

Lawyer's Manual on Domestic Violence

Representing the Victim

5TH EDITION

Edited by Jill Laurie Goodman and Dorchon A. Leidholdt

Supreme Court of the State of New York, Appellate Division, First Department

Hon. John T. Buckley, Presiding Justice

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Summary of Contents

Part I: Introductory Matters

1. The Evolution of the Justice System's Response to Domestic Violence in New York State
by Julie A. Domonkos. 1
2. Interviewing Battered Women
by Dorchen A. Leidholdt 9
3. Thinking About Danger and Safety
by Jill Laurie Goodman 27

Part II: Family Offense Cases

4. The Practitioner's Guide to Litigating Family Offense Proceedings
by Elizabeth Murno 39

Part III: Battered Women and Children

5. Litigating Custody and Visitation In Domestic Violence Cases
by Kim Susser. 59
6. Representing Domestic Violence Victims in Child Welfare Cases
by Jill M. Zuccardy 81
7. Moving On: UCCJEA, The Hague Convention, and Relocation
by Liberty Aldrich and Lauren Shapiro. 99
8. The Uniform Child Custody Jurisdiction and Enforcement Act [UCCJEA] and Domestic Violence: A Case Study
by Mary Rothwell Davis. 121
9. Representing Abused Mothers in Hague Convention Cases
by Betsy Tsai 131
10. Representing a Victim of Domestic Violence Who Needs Child Support
by Judy Reichler. 151

Part IV: Criminal Justice

11. The Family Protection and Domestic Violence Intervention Act of 1994: Mandatory Arrest Ten Years Later
by Lisa Fischel-Wolovick. 171
12. When Domestic Violence Victims Are Sexually Assaulted: Meeting the Challenges
by Jill Laurie Goodman 181

13. Taking Stalking Seriously
by Hilary Sunghee Seo 193
14. Prosecuting A Domestic Violence Case: Looking Beyond Victims' Testimony
by Elizabeth Cronin 205

Part V: Economics and Collateral Issues

15. Representing Victims of Domestic Violence in Supreme Court
Matrimonial Actions
by Emily Ruben 225
16. Representing Domestic Violence Victims in the Workplace
by Wendy R. Weiser and Deborah A. Widiss 237
17. Public Assistance and Housing: Helping Survivors Navigate Difficult Systems
by Amy E. Schwartz and Sharon Stapel 255
18. Domestic Violence and Tort Remedies
by Betty Levinson 297

Part VI: Emerging Communities

19. Representing Immigrant Victims of Domestic Violence
by Lori L. Cohen 309
20. Helping Immigrant Victims of Domestic Violence
Access Federal and State Public Benefits
by Barbara Weiner 355
21. From Sex Trafficking to FGM: Emerging Issues Confronting Advocates
for Immigrant Battered Women
by Dorchen A. Leidholdt 369
22. Advocating for Youth in Domestic Violence Proceedings
by Stephanie Nilva and Kristine Herman 385
23. Domestic Violence in the Lesbian, Gay, Bisexual,
and Transgender Communities
by Sharon Stapel 401
- Appendices: Power and Control Wheel Diagrams 423
- Contributors 429

Representing Domestic Violence Victims in the Workplace

by Wendy R. Weiser and Deborah A. Widiss

As an advocate for a victim of domestic violence, you can play a central role in helping her maintain her job.¹ A job can provide a victim with the economic independence she needs to leave an abuser, but, all too often, domestic violence follows its victims into the workplace and interferes with their ability to keep their jobs. The workplace effects of domestic violence are often direct: an abuser may call incessantly, come to the workplace, or take other steps to disrupt a victim's work life as a means of exerting control. Studies confirm the prevalence of such experiences.² Between 35 and 56% of battered women in three separate studies reported that they were harassed at work by their batterers.³ Half of all female victims of violent workplace crimes know their attackers,⁴ and nearly one out of every ten violent workplace incidents is committed by partners or spouses.⁵

More frequently, the effects of violence are indirect. For example, a victim's job performance may suffer because she is frequently absent or distracted, or she may need to take time off during business hours to address the effects of violence in her life. She may even be fired or penalized at work when her employer learns she is a victim of domestic violence. More than half of domestic violence victims surveyed in New York City in 1995 reported that abuse caused them to be late or miss days at work.⁶ According to a 1998 report of the US General Accounting Office, between 25 and 50% of domestic violence victims surveyed reported that they lost a job due, at least in part, to domestic violence.⁷

Victims of domestic violence who are employed often feel that they are trapped in a catch-22. They need accommodations at work (such as time off) to take essential steps to address the violence, but they are afraid to tell their employers for fear of retaliation or losing their jobs. A victim who loses her job may no longer have the economic means to make the other necessary changes in her life.

Fortunately, a variety of generally-applicable employment laws and specific protections for domestic violence survivors provides important rights that can protect a victim from discrimination and provide her time off from work and other reasonable accommodations, as well as cash benefits for a period when she cannot work. Victims in New York City and Westchester county in particular can benefit from recent laws that specifically prohibit discrimination against domestic violence victims and require employers to reasonably accommodate their needs.⁸

This chapter offers an overview of employment laws that may be useful to your clients. Any time you are assisting a victim of domestic violence in any capacity you should ask some basic questions about her work situation so that you can offer her assistance or referrals as appropriate — and thus help promote her financial independence.⁹

How Can You Help Your Client Keep Her Job as She Deals with the Violence in Her Life?

The first step in helping your client is to determine what she would like from her employer. Does she want her employer to stop discriminating against her or to reinstate her to a position she lost because of discrimination? Does she want her employer to grant her some time off to deal with the abuse? Does she want other accommodations to help her stay safe, such as a modified work schedule or location?

Once you have determined your client's workplace needs, the next step is to consider how best to realize them. In many cases, informal advocacy may be sufficient. The client may advocate on her own behalf, or with the assistance of a union representative, attorney, or any other advocate. Any advocacy is more likely to succeed when the client or her advocate has an understanding of her legal rights and what she is legally entitled to expect from her employer.

In helping your client determine the most effective way to approach her employer, you should ask her: Are there accommodations that she feels she needs at work? Has she disclosed her situation to her employer? If so, has she requested time off or accommodations, and what has been the reaction? Does her employer have a workplace violence or domestic violence policy? Does she have accrued leave of any kind? Has the domestic violence been affecting her work performance? Is she suffering from specific physical or mental health conditions? Is she a member of a union? How many people does her employer

employ? The answers to these questions will help you determine her legal rights and her specific needs.

It is also helpful to recognize that an employer's primary interest is to keep all of its employees safe and able to do their jobs well. A proposed plan that furthers those interests is more likely to be received well. Also, generally speaking, the more a plan or request sounds like something the employer routinely grants, the easier it may be for the request to be granted.

If independent advocacy fails, a letter from you or another attorney simply setting forth the situation and applicable law may well be sufficient to secure the requested accommodation or otherwise induce the employer to do the right thing. If a lawyer's letter fails to yield results, litigation may be necessary. Because some claims have strict (and short) time limits, you should make the relevant employment inquiries as soon as possible.

Should Your Client Tell Her Employer About the Violence?

Often, an initial step in addressing employment-related needs of a domestic violence victim is helping her decide whether she should tell her employer about the violence. There are some important advantages to disclosure. First, it can allow your client to work with her employer to take steps to address the violence and to help keep the workplace safe for her and for co-workers. It may also be necessary to disclose the violence to take advantage of certain kinds of leave or other policies. Disclosing the violence may also explain a period of poor performance; this may be especially helpful if she has taken steps to address the violence so that her employer will have reason to believe that problems affecting her performance will abate.

There are, however, some very real downsides to disclosing. Some employers may fire a victim simply because she is a victim of domestic violence, even if it is unlawful. Laws in New York City and in Westchester county specifically prohibit discrimination on the basis of being a victim of domestic violence, and federal and state laws prohibiting sex discrimination in employment may also bar such discrimination. But the fact that your client might have a good legal claim in the future against an employer who fires her may be less significant to her than ensuring that she has a regular pay check at present. Also, if she discloses the violence, her employer may pressure her to obtain a protective order or take other steps to leave an abuser. These steps may or may not be right for your client, but she may have a hard time explaining the situation to her employer. Even if her

employer has a duty to keep her situation confidential or if she asks her employer to be discreet, once she has talked about the violence at work, the story may begin to circulate at the office and expose her to prying questions.

Deciding whether to disclose can be a very difficult decision, and, unfortunately, it can be impossible to know in advance how an employer will react. Employment policies may offer a clue. Certainly, where an employer has affirmatively committed to a proactive domestic violence policy, there is considerably less risk in disclosing. If your client does decide to disclose the violence to her employer, she should ask her employer to keep her situation confidential. In New York City and Westchester county, employers are legally obligated to maintain the confidentiality of most information relating to domestic violence.¹⁰

What Workplace Accommodations Can Help Your Client, and What Are Their Legal Bases?

There are several changes that can be made at work to keep a victim of abuse and her coworkers safe and to reduce the likelihood of disruptions by an abuser. It may be easier to convince an employer to make these changes if your client has disclosed her situation, but some changes could be made even without disclosure. Examples of common accommodations include:

- Allowing time off to obtain a protective order, seek medical or legal assistance, find safe housing, or take other steps to deal with the abuse.
- Changing a telephone number or extension or routing calls through the office receptionist to curtail phone harassment.
- Keeping the employee's home address and telephone information confidential.
- Transferring the employee to a different desk, department, shift, or work site.
- Having a security guard escort her to her car or the nearest public transportation stop.
- Registering a protective order with security or office reception staff, or posting a photograph of the abuser at the front desk or with security personnel and informing the guards or receptionist not to let the person enter the building.

If your client is working with you or other professionals to develop a safety plan, you should remind her to consider workplace accommodations. You may be able to help her strategize about how to best present her case for such changes.

There are a variety of legal bases for requesting accommodations. First, if the employer has a domestic violence policy in place, it generally will explicitly provide that the employer will make reasonable accommodations to address the violence. Many employees of New York State and County governments are covered by domestic violence policies; an increasing number of private businesses have also adopted policies.¹¹ For victims who work in New York City and Westchester county, recent local laws specifically require that employers make reasonable accommodations for victims of domestic violence, sex offenses and stalking.¹² For employees who need time off, several laws give employees the right to take leave to deal with medical needs or go to court.¹³ Certain victims of domestic violence may have disabilities that qualify for reasonable accommodations under the Americans with Disabilities Act or under New York's antidiscrimination law.¹⁴ Finally, failure to take reasonable steps to address potential hazards in the workplace, including danger resulting from domestic violence, may also open an employer up to claims of tort-based negligence, discrimination, or violation of OSHA regulations.¹⁵

Developing some familiarity with these laws will improve your advocacy on behalf of your client. An employer who does not immediately agree to provide an accommodation to your client because it is the right and wise thing to do may be convinced when it learns that it is legally obligated to do so. Further, understanding your client's workplace rights will help you advise her about her legal options and remedies.

Workplace Accommodations in New York City or Westchester County

If your client works in New York City or Westchester county, she is probably eligible for workplace accommodations under recent local laws specifically aimed at helping victims of domestic violence, sex offenses and stalking in the workplace.¹⁶ Under New York City's law, employers are required to make reasonable accommodations for employees the employers knew or should have known were victims, so long as those accommodations would enable the victims to satisfy the essential requisites of their jobs. While there is not yet much case law interpreting this provision, the legislative history makes clear that the law

was intended to cover requests for leave, security measures, scheduling or worksite changes, as well as other accommodations.¹⁷ Accommodations must be “reasonable” and not present an undue hardship to her employer.¹⁸ An employee may be required to provide her employer with certification that she is a victim of domestic violence, sex offenses, or stalking. The certification requirement may be satisfied by “documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider . . . ; a police or court record; or other corroborating evidence.”¹⁹ The employer is required to keep all such information “in the strictest confidence.”²⁰ The Westchester county law includes very similar provisions.²¹

How Can Your Client Get Time Off from Work to Take Steps to Address the Violence in Her Life?

Almost any victim of domestic violence needs at least a little time away from her job. She may need time to obtain a protective order, to participate in other civil or criminal proceedings against her abuser, to address her physical injuries or mental stress from the violence, to find safe housing, or to care for injuries to abused family members. She may need full-time leave, or she may simply require a reduced schedule, intermittent leave, or some flexibility in her hours. Currently, a patchwork of existing laws and policies, in addition to the recently-enacted New York City and Westchester statutes discussed above,²² can provide victims with the time that they need to address some of the issues.

Time Off Under Employment Policies

To determine the extent to which your client is eligible for time off, the first place to look is personnel policies, employment contracts, and collective bargaining agreements. Does your client’s employer have a policy specifically addressing domestic violence? Does she have vacation days, personal days, sick days, discretionary days, family and medical leave or other paid or unpaid leave that she can use? Are there flex-time provisions that can help her arrange a schedule to provide time for counseling or rearrange her schedule so that her abuser will not know when she will be going to or from work? Is there any accommodation for “special circumstances” that could provide her the flexibility she needs? Many employee benefit programs and collective bargaining agreements provide generous leave rights and cover employers that may not be covered under other

laws. If your client is in a union, a union representative may be a helpful advocate in reviewing the possibilities for time off and in negotiating with an employer for necessary accommodations.

Time Off to Go to Court

If your client needs time off to obtain a protective order or to participate in criminal proceedings, New York State Penal Law may be helpful. It prohibits an employer from firing or penalizing a victim of a crime who takes time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection in either family court or criminal court.²³ The employee must give her employer notice at least a day ahead of the absence, and her employer may withhold wages. Her employer may also ask for documentation, which a prosecutor or court clerk can supply.

Time Off to Address Medical Needs or Accommodations for a Disability

The Family and Medical Leave Act

If your client needs time off to address the health consequences of violence against herself or a family member, she may also be able to rely on the federal Family and Medical Leave Act (FMLA).²⁴ The FMLA requires employers to grant up to twelve weeks of leave to care for “serious health conditions” of employees or their family members. A “serious health condition” is an illness, injury, impairment, physical or mental condition that (a) causes a period of incapacity (including an inability to work, attend school, or perform other regular daily activities), and (b) requires an overnight stay in a medical facility or continuing treatment by a health care provider. Under certain circumstances, FMLA leave may be taken “intermittently,” allowing, for example, an employee to take an afternoon off every week for ongoing counseling or therapy. The FMLA, however, only covers employers with 50 or more employees within a 75-mile radius and employees who have worked at least 1,250 hours during the twelve months before taking leave (about twenty hours per week).

If your client might be able to use the FMLA, she should notify her employer of her health or medical condition. Although a victim need not disclose that her condition is a result of domestic violence, she must provide sufficient information so that her employer can understand that she has a serious health condition. Either the employee or the employer may choose to apply any accrued paid leave (e.g., vacation or sick time) to the FMLA leave. Under the FMLA, an employer may not fire an employee for taking up to twelve weeks of leave,

must continue to provide the same level of health plan coverage during the leave, and must give the employee the same or an equivalent job upon her return.

Accommodations (Including Altered Schedule) for a Disability

Employment laws that protect employees with disabilities may also help certain domestic violence victims at work. These include the federal Americans with Disabilities Act (ADA),²⁵ the New York State Human Rights Law,²⁶ and comparable local laws. These laws prohibit employers from discriminating against employees who have qualifying disabilities or who are perceived as having disabilities, provided that the employees can perform the essential functions of their jobs. In addition, disabled employees are entitled to reasonable accommodations.

To qualify for protection under the ADA, a person must have a physical or mental impairment that “substantially limits a major life activity.”²⁷ The definition of disability under the New York State Human Rights Law (and many local laws, including New York City’s) is considerably broader than that under the ADA.²⁸ Accordingly, some individuals who may not have qualifying disabilities under the ADA may nonetheless have disabilities that must be accommodated under state or local law.²⁹

The disabilities laws can be useful for domestic violence victims who suffer long-term physical or mental injuries, including post-traumatic stress disorder or depression. Common accommodations under disabilities laws include time off, changes of facilities, job restructuring, reassignment, and modification of equipment. Relevant accommodations for domestic violence victims may also include changed work schedules to enable them to seek counseling or treatment for injuries.

What Cash Benefits May be Available to Your Client if She Cannot Work for a Period of Time or Leaves Her Job?

Short-Term Disability Benefits

A domestic violence victim may be able to receive short-term disability payments. Short-term disability insurance provides partial wage replacement to individuals who cannot work because of an off-the-job illness or injury. Disability insurance provides cash benefits to offset lost wages. A qualified claimant will receive 50% of her average weekly wage or the maximum benefit

allowed (currently \$170), whichever is lower. Benefits are paid for a maximum of 26 weeks of disability during a period of 52 consecutive weeks. Both employed and unemployed persons can receive benefits, but benefits cannot be claimed for any day on which the claimant receives a salary or on which an unemployed claimant receives unemployment insurance benefits. The short-term disability benefits program is administered by the state Workers' Compensation Board, which provides forms that may be used for claiming benefits.

Unemployment Insurance Benefits

A domestic violence victim who is fired or who chooses to leave her job may be eligible for unemployment insurance benefits. To qualify for unemployment insurance in New York, a claimant must demonstrate that (a) if she was terminated, it was not because of her misconduct, or (b) if she left her job voluntarily, she had good cause to do so. Under New York law, if a claimant chooses to leave her job as "a consequence of circumstances directly resulting from the claimant being a victim of domestic violence," she may be found to have "good cause" for a voluntary separation and thus be able to receive unemployment benefits.³⁰ In addition, if your client lost her job because of alleged "misconduct" that itself was related to domestic violence (such as unexcused absences), she may be able to establish that such consequences of domestic violence are not actually "misconduct" under New York law.³¹ To qualify for benefits, a claimant must also certify that she is ready and able to accept work.³² Some domestic violence victims may not be able to meet this standard.

To obtain unemployment insurance benefits, your client must file a claim with the New York State Department of Labor. Although New York law does not require a claimant to provide any specific documents to verify that domestic violence occurred, providing relevant documents may be helpful to establish coverage under the domestic violence provision. Be aware, however, that documents submitted to the unemployment insurance office may not be kept confidential.

What Claims Could Your Client Have if She is Fired or Otherwise Discriminated Against Because of the Domestic Violence?

Domestic Violence Discrimination Laws

If your client was fired, demoted, or otherwise treated badly at work because she was a victim of domestic violence or because of the misconduct of

her abuser, she may have a claim under domestic violence discrimination laws. New York City and Westchester county laws specifically prohibit all forms of employment discrimination against domestic violence victims.³³ These laws make it illegal for an employer to discriminate against an actual or perceived victim of domestic violence in hiring, firing, compensation or other privileges and conditions of employment. In other words, they include domestic violence victims as a protected class. A recent amendment to the New York City law makes clear that, under this law, an employer also may not discriminate against an employee because of the acts of her abuser.

Claims under the New York City law can be filed with the New York City Human Rights Commission or brought directly in court. Remedies for a violation of the law can include reinstatement, back pay, and damages, including punitive damages. Claims under the Westchester law may be pursued by filing a complaint with the Westchester Human Rights Commission.

Sex Discrimination Laws

For jurisdictions that do not have domestic violence discrimination laws, sex discrimination laws, including Title VII of the Civil Rights Act of 1964,³⁴ the New York State Human Rights Law,³⁵ and local laws, may also prohibit discrimination against domestic violence survivors. Various theories of liability may apply.

Disparate Treatment

First, in certain circumstances, an employer may be said to have engaged in disparate treatment sex discrimination if the employer treats battered women differently from other employees. The classic *prima facie* case of disparate treatment sex discrimination is stated in terms of hiring, requiring that an employee establish that (1) she is a woman; (2) she applied for and was qualified for the position in question; (3) she was rejected; and (4) the position remained available.³⁶ Courts consider comparable factors in assessing other sex discrimination claims (e.g., termination or demotion) in the employment context. If a *prima facie* case is established, the burden of production then shifts to the employer to show a legitimate non-discriminatory reason for the employment action. The employee must then prove that the employer's reason is merely a pretext for discrimination.

If your client is penalized at work because her employer finds out she is the victim of domestic violence or sexual assault, you may be able to argue that her employer is treating her differently because she is a woman and hence violating sex discrimination laws. It is generally easier to make a disparate treatment case

if a similarly situated male employee was not fired or otherwise penalized by the employer. Such a situation may exist when the employee's batterer is also her co-worker. If the employer fires the victim but takes no action against the batterer, there is a clear comparison between male and female workers.³⁷ Another example of a situation where such a comparison is possible is when an employer fires a domestic violence victim for taking time off to secure safe housing but allows a male employee to take time off to move or take similar actions.

Disparate Impact

A second theory of liability, perhaps more broadly applicable in the domestic violence context, is disparate impact discrimination. The disparate impact theory is generally used to challenge policies or practices that are gender-neutral on their face but in fact fall more harshly on women than men.³⁸ An employer who applies a policy or practice in such a way as to negatively affect domestic violence victims may be said to have engaged in disparate impact sex discrimination. For example, if an employer has a policy of firing employees who obtain or seek to enforce protective orders, that policy would have a disparate impact on women because the majority of people obtaining or enforcing protective orders are women. While we do not know of any reported cases addressing this theory in the employment context, there have been successful cases based on a similar theory under federal and state fair housing laws.³⁹ In those cases, landlords evicted or otherwise discriminated against tenants because they were victims of domestic violence. The adjudicators found that the landlords' policies constituted illegal sex discrimination under the fair housing laws because they had a disparate impact on women. Since housing discrimination laws are interpreted in a manner consistent with employment discrimination laws, those cases could be relevant precedents in the employment context.

Sexual Harassment

A third way sex discrimination laws can help your clients at work is under a sexual harassment theory. For domestic violence victims, a sexual harassment theory may be available when the batterer is a co-worker who creates a hostile work environment for the victim. There have been several cases in which domestic violence victims have successfully brought sexual harassment claims against their employers when their abusers were co-workers.⁴⁰ The sexual harassment theory may be extended to apply to a situation where a victim of domestic violence obtains a protective order against her co-worker. If her employer knew that the batterer was creating a hostile environment, the employer may arguably be obligated to enforce the protective order under a

theory that the employer has a duty to take prompt and effective remedial action to stop the sexual harassment.

Are There Additional Claims that Your Client May Have if the Violence Occurred at Work?

If violence occurred in the workplace or if your client fears violence at work, additional laws may apply or provide your client with a claim. These laws may, under certain circumstances, establish a duty for employers to provide a workplace safe from domestic violence.

Workers' Compensation and Negligence Claims

Accidents or injuries that occur at work may give rise to either workers' compensation or negligence claims. Workers' compensation is an administrative system, often faster than a lawsuit, that provides an opportunity for an individual injured at work to recover medical costs but generally not any other damages. If an accident or injury on the job is covered by workers' compensation, then it is generally the exclusive negligence-based remedy against the employer, precluding the employee from also recovering under a tort theory. New York's Workers' Compensation Law generally bars common law negligence claims against the employer based on a co-worker assault; it will not, however, preclude a claim based on an "intentional act committed by an employer" directed at "causing harm to a particular employee."⁴¹ A domestic violence victim who seeks to avoid the workers' compensation system — and thus retain the possibility of pursuing negligence tort-based claims — may argue that the workers' compensation law should not apply if her abuser is a high-level supervisor (and hence his acts may be imputed to the employer) or if there is evidence that her assault was motivated to cause harm to her specifically.⁴²

Possible negligence claims that may apply if the incident is not covered by workers' compensation include negligent hiring and retention, negligent supervision, failure to warn and respond, and negligent infliction of emotional distress. Domestic and other violence victims have successfully brought negligence claims against their employers in a number of cases. For example, in one case, a victim was permitted to bring a negligent retention claim against her abuser's employer where she alleged that the abuser had used his position as a corrections officer repeatedly to access her unlisted telephone number and to hold off police officers when confronting the victim in public.⁴³ Another case

held that an employer could be liable under a negligence theory where the plaintiff was shot at work by a co-worker who had previously attacked her and another former girlfriend at the work site.⁴⁴

Occupational Safety and Health Act

The federal Occupational Safety and Health Act (OSHA) has a “general duty clause” that requires every employer to provide a workplace free from recognized safety hazards.⁴⁵ To invoke that clause, an employee must show that the danger was reasonably foreseeable. That clause may be interpreted to require employers to take reasonable steps to protect workers from violent attacks, including domestic violence attacks, in the workplace. Although we know of no precedent to that effect yet, the OSHA rules require employers to consider all injuries caused, in whole or in part, by “an event or an exposure in the work environment” to be “work-related,” and do not list domestic violence incidents among the exceptions.⁴⁶

Conclusion

For many women, the ability to maintain employment or economic security may be the deciding factor in whether they can leave a violent relationship, but advocates and attorneys have begun focusing on how employment laws can assist domestic violence survivors only recently. In fact, the laws specifically addressing the needs of victims — such as the New York State law providing access to unemployment insurance and the New York City and Westchester laws specifically prohibiting discrimination and requiring reasonable accommodations — were passed in the past decade. Many laws and legal strategies remain underutilized. As a lawyer, you can help forge these laws into useful tools that can help your clients gain the economic independence they need to address effectively, and ultimately end, the violence in their lives.

Notes

1. Although men can be victims of domestic violence and domestic violence can exist in same-sex relationships, in the majority of cases, the victim of domestic violence is a woman and the abuser is a man. Accordingly, for convenience's sake, we refer to victims in the feminine and abusers in the masculine throughout this chapter.
2. See generally Jody Raphael & Richard M. Tolman, *Trapped In Poverty, Trapped By Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare* (1997) (documenting ways in which abusers interfere with victims' ability to work, including preventing them from going to work, harassing them at work, limiting their access to cash or transportation, and sabotaging their child care arrangements).
3. See United States General Accounting Office, *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998) (summarizing three studies of employed battered women) [GAO Report].
4. Greg Warchol, US Dept. of Justice, *Workplace Violence*, 1992-96 (July 1998).
5. Society for Human Resource Management, *Workplace Violence Survey* 6-7 (2000).
6. New York Dept. of Labor, *Report to the New York State Legislature on Employees Separated from Employment Due to Domestic Violence*, Jan. 15, 1996, at 3 (citing Lucy N. Friedman & Sarah Cooper, *Victim Services Research: The Cost of Domestic Violence* (Aug. 1987)).
7. GAO Report, *supra*, note 3.
8. Survivors Workplace Protection Act, Local Law 75 of 2003, to be codified at Administrative Code of City of NY § 8-107.1 [NYC Local Law 75]; Westchester Co. Local Law Intro 14-2005, to be codified at Westchester Co. L. ch. 800 [Westchester Co. Local Law 14-2005].
9. Legal Momentum's Employment and Housing Rights for Survivors of Abuse (EHRSA) project provides direct representation and technical assistance on employment-related needs of domestic violence survivors. Information on this program can be found at <http://www.legalmomentum.org/html/issues/vio/ersastart.shtml>.
10. NYC Local Law 75 § 4; Westchester Co. Local Law Intro 14-2005 § 2.

11. Section 10-b of the Labor Law, as explained by Section 575 of the Executive Law, established the New York State Office for the Prevention of Domestic Violence (OPDV) and directed that it develop model domestic violence policies for government entities and for private businesses. The model policies are posted on the OPDV website, <http://www.opdv.state.ny.us/workplace/index.html>.
12. NYC Local Law 75; Westchester Co. Local Law Intro 14-2005, *supra*, note 8.
13. *See e.g.* Family and Medical Leave Act, 29 USC § 2601 et seq. (2003); Penal Law § 215.14 (2003).
14. 42 USC § 12101 et seq. (2003); Executive Law, art 15.
15. *See e.g.* 29 USC § 651 et seq. (2003).
16. NYC Local Law 75, *supra*, note 8.
17. *The Council Report of the Governmental Affairs Division, Marcel Van Ooyen, Deputy Chief of Staff, Committee on General Welfare, Bill DeBlasio, Chair, Report on Int. No. 107-A, Oct. 16, 2003*, <http://webdocs.nyccouncil.info/attachments/59086.htm> (stating reasonable accommodations provision would require employers to allow victims “to take leave from work to seek legal assistance, counseling, or assistance in developing a safety plan [and that] [o]ther reasonable accommodations could include . . . re-assigning seating so that a victim need not sit near an entrance, changing a victim’s telephone number, removing his or her name from the company’s phone directory, or adjusting starting and leaving times.”). *See also Reynolds v Fraser*, 5 Misc 3d 758, 781 (NY Sup Ct 2004) (finding failure to accommodate employee’s lack of a permanent address violates law).
18. NYC Local Law 75 §§ 3 & 4, to be codified at Administrative Code of City of NY § 8-102(18) & § 8-107.1(3)(a)
19. NYC Local Law 75 § 4, to be codified at Administrative Code of City of NY § 8-107.1(3)(b).
20. *Id.*
21. Westchester Co. Local Law Intro 14-2005.
22. NYC Local Law 75 and Westchester Co. Local Law Intro 14-2005, *supra*, note 8.
23. Penal Law § 215.14 (2003); *see also Buchwalter v Dayton Management Corp.*, 129 Misc 2d 297, 900 (Sup Ct NY Co, 1988) (recognizing private cause of action under § 215, 14).

24. 29 USC § 2601 *et seq.* (2003); *see also* 29 CFR Part 825 (2003). In *Gregg v Anchorage*, 101 P 3d 181 (Almser 2004), the Supreme Court of Alaska ruled failure to provide a domestic violence victim with time off to address stress from the situation violates the FMLA.
25. 42 USC § 12101 *et seq.* (2003).
26. Executive Law, art 15.
27. 42 USC § 12102(2).
28. Executive Law § 292 (21) (2003) (covering impairments “which prevent[] the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques”).
29. *See e.g. Reeves v Johnson Controls World Servs.*, 140 F3d 144, 154-56 (2d Cir 1998) (finding that panic disorder that was not a qualifying disability under the ADA because the alleged restriction of everyday mobility was not a major life activity was nonetheless a disability under the state Human Rights Law because it was a medically diagnosed mental impairment).
30. Labor Law § 593(1)(a) (2003); *In re Loney*, 287 AD2d 846 (3d Dept 2001).
31. *See Matter of Christina Ramirez-Huie*, ALJ Case No. 001-08794 (Unempl. Ins. App. Bd., July 20, 2001) (employee who was fired for missing work for circumstances relating to domestic violence, including for medical treatment and child custody disputes, did not commit “misconduct” and hence is eligible for unemployment benefits).
32. Labor Law § 591(2) (2003).
33. NYC Local Law 75.
34. 42 USC § 2000e *et seq.* (2003).
35. Executive Law, art 15.
36. *See generally McDonnell Douglas Corp. v Green*, 411 US 792 (1972).
37. *See e.g. Valdez v Truss Components Inc.*, No. CV98-1310 (US Dist Ct, OR, filed Oct. 23, 1998); *Valdez*, 1999 US Dist LEXIS 22957 (US Dist Ct, OR, Aug. 19, 1999).
38. *See e.g. Dothard v Rawlinson*, 433 US 321 (1977); *Griggs v Duke Power Co.*, 401 US 424 (1971).
39. *See Bonley v Young-Sabourin*, 394 F Supp 2d 675 (Dist Ct 2005) (finding termination of lease because tenant was a victim of domestic violence could state sex discrimination claim); Secretary, US Dept. of Hous. & Urban Dev.,

No. HUDALJ 10-99-0538-8 (HUD Ore. Apr. 16, 2001) (HUD charge of discrimination in *United States ex rel. Alvera v C.B.M. Group, Inc.* finding that eviction of woman because she was a victim of domestic violence violated Fair Housing Act), <http://www.legalmomentum.org/issues/vio/Alvera%20Charge%20of%20Discrim.pdf>; *Winsor v Regency Prop. Mgmt, Inc.*, No. 94 CV 2349 (Wisc. Cir Ct, Oct. 2, 1995) (holding that Wisconsin Fair Housing Law, modeled after federal Fair Housing Act, prohibits housing discrimination against domestic violence victims); *O'Neil v Karahlais*, 13 MDLR 2004 (Mass. Comm'n Against Discrim. Oct. 21, 1991) (same with respect to Massachusetts law); Formal Op. No. 8F-F15, 1985 Op Atty Gen NY 45 (Nov. 22, 1985) (Attorney General's opinion that sex discrimination provisions of New York State Human Rights Law prohibit denial of rentals to persons based on their status as domestic violence victims).

40. See e.g. *Excel Corp. v Bosley*, 165 F3d 365 (8th Cir 1999); *Fuller v City of Oakland*, 47 F3d 1523 (9th Cir 1995).
41. *Acedevo v Consolidated Edison Co.*, 189 AD2d 497, 501 (1st Dept 1993).
42. See e.g. *Peterson v RTM Mid-America*, 209 Ga App 691, 693 (Ga Ct App 1993); *Devault v Gen. Motors Corp.*, 386 NW2d 671 (Mich. App. 1986); *Morris v Soloway*, 428 NW2d 43 (Mich App 1988).
43. *Prignoli v City of New York*, 1996 US Dist LEXIS 8498 (SDNY 1996).
44. *Crapp v Elberta Crate & Box Co.*, 479 SE2d 101, 102-03 (Ga Ct App 1996). See also, e.g., *Haddock v City of New York*, 75 NY2d 478 (1990) (affirming negligent retention holding in case brought by individual raped by a city employee where city failed to follow its procedures regarding conducting criminal background checks and thus was unaware that employee had previously been convicted of several crimes); *Duffy v City of Oceanside*, 224 Cal Rptr 879, 884-85 (Cal Ct App 1986) (reversing summary judgment holding for defendant on negligent failure to warn and respond claim where employer failed to inform plaintiff of co-worker's prior convictions for rape and sexual assault even after plaintiff complained that co-worker had sexually harassed her).
45. 29 USC §§ 651 *et seq.* (2003).
46. 29 CFR § 1904.5 (2002).