, for as long as a nexus is established between such behavior and the perpetrator's employment with the State. In addition, perpetrators must disclose any orders of protection they are subject to as well as any conditions of bail or probation that might in any way interfere with the perpetrator's ability to perform their job duties. All retaliation against employees who report domestic violence, sexual assault or stalking or otherwise assert their rights under this policy is strictly prohibited.

**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.

**MARYLAND:** [Personnel Policy on Domestic Violence and the Workplace](#) (1999).

This policy prohibits disciplining or penalizing an employee on account of their status as a victim of domestic violence. In cases where employees experience performance problems on account of the violence, they must be referred to the State's Employee Assistance Program. Additionally, each agency must make reasonable efforts to ensure the safety of all employees, including but not limited to providing escort services, collaborating with local law enforcement, relocating employee's work station or installing security cameras.

The policy also outlines the responsibilities of all agency personnel such as employees, supervisors, victims and perpetrators. Employees must attend Domestic Violence and the Workplace Training and report any threats or acts of domestic violence in the workplace that they experience or witness. Supervisors must provide all employees with a copy of this policy, participate in the training, refer all employees who are either victims or perpetrators to the State's Employee Assistance Program and maintain confidentiality of all records involving domestic violence that has affected the workplace. Victims must notify their supervisors in advance of taking time off, discuss plans to return to work after taking a leave, make alternate arrangements to receive their paychecks if applicable, cooperate in ensuring that the appropriate safety measures are instituted in the workplace and contact the State's Employee Assistance Program for consultation and resources. Lastly, perpetrators must also contact the State's Employee Assistance Program for consultation and resources and get in touch with an abuser's intervention 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.

**MASSACHUSETTS:** [Human Resources Division, Policy of Zero Tolerance for Sexual Assault and Domestic Violence](#) (2011) [click on the link titled Policy of Zero Tolerance for Sexual Assault and Domestic Violence].

This policy establishes zero tolerance for sexual assault, domestic violence, and stalking that occurs within or outside the workplace. To assist victimized employees, the policy provides for 15 days of paid leave per calendar year, up to 6 months of unpaid leave, and confidentiality of all employee disclosures of the violence. In cases where the employee has obtained a protective order and that protective order is violated in the employee's workplace, the agency must, upon becoming aware of the situation, report the violation to the law enforcement. Additionally, the agency must make reasonable efforts to enforce the order in the workplace. Such efforts may include notifying security personnel of the abuser's identity, screening employee's telephone calls or, upon employee's request, offering the employee a reassignment to different geographic location.

The policy also establishes the duties of the agency employers and employees. Employers must, among other things, designate an employee to coordinate the dissemination of this policy to all employees, implement training programs developed by the Human Resources, respect victims' privacy, ensure written workplace safety plans are completed in response to reports of domestic violence, sexual assault or stalking, and strongly encourage employees to report all abusive behavior occurring in the workplace. Employees must report the abusive behavior they experience or witness and cooperate in all internal investigations into the violations of this policy. Up to 5-year old felony convictions for incidents of domestic violence, sexual assault or stalking may be used as a factor in hiring determinations.

**BOSTON, MASSACHUSETTS:** [Zero Tolerance for Violence Policy](#) (2000).

This policy ensures the availability of a number of options to employees who are victims of domestic violence. In particular, employees should be provided with a copy and an explanation of the policy's provisions, relocation in cases where their current placement positions them near an unprotected entry door or within the same department as the perpetrator, screening of their telephone calls, flex time or time off and a referral to the Employment Assistance Program. The Employment Assistance Program is in turn charged with providing victimized employees with confidential consultation, emotional support, and individualized safety plans. In addition, the Employment Assistance Program must assist with training initiatives for all City staff. The Program's efforts are supplemented by the Mayor's Task Force on Zero Tolerance for Domestic Violence. This Task Force, among other things, functions as a Threat Assessment Team which responds to disruptive incidents and identifies proactive strategies for maintaining a safer workplace. All managers and supervisors have the obligation to immediately and discreetly investigate any report of workplace violence. This policy must be posted in conspicuous locations throughout City buildings and facilities.

**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). [This Executive Order creates the Domestic Violence Fatality Review Board, which has nothing to do with creating domestic violence workplace policies. This link should probably be deleted.]

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 MEXICO:** [Model Domestic Violence and the Workplace Policy](#).

This model policy seeks to promote employee awareness, non-discriminatory personnel policies, implementation of workplace safety plans, accountability for perpetrators, and adequate training of all agency staff. Non-discriminatory policies encompass provision of a leave when the employee requires it to address the violence, prohibition of all inquiries into a job applicant's current or past domestic violence, sexual assault or stalking victimization, and a ban on making employment decisions on the sole basis of applicant's status as a victim. To achieve accountability for perpetrators, the policy requires that employees who have admitted to committing domestic violence be referred to a batterer's intervention program. Additionally, the policy also seeks to promote accountability by mandating all agency employees who have witnessed threats or incidents of domestic violence, sexual assault or stalking in the workplace to report such violence. Employees are, however, prohibited from directly confronting perpetrators.

Lastly, the policy outlines agency's general responsibilities with respect to domestic violence in the workplace. Among other things, the agency must document all incidents and establish a clear statement regarding the limits on the confidentiality of the records involving employees' disclosures of domestic violence in the workplace.

**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](#) [scroll down to page 6 to read the Rule].

**NEW YORK:** [Office for the Prevention of Domestic Violence, Model Domestic Violence and the Workplace Policy.](#)

This policy provides for employee awareness, non-discriminatory and responsive personnel policies, workplace safety plans, accountability for employees who are perpetrators of the abuse and training of all staff. Non-discriminatory and responsive personnel policies involve prohibiting the agency from making inquiries into a job applicant's current or past domestic violence victimization as well as from making employment decisions based on any assumptions about or knowledge of such exposure. In addition, the agency must, upon request, assist employees in taking time off to address the violence, adjust any documentation requirements to avoid compromising that employee's safety, allow the employee to make reasonable changes to their benefits at any time during the calendar year if possible, exhaust all options in trying to resolve the performance problems of a victimized employee before terminating that employee, and, in cases of termination, inform the victimized employee of their potential eligibility for unemployment insurance. Agency's additional duties involve designating a liaison to ensure agency-wide implementation of this policy, assisting with the enforcement of any applicable orders of protection, appointing personnel to serve as support for those in need of assistance around the issue of domestic violence, providing a copy of this policy to all employees, documenting all incidents of domestic violence in the workplace, and maintaining confidentiality of all information regarding employee's victimization, excepting cases where the disclosure is necessary to avoid putting someone at a risk of physical harm, required by law or necessary to enforce an order of protection.

**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](#) 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. This executive order was continued until further notice by the [Executive Order No. 2011-04K](#), which the governor signed on January 21, 2011.

**OHIO:** [Barbara Warner Workplace Domestic Violence Policy](#) (2008).

This policy seeks to promote employee awareness and non-discriminatory personnel policies. In particular, agencies are barred from discriminating against or penalizing victims or survivors of domestic violence based on any assumptions or knowledge of that person's current or past domestic violence incidents. In addition, agencies must give due consideration to a victim's request for a reasonable accommodation, strive to arrange for a paid leave when necessary to address the violence and post information on resources available to victims in conspicuous locations in the workplace. If an employee experiences performance issues as the result of the violence, agencies must refer that employee to the Ohio Employee Assistance Program for help before carrying out any disciplinary action. Employees who are authorized to carry a firearm must notify their appointing authority if they are convicted of a domestic violence-related crime and/or served with an order of protection. All disclosures regarding the domestic violence affecting the workplace must be kept in strict confidence unless the disclosure is necessary to protect someone's safety or comply with the law or a collective bargaining agreement.

**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 employee 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."

**PENNSYLVANIA:** [City of Pittsburgh Operating Policies, Policy: Domestic Violence](#), City Code Title I, Article XI (2010).

This policy bars employment discrimination against potential or current employees, provides for ongoing employee training on domestic violence issues, and establishes the Domestic Violence Review Board to evaluate all domestic violence incidents involving City's employees. The Board is charged with issuing recommendations that may involve training, policy, discipline, safety or any other issues of importance that arise from the review. The final discretion as to implementing these recommendations remains, however, with the Department Director and/or Bureau Chief.

Moreover, the policy establishes the responsibilities of the supervisors, employees, Director/Bureau Chiefs and the City itself. The City is required to provide referrals where appropriate, maintain confidentiality of employees' disclosures regarding the violence, consult with Domestic Violence Counselor/Advocate organizations to develop practices for ensuring minimization of the domestic violence in the workplace, and obtain notifications from the District Attorney with regard to the prosecution of any domestic violence incidents that involve City's employees. Lastly, the City has a commitment to offering support to victimized employees through the provision of reasonable accommodations and approved time off.

**SOUTH CAROLINA:** [S.C. Code § 1-1-1410](#) [scroll to the very bottom of the page to locate this provision]. 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 “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 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.

**UTAH:** [Office of the Governor, Domestic Violence Prevention Guidelines for State Employees](#) (2006).

This policy mandates usage of early intervention and awareness strategies as a first line of defense against occurrence and effects of domestic violence in the workplace. As part of that intervention, employees must be provided with training and a copy of the brochure containing prevention guidelines. Employees who are either victims or perpetrators of domestic violence are encouraged to seek assistance by contacting their supervisors, human resource officers or Employee Assistance Program representatives. All records concerning a domestic violence situation must not be located in a complainant’s personnel file. If the agency becomes aware of a violation of a protective order in the workplace, law enforcement must be contacted. Additionally, a designated agency person must work with the affected employee to devise a safety plan. Work schedule may be adjusted both to allow the victim to obtain help to address the violence and to permit the perpetrator to attend an outpatient domestic violence perpetrator treatment program. Information regarding available services to victims and abusers must be displayed in conspicuous locations throughout the agency.

**VERMONT:** [Exec. Order No. 04-06](#) (2006). This Executive Order was rescinded by the Executive Order No. 3-50 and should probably be deleted as the result.

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, King 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 “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) {click on the HCR 14 link to read the text of this bill}.

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. 4042](#), 236th Leg. Sess. (N.Y. 2013).

This bill would reward employers who implemented domestic violence employee awareness and assistance policies with a five percent credit in disability benefits premiums. These policies would have to be established by the office for the prevention of domestic violence, recommended by a domestic violence workplace policy specialist, and certified by the domestic violence workplace policy panel. The credit would be available for two consecutive years. To qualify the first time around, the employer would have to have implemented these policies for at least six months during the year for which the credit was sought; to qualify for the second year, such implementation would have to have been in place for at least twelve months during the year for which the credit was sought. A virtually identical bill was introduced in the preceding legislative session as [A.B. 2764](#). This bill is in committee.

**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/what-we-do/violence/victims-of-violence-employment/state-law-guides>. For more information, contact our Public Education Office (PEO), [peo@legalmomentum.org](mailto:peo@legalmomentum.org), at (212) 925-6635.*

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