

State Employment Protection Statutes for Victims of Domestic Violence as an Employment Matter

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Preferred citation

Swanberg, Jennifer E and Mamta U Ojha. (2010). State Employment Protection Statutes for Victims of Domestic Violence as an Employment Matter. *University of Kentucky Center for Poverty Research Discussion Paper Series, DP2010-11*. Retrieved [Date] from <http://www.ukcpr.org/Publications/DP2010-11.pdf>.

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State Employment Protection Statutes for Victims of Domestic Violence:
Policy's Response to Domestic Violence as an Employment Matter

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WORKING PAPER

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This project was supported with a grant from the UK Center for Poverty Research
through the U.S. Department of Health and Human Services, Office of the Assistant Secretary
for Planning and Evaluation, grant number 2 U01 PE000002-06. The opinions and conclusions
expressed herein are solely those of the author(s) and should not be construed as representing the

opinions or policy of the UKCPR or any agency of the Federal government.

Abstract

Evidence indicates that domestic violence has negative consequences on victims' employment; yet employers lag in recognizing this as a workplace issue. To address the problem, some states have established several policy solutions. To understand the scope of the public sector's response to domestic violence as a workplace issue, a content analysis of state-level employment protection policies for domestic violence victims (N=369) was conducted. Results indicate three broad policy categories: 1) policies that offer work leave for victims; 2) policies that aim to reduce employment discrimination of domestic violence victims; and 3) policies that aim to increase awareness and safety in the workplace. Sub-categories emerged within each of these three categories. Implementation of employment protection policies varies significantly across states. Implications for workplaces, practitioners and policy leaders are discussed.

Keywords: domestic violence, employment, law, economic security

State Employment Protection Statutes for Victims of Domestic Violence:
Policy's Response to Domestic Violence as an Employment Matter

Walking alone to her car, Cindy Bischof, an accomplished commercial real estate agent, was shot and fatally wounded in the parking lot of her workplace by her once-charming ex-boyfriend of five years (Morris, 2008). This case, reported in the November 2008 issue of *Fortune Magazine*, illuminates a serious social issue that has long been absent from board room, human resources, and supervisor discussions—domestic violence as a workplace concern. In Cindy's case, her co-workers were acutely aware of her situation. As noted in the *Fortune Magazine* article, her colleagues had helped her repair \$70,000 worth of damages inflicted by her ex-boyfriend; and the head of the real estate agency's construction unit had installed a hidden, infrared camera to monitor her back porch at night. After the camera captured the ex-boyfriend making a noose, the agency's president arranged to have Cindy moved 30 miles away so that the ex-boyfriend could not find her. To further protect Cindy, her boss hired security guards for the office holiday party. Some evenings her co-workers would walk her out to her car. Despite the company's best collective effort, her ex-boyfriend was determined to harm her (Morris, 2008).

Unlike many employers in the United States, Cindy's employer voluntarily provided resources to provide her safety; likewise, co-workers extended their assistance. To prevent more cases similar to Cindy's, domestic violence advocates have been encouraging employers to recognize that domestic violence is an employer concern and to implement strategies to prevent or minimize the effect of domestic violence when it spills into the workplace. As an example, Jackson and Garvin (2003) include employers as one of the eight key community members in their Coordinated Community Action Model, a model developed to demonstrate how people can work collectively to support domestic violence victims and their extended families. They argue

that employers can play a role in minimizing the negative consequences of domestic violence by doing such things as “holding women’s jobs for them even though being stalked or being less productive; preventing punitive action against employed victims of domestic violence and training supervisors about domestic violence as a workplace issue” (p. 4).

Domestic Violence and the Workplace

Although 21% of full-time employed adults reported being victims of domestic violence (Corporate Alliance, 2007), domestic violence accounts for only five percent of all annual reported workplace violence incidents (BLS, 2006). Given these such statistics, Widiss (2008) argues that a purely market-based impetus for employers to support their employees with issues related to domestic violence is insufficient. She asserts that although it has been well-documented that domestic violence traverses the workplace, businesses have been slow to act (Duffy, Scott, & O’Leary-Kelly, 2005; Swanberg, Logan, & Macke, 2005). The Bureau of Labor Statistics (2005) reports that about 15% of employers surveyed have a workplace violence policy that specifically focuses on domestic violence as a form of workplace violence, and 4% of employers offer training on domestic violence-related policies.

Reeves and O’Leary-Kelly (2007) argue that unless employers understand the “bottom-line” implications of domestic violence, they will continue to ignore it or minimize it as a workplace concern. As such, several studies published over the past decade have garnered significant evidence to suggest that domestic violence has serious implications for employers and employees (Corporate Alliance, 2007; Lloyd, 1997; Lloyd & Taluc, 1999; Reeves & O’Leary-Kelly, 2007; Swanberg et al., 2005; Swanberg & Macke, 2006). For instance, studies have indicated that abusers use a range of tactics that can disrupt an employed victim’s ability to get to work, perform on the job, as well as disrupt victim’s co-workers or customers (see Swanberg et

al., 2005). Such tactics can lead to increased absenteeism, tardiness, reduced productivity, work distraction, and job loss (Corporate Alliance, 2007; Lloyd, 1997; Lloyd & Taluc, 1999; Reeves & O'Leary-Kelly, 2007; Swanberg et al., 2005).

The subsequent costs of domestic violence to employers and employees are significant. The National Center for Injury Prevention and Control (2003) estimates that domestic violence victims lose nearly 8 million days of paid work per year, costing employers nearly \$728 million. Moreover, domestic violence has been shown to increase employers' administrative, insurance, and medical costs (Reeves & O'Leary-Kelly, 2007; Swanberg et al., 2005; Swanberg & Macke, 2006).

Despite the associated costs of domestic violence to employed victims, their co-workers, and the organizations for which victims work, senior leadership is reticent to consider domestic violence a workplace issue. In a recent, national, representative survey of 200 CEOs, the majority of executives agreed that domestic violence was a serious social concern and 55% agreed that it can have a negative effect on employee productivity; however, only 13% of CEOs considered domestic violence a matter that their companies should address (Corporate Alliance, 2007).

Regardless of the growing evidence that domestic violence costs employers millions of dollars each year, there is not yet widespread acceptance among the employer community that domestic violence is an organizational issue requiring action. Even with an accurate cost-benefit analysis, there are reforms that the public sector may be able make that go beyond the employers' sphere of influence (Widiss, 2008). State and federal policies may be necessary to ensure adequate protections for current and future victims of domestic violence. To better understand the scope of the public sector's response to domestic violence as a workplace matter,

this study conducts a systematic examination of public employment protections for victims of domestic violence.

Public Policy Employment Protections for Domestic Violence Victims

The federal Violence Against Women Act (VAWA) has been instrumental in raising public awareness about the ill effects of domestic violence and providing resources to advocates, victims, prosecutors, and businesses (Karin & Shapiro, 2009; Roe, 2004). Despite VAWA's success, at present there is no federal statute that specifically protects employees from adverse employer actions based on their victimization or provides time off from work to address matters related to victimization without fear of retaliation or job loss (Karin & Shapiro, 2009). Instead, federal statutes have provided the "basis for cases that seek to obtain benefits for victims or otherwise hold an employer accountable for employment actions taken in response to violence" (Karin & Shapiro, 2009, para. 27). Statutes such as the Occupational Safety and Health Act (OSHA), the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 have been used to protect the rights of domestic violence victims (Karin & Shapiro, 2009). For instance, OSHA requires all private employers to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees" (2004, sec. 5a). If an employer fails to respond to a credible threat to an employee's safety, then they could be in violation of this federal statute (Karin & Shapiro, 2009).¹

Most of the activity surrounding employment protections for domestic violence victims has occurred at the state level. Many states have passed policies that provide employment-related protections to employees by providing access to time off, unemployment compensation, and

¹ See Karin and Shapiro (2009) for detailed information pertaining to the aforementioned three federal statutes that have been used to protect employed domestic violence victims.

protection against discrimination (Legal Momentum, 2009; Trent & Margulies, 2007). For instance, the state of Maine has three laws that provide specific employment protections for victims of domestic violence. One law stipulates that employers must provide reasonable and necessary leave from work if an employee or an employee's family member is a victim of domestic violence, sexual assault, or stalking (Ridley et al., 2005). In 2003, Illinois passed a law prohibiting discrimination against victims of domestic or sexual violence, and requiring employers to give employees who were the victims, or whose family members were victims, 12 weeks of unpaid leave (Victims' Economic Security and Safety Act, 2003).

Although some information about domestic violence employment protection laws is available online, in published reports (Legal Momentum, 2009; Trent & Margulies, 2007), and highlighted in peer-reviewed articles (Ridley et al., 2005; Widiss, 2008), to date, there has not been a systematic and comprehensive examination of state policies that protect domestic violence victims from employer actions or inaction. To determine the effectiveness of employment protection policies in shielding working victims of domestic violence, we must first systematically identify state legislation established to address this problem, and determine the prevalence of such policies.

To this end, this paper has two primary goals: 1) to identify and categorize state-level employment protection available to victims of domestic violence; and 2) to determine the prevalence of states that have passed legislation or adopted administrative regulations within each of the specified categories.

Method

Procedures

State statutes which protect the employment rights of domestic violence victims in 50 states were collected between May 2007 and December 2009 using three primary strategies: keyword searches using LexisNexis, an online, legal database that contains full-text statutes and policies; personal communication with state domestic violence agencies; and targeted website searches. LexisNexis was used to identify the state statutes pertaining to employment protections for victims of domestic violence. Keyword searches were conducted using “domestic violence and employer” and “domestic violence and employment.” A total of 763 pieces of legislation were identified. The research team culled through all of these identified statutes; statutes that did not directly relate to employment protections for victims of domestic violence, or duplicates of the same legislation were excluded. The overall process resulted in a total of 327 statutes.

To cross reference and augment information collected from LexisNexis, individual state domestic violence agencies were contacted via phone or email by a member of the research team to request copies of state statutes or regulations pertinent to employment protection supports for domestic violence victims. If legislative information was available on the agency website, an agency staff was contacted to confirm whether the identified statutes were the most current.

The third strategy used for systematically identifying state policies developed to protect the employment rights of domestic violence victims was to search state websites. This strategy was essential to identifying administrative regulations and state plans established by states pertaining to the Family Violence Option (FVO). After much deliberation, the research team opted to gather information about FVOs available under Temporary Assistance to Needy Families (TANF) to give states the ability to waive work requirements and provide services to

victims of domestic violence who need public assistance. The research team determined that inclusion of information about the FVO fits within the goal of this study because it is a work-related policy designed to assist victims of domestic violence. To gather the information about FVO-related administrative regulations and state plans, researchers used keyword searches using engines available on individual state websites and Google. Keywords used included “family violence option” and “domestic violence waiver.” Forty-two administrative regulations and state plans were identified using this method. This is the only policy category for which the research team searched administrative regulations in addition to statutes.

The research team then cross-referenced statutes identified using the three data collection strategies and removed duplicates. Additionally, the “final list” of state employment protection statutes and administrative regulations was cross referenced with Legal Momentum’s (2009) briefs and other similar reports (Trent & Margulies, 2007; Widiss, 2008) to ensure consistency and to ensure that the research team did not overlook any statutes. This exhaustive and iterative process resulted in the identification of 327 statutes and 42 administrative regulations and state plans.

Data Analysis

A non-computerized content analysis of each of the statutes and administrative regulations was conducted by three independent coders. The first level of analysis and coding to categorize statutes and regulations into general themes resulted in an 85% agreement between two coders, and less for the third coder. Two coders identified four broad categories of employment protection supports, while the third coder identified three categories. In the end, 100% agreement was achieved between the three coders after discussion and reexamination of the statutes and regulations, resulting in the identification of three broad categories of policies

that aim to protect the employment rights of domestic violence victims. Delineation of sub-categories within each of the three broad categories initially had 95% agreement between the three coders, which increased to 100% after the coders discussed the discrepancies.

After the data were analyzed and categorized, summary information about each statute or regulation was entered into a database that was organized by the three broad categories, sub-categories, and by state. The research team used this database to determine the themes within policy sub-categories and the prevalence of these various types of employment protections.

Findings

Categories of Employment Protection Policies

The first goal of this study is to identify and categorize state-level employment protection available to victims of domestic violence. The analysis identified 369 state statutes, plans, and administrative regulations, which are divided into three broad categories of policies: 1) policies that offer work leave for victims; 2) policies that aim to reduce employment discrimination of domestic violence victims; and 3) policies developed to increase awareness and safety in the workplace.

The first category of policies, *work leave* policies, gives employees the right to request time off from work to attend to personal, family, or legal matters that are directly related to domestic violence without fear of penalty. The second category of policies, *anti-discrimination employment* policies, protects domestic violence victims against forms of job-related, discriminatory behaviors. The third category of employment protection policies, *workplace awareness and safety*, requires employers to educate employees and/or supervisors about domestic violence victims' rights or work issues relevant to domestic violence, and provide some

means of safety to employees. Each of these three categories is comprised of two or three distinct policy sub-categories.

Table 1
Categories of Employment Protection Policies

Work Leave Polices	Anti-Discrimination Employment Policies	Workplace Awareness and Safety Policies
Leave from work related to domestic violence or sexual harassment	Protect against discrimination or retaliation	Employee awareness strategies
Leave from work in response to a subpoena or appear in court	Ensure right to unemployment benefits and wages	Workplace restraining orders
Waiver of TANF work requirement	Intercession services	

As noted in Table 1, each of these broad policy categories is further delineated into distinct sub-categories. Three themes emerge within the work leave category: (a) policies allowing leave from work for reasons of domestic violence or sexual harassment; (b) policies allowing leave from work in response to a subpoena or to attend a hearing (crime victim legislation); (c) regulations or policies that provide a waiver from the TANF work requirement.

Similarly, policies within the anti-discrimination employment category are grouped into three sub-categories: (a) policies that offer protections against victim discrimination or retaliation on the job; (b) policies that aim to insure the right to receive unemployment insurance benefits and wages; and (c) policies that establish employer intercession services. Finally, policies within the workplace awareness and safety category are grouped into two subgroups: (a) policies that aim to increase employee awareness of domestic violence, and (b) policies that allow employers to obtain restraining orders to prevent employee victims' domestic violence perpetrators from entering workplace premises.

Prevalence of Employment Protection Policies by State

The second aim of this study is to determine the prevalence of policies or administrative regulations within each of the said categories by state. The following sections identify the number of states that have adopted policies within each of the categories, describe the parameters of the policies, and provide descriptive examples of specific state policies or regulations.

Work leave policies.² In general, state policies categorized as *work leave policies* specify that employees have the right to request time off from work to attend to personal, family, or legal matters that are directly related to domestic violence without fear of penalty. Within this category of work leave policies, statutes can be further classified into three distinct areas: (a) policies that allow for work leave for matters salient to domestic violence or sexual harassment; (b) policies that allow for work leave to appear in court; and (c) policies that allow for waivers to their state's Temporary Assistance for Needy Families (TANF) work requirement and time limits. As indicated in Table 2, 10 states require employers to provide leave for work for matters related to confirmed occurrence of domestic violence or sexual assault; 37 states require employers to provide employees with leave to appear in court; and 48 states have established waivers to excuse TANF recipients from work requirement due to matters related to domestic violence. Overall, 11 states have established at least one work leave policy; 29 states have two types of work leave policies, and seven states have enacted legislation in all three areas.

² As noted earlier, under the Family Medical Leave Act, certain circumstances pertaining to domestic violence may fit the eligibility criteria for tapping into the 12-week unpaid leave. For the purpose of this paper, the focus is on state policies specifically enacted to provide work leave as a way to protect victims of domestic violence.

Table 2

Number of States that have Work Leave Policies

Type of Work Leave Policy	Number of States
Leave from work related to domestic violence/sexual assault	10
Leave from work in response to subpoena or appear in court	37
Waiver to TANF required work requirement	48

Work leave related to domestic violence/sexual harassment. Ten states have enacted legislation that permits victims of domestic violence or their family members to request leave from work to seek medical care or other types of services needed due to matters related to domestic violence. While the specifications of the policies within the work leave category vary significantly across the 10 states, in general, the legislations provide guidelines for employee eligibility, duration of leave time, employee pay during leave, requirement of advance notification of leave, size of employer that is covered by legislation, requirement that the employer maintain confidentiality of the employee, and stipulation that employer not discriminate, penalize, or discharge employee for requesting leave.

Florida's legislation, as an example, requires employers who employ 50 or more employees to give domestic violence victims who have been employed three or more months the right to request up to three days of work leave with or without pay in any 12 month period to protect themselves or to seek service (Unlawful Action against Employees, 2007). The policy stipulates that unless waived by the employer, the employee is required to use vacation, personal, or sick leave. Information regarding the leave is to be kept confidential by the employer.

Illinois's work leave legislation (Victims' Economic Security and Safety Act, 2003) appears to be more comprehensive than the other nine states in that it extends unpaid leave to employees

who are domestic violence victims and employees whose family or household members are victims of domestic violence; allows up to 12 work weeks of leave during any 12 month period to seek medical treatment or other services to address issues related to domestic violence without discrimination or penalty from employer, and requires maintenance of health benefits during leave period. Illinois law does require employees to give 48 hours advance notice of leave, except in case of imminent danger.

Oregon's legislation is unique in that it is inclusive of small employers; employers with six or more employees are required to allow an employee who is a victim of domestic violence or who is a parent of a dependent who is a victim to take "reasonable" leave from employment to address medical issues or obtain domestic violence-related services (Unlawful Discrimination in Employment, 2009). To be eligible for coverage by this state legislation, the employed victim must work for the employer 25 hours or more for at least 180 days immediately before the requested leave. Similar to Illinois, Oregon stipulates that employers may require employees to use accrued paid leave days. Oregon's legislation clearly stipulates that employers are not required to grant leave with pay.

Work leave to appear in court. Thirty-seven states, as indicated in Table 2, have enacted legislation that requires employers to allow an employee who is a victim of a crime leave to attend court for circumstances such as responding to a subpoena, serving as a witness, or responding to the request of a prosecutor.³ Overall, states stipulate that victims have the right to attend any court proceeding that is related to the crime without the fear of penalty by the employer. States' specifications vary. While some expand the legislation to include protections for victims' family members, others require proof of court date; stipulate that employers are not

³ See Table 5 for a complete list of the 37 states that have policies that provide domestic violence victims leave to appear in court.

obligated to provide paid leave; mandate that employees take sick, personal, and vacation leave for time out of work to attend court; or specify the size of employers that are covered by this legislation. Some states have exceptions if granting leave creates a hardship for the employer.

Connecticut's Employment Protection for Witnesses and Victims of Crime (2002) is an example of standard legislation that protects victims' employment when court appearances are necessary. The Connecticut statute stipulates that "employees are not to be deprived of employment, penalized or threatened because the employee had to take time from work to appear in court as a result of a subpoena or as a witness or had to participate in a police investigation" (Employment Protection, 2002, sec. 54-85b). The legislation includes penalties for employer non-compliance. In contrast to Connecticut, Minnesota's Prohibition against Employer Retaliation Statute (2009) provides greater detail for what is expected of employees and employers. The legislation requires that employers must allow victims, or a victim's immediate family member, "reasonable" time off to attend criminal proceedings without discrimination, penalty, or threat. Minnesota also specifies that employees are required to show evidence and provide 48 hours advance notice regarding the need for leave. Minnesota specifically requires employers to maintain employees' confidentiality under all circumstances. New Hampshire's Crime Victim Employment Leave Act (2005) is very similar to Minnesota policy, with the exception that it specifies that employees may elect, or employers may require that employees use accrued vacation, personal, or sick time to attend court proceedings. Moreover, New Hampshire's legislation requires that employees provide employers with the documentation provided by the court to the domestic violence victim on such matters as schedules of hearings, conferences, or meetings.

Implementation of Family Violence Option. The third type of work leave policy specifically targets individuals who receive federal assistance through the Temporary Assistance for Needy Families (TANF) program. In 1996, under Title I of the Personal Responsibility and Work Opportunity Reconciliation Act, the TANF program replaced the former Aid to Families with Dependent Children (AFDC) program. Under this revised legislation, states are given discretion to develop and implement their own welfare programs within defined guidelines. There are several significant differences between TANF and the previous AFDC. Under the newer legislation, public assistance is time-limited; recipients are required to work or be involved in some type of work-related activity; and recipients are expected to become self-sufficient (Temporary Assistance, 2008).

One of the federal options allowed under TANF is the Family Violence Option (FVO), developed to give states the ability to waive work requirements and provide services to victims of domestic violence who require public aid (Family Violence Option, 1996). Adoption of the FVO is optional; states are given flexibility to design programs to best fit their needs, and there is significant variation in state FVO plans. In general, states may waive designated time limits, child support enforcement, or work activity.

Overall, 48 out of 50 states have adopted the Family Violence Option either through passage of state statutes, establishment of administrative regulations, or development of TANF plans. An equal number of states have exemptions to the work requirement. At this time, Oklahoma and Virginia are the only two states that have not used the Family Violence Option to waive the work requirement for TANF recipients for reasons related to family violence. States that have implemented the FVO to waive work requirements for domestic violence victims receiving assistance vary in the length of time of the work waiver, determination and verification of

domestic violence, frequency of reverification of participants' family situation to receive work waiver, and recipient requirements to comply with other self-sufficiency activities.

As an example, Kentucky requires victimized TANF recipients who receive work waivers to establish an alternative self-sufficiency plan; redetermination of work waiver is required every six months; and extension of the five year welfare assistance limit is determined on case-by-case basis (Technical Requirements, 2009). Maryland, one of the first states to require a Family Violence Option, "incorporates a collection of federal and state laws, regulations and procedures that require local welfare offices to screen TANF applicants for domestic violence, provide necessary exemptions and link them to local domestic violence services" (Angelari, 1999, p. 4). Their administrative plan "waives the work requirement pursuant to domestic violence as a good cause if it is believed that compliance would make it difficult for the family to escape violence" (Czapanskiy, 2003, p. 449). TANF recipients who are victims of domestic violence in Maryland are required to participate in counseling and supportive services, and they must participate in at least one session with a domestic violence expert to receive the family violence option. In Washington, the state statute requires that the TANF program, "Workfirst," must waive work requirements in cases where work may make it more difficult for the individual and her family to escape violence or would place her at further risk of domestic violence (Family Violence Amendment, 2004). The statute further stipulates that specialized work activities for domestic violence victims must be established if standard work activities would put the victim at further risk to violence.⁴

Anti-Discrimination employment policies. Policies developed to protect domestic violence victims against forms of job-related discriminatory behaviors can be grouped into three

⁴ See Legal Momentum (2009) for a detailed description of most of the states that have work waivers.

broad categories: (a) laws that prohibit employers from discriminating against, threatening, or penalizing a victim of domestic violence because they request time off for reasons related to the domestic violence; (b) laws that attempt to ensure rights to unemployment benefits and wages; and (c) laws that provide victims with the opportunity to receive intersession services. Forty-nine states have passed at least one piece of legislation that is categorized as a policy that protects against work-related discrimination. Fifteen states have one established policy aimed to protect domestic violence victims from job-related discrimination; 24 states have two anti-discrimination employment policies; and 10 states have established policies in all three anti-discrimination employment categories.

Table 3

Number of States that have Policies that Protect Against Employment Discrimination

Type of Anti-Discrimination Employment Policy	Number of States
Protect against discrimination or retaliation	40
Ensure right to unemployment benefits and wages	30
Employee requests for intercessions services for employer	23

Prohibiting employment discrimination. Forty states have policies that prohibit employers from discriminating against victims of domestic violence if they leave work or request to leave work to appear in court, seek services, or attend to other matters related to domestic violence, or, in many states, sexual assault (see Table 3). Domestic violence victims are protected under general crime victim protection legislation in 36 of these states, and under specific domestic violence victim crime legislation in four states (California, Connecticut, Illinois, and Kansas).

The 36 states with legislation aimed to protect general crime victims (which includes reported and substantiated domestic violence) have passed laws that prohibit an employer from penalizing or threatening to penalize a victim because she/he is subpoenaed to provide testimony in court, takes time off of work, or requests leave from work. Penalizing generally means to take action that affects employment status, promotion, wage, and benefits including demotion, suspension, dismissal, or loss of pay or benefits. Policies that aim to protect general crime victims from employment discrimination also contain provisions that prohibit employers from refusing to hire, terminating, or disciplining an employee because the individual is a victim of domestic violence. Twenty of the 36 statutes specify that state action will occur if the employer violates the statute, or that an employee may file a grievance if she or he feels an employer has violated the law.

Minnesota's Domestic Abuse Act (2009) is one of the most comprehensive policies that aim to protect crime victims, including domestic violence victims, from employment discrimination. The law specifies that, "an employer shall not terminate, discipline, threaten or otherwise discriminate against or punish an employee regarding an employee's compensation, terms of contract, conditions of employment because the employee took reasonable time off from work to obtain or attempt to obtain relief" (p. 19). An employer who violates this is guilty of a misdemeanor, must pay back wages, and must offer job reinstatement to any employee discharged from employment in violation of this statute. Additionally, the terminated employee may bring a civil suit against the employer.

Domestic violence victims are covered in four other states (California, Connecticut, Illinois, and Kansas) by legislation that specifically prohibits employers from discriminating or terminating an employee who is a victim of domestic violence. These statutes aim to prevent bias

due to employees' status as a victim for such matters as taking time off work to seek a restraining order, attend court proceedings, ensure physical safety, seek medical treatment, or protect the welfare of a child or family member. Each of these four states penalize employers if found to be in non-compliance of the law. Connecticut's Employment Protection for Witnesses and Victims of Crime (2002) stipulates that an employer guilty of criminal intent for non-compliance will be penalized up to \$500, imprisoned up to 30 days, or both. Employees must file complaints against non-compliant employers within 90 days of occurrence of a violation. In Kansas, non-compliant employers can be found guilty of a misdemeanor and can be subject to a lawsuit from the employee to cover lost wages (Employment Security Law, 2003).

Unemployment benefits qualifications. The second category of policies that protect against employment discrimination seek to ensure domestic violence victim's rights to receive unemployment insurance if an individual leaves a job involuntarily due to circumstances directly resulting from an individual's experience with domestic violence, or is asked to leave because of poor performance resulting from the violence or violence traversing the workplace. In most states, workers are ineligible to receive unemployment insurance without "good cause" or if they are terminated from their position due to poor performance or bad behavior (Legal Momentum, 2009). Currently, 30 states have passed laws that specifically provide unemployment insurance to domestic violence victims in certain circumstances (see Table 3). Eligibility criteria varies from state-to-state, as do many of the other parameters such as whether the law requires the individual to be fully separated from the perpetrator, whether the employer is charged for the unemployment benefits, and whether the law explicitly defines good cause for voluntary leaving work. Nonetheless, in most cases, individuals are required to meet other unemployment insurance eligibility requirements, provide documentation or certification of the abuse from a

professional (e.g. medical professional, law enforcement officer), and file for benefits within a specified period of time.

The Delaware Unemployment Compensation (2009) statute is an example of a state legislation aimed to protect victims of domestic violence from being further victimized by being classified as ineligible for unemployment insurance due to circumstances directly resulting from their experience of domestic violence. Delaware's policy broadly defines "circumstances resulting from experiences of domestic violence" as: reasonable fear of future domestic violence at or en route to or from their job, need to relocate to another geographical area to escape future domestic violence, or another other situation in which domestic violence causes the individual to believe that leaving work is necessary for their future safety and the future safety of their children or other family members.

Vermont's legislation, Domestic and Sexual Violence Survivors' Transition (2005) takes a slightly different approach to supporting domestic violence victims who must leave their job. Their transitional employment program for domestic violence victims is a temporary, partial wage replacement program for individuals who must leave employment without good cause attributed to the employer, because of circumstances directly resulting from domestic violence, sexual assault, or stalking. To qualify for this program, the employee must leave work for one of the following reasons: reasonable fear of domestic or sexual violence at or en route to workplace; need to relocate in order to avoid future violence; belief that leaving the job is essential for their safety or that of a family member. The program provides up to 26 weekly payments.

Employer intersession services. Policies within this category have been enacted to provide intersession services to employed crime victims as a way to minimize loss of employment, pay, or benefits resulting from a court appearance. Employment intersession

services provide crime victims with the right to receive assistance from trained legal, law, or judicial personnel who assist the employee in encouraging the employer to cooperate with the criminal justice system. A court official serves as a liaison between the victim and employer.

Twenty-three states have statutes that give employed crime victims the opportunity to request an official to serve as a liaison with the victim's employer. Though details of each policy vary widely, the overall intention is the same—to minimize economic hardship. Most of the laws stipulate that the employer intersession services must be requested by the employee and the employee has a say in how to approach the employer, while some laws mandate that court officials also serve as an intermediary with employee's creditors. As an example, Florida's "guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems" requires that the victim or witness who requests services will be assisted in informing his or her employer that the need for victim cooperation may require the victim to be absent from work (2007). The policy also stipulates that a victim experiencing serious financial strain shall be assisted by state officials in explaining to creditors of the reason for such financial duress. Nevada's Protection of Victims and Witnesses (1983) is somewhat different from many of the other laws that establish the parameters for employer intersession services. Rather than being available upon request to an employed crime victim or witness of crime, court, law, or judicial officials are not available to intervene on behalf of the employee unless the employee perceives that his or her involvement is causing him or her to be "harassed, intimidated or subjected to conflicting requirements" (Protection of Victims and Witnesses, 1983).

Workplace awareness and safety policies.

Workplace awareness. Three states have implemented policies that require employers to educate employees about domestic violence rights relevant to state statute provisions or to

educate and train supervisors about work issues relevant to domestic violence. These states are New York, Illinois, and Oklahoma. Employer size is a criterion for inclusion in only one state, Illinois. Under Illinois's Victims' Economic Security and Safety Act (2003) employers with 50 or more employees must post the state provisions for victims of domestic violence in the workplace. Oklahoma's Employment Security Act (2009) covers any "employing unit," and does not appear to have a size requirement. New York's approach to informing employees about employment protection supports for victims of domestic violence does not appear, at this time, to use employer size as criteria for inclusion coverage (New York, 2007).

Table 4

Number of States that have Workplace Awareness and Safety Policies

Type of Awareness and Safety Policy	Number of States
Employee education and awareness	3
Workplace restraining order	10

Illinois and Oklahoma law require employers to post a notice in their workplace summarizing the requirements of their respective state employment protection policies for domestic violence. New York has a different approach to requiring employers to educate their employees about domestic violence work protection laws. Legislation in New York established an Office for Prevention of Domestic Violence to advise the governor and the legislature on the most effective ways for state government to respond to domestic violence, including domestic violence at work (New York, 2007). This act mandates that the "office will convene a task force to develop a model domestic violence employee awareness and assistance policy for businesses" (New York, 2007). In doing so it sets out to provide employers with the best practices, policies and procedures in order that organizations recognize domestic violence as a business issue, assist

employees, and provide a safe working environment. The act also stipulates that said policies will be posted in areas of the workplace that are readily available to a broad and diverse employee population.

Workplace restraining orders. Ten states have laws permitting employers to apply for restraining orders (temporary restraining orders, injunctions, or civic protection orders) to prevent violence, threats of violence, harassment, or stalking of their employees. The restraining orders cover employees while they are at the worksite or anywhere where work is performed. In nine of the ten states, except for Colorado, an employer seeking protection for an employee must demonstrate that the employee has experienced violence, or a credible threat of violence. Whereas in Colorado, the employer must prove that imminent danger exists to the employee for a restraining order to be granted (Rights Afforded to Victims, 2003). Specifically, Colorado law also stipulates that, “an employer will not be held liable for failing to obtain a protection order on behalf of the business for the protection of employees or customers” (2003, 13-14-102-4b).

In three of the 10 states—Arizona, California, and Colorado—employees other than the targeted employee, are protected by the restraining order or injunction. North Carolina appears to be the only state to require that the employer consult with the employee who is the target of the violence, prior to seeking such an order, to verify whether the employee’s safety would be further jeopardized by the action (Civil No-Contact Orders, 2004).

Discussion

Domestic violence is a widespread social problem requiring action by multiple stakeholders. Yet, the lack of accurate information about it or the stigma associated with it may prevent public and private actors from recognizing their role in the fight against domestic violence and its radiating effects. As men and women become more equally represented in the

U.S. labor force (46.5% women in 2008; U.S. Department of Labor, 2008), it is logical that domestic violence has begun to garner attention as workplace problem. However, there is a significant lag in the level of responsibility that workplaces perceive they have in addressing this issue. Corporate Alliance to End Partner Violence's study findings clearly illustrate this-- only 13% of senior corporate executives consider domestic violence as matter that their companies should address (Corporate Alliance, 2007).

One strategy for encouraging accountability among employers for protecting the employment rights of domestic violence victims is to establish federal or state policies that address the matter. As mentioned earlier, there is currently no federal legislation that protects the employment of domestic violence victims. Thus, the burden of protection has fallen to state policy makers. In fact, inaction by employers and federal policy makers may be, in part, the reason for the growing attention on this social problem among state policy makers. The overall purpose of this study is to identify and systematically analyze state policies aimed to protect domestic violence victims from being penalized or discriminated against at work and to determine policy prevalence among states.

The analysis of state policies reveals several interesting findings. First, it appears that states have passed employment protections for domestic violence victims within three broad areas. The first category, work leave policies, give employees the right to request time off from work to attend to personal, family, or legal matters that are directly related to domestic violence without fear of penalty. The second category of employment protection, anti-discrimination employment policies, protects domestic violence victims against forms of job-related discriminatory behaviors. The third broad category of employment protection supports, workplace awareness and safety policies, requires employers to educate employees about

domestic violence rights relevant to state statute provisions. The broad policy categories are further divided by distinct policy concerns.

Second, analysis reveals that, in general, domestic violence victims are more likely to be protected under general crime legislation than they are to be protected by legislation passed specifically to protect domestic violence victims. For instance, 37 states have policies that require employers to provide leave for general crime victims in response to a subpoena or need to appear in court. Domestic violence victims are covered under this legislation as a “crime victim.” Similarly, 36 of the 40 states that have policies to protect against job-related discrimination or retaliation are written as general crime victim legislation, covering substantiated cases of domestic violence. Only four states have policies that specifically prohibit employers from discriminating or terminating an employee who is a victim of domestic violence. Similarly, domestic violence victims are able to receive intersession services in 23 states because these states have general crime victim legislation that includes victims of domestic violence.

While it is advantageous that states consider domestic violence victims as crime victims, simply defaulting to this strategy, rather than passing legislation specific to domestic victims, in some cases protects only substantiated cases of domestic violence. Victims who have yet to report experienced domestic violence or who may not ever report it are not covered under general crime legislation. Without specific employment protections for victims of domestic violence, victims may be at risk of being further oppressed by her employer if she is terminated from her job or overlooked for a promotion due to matters related to domestic violence, as evidenced in several studies (Swanberg & Macke, 2006; Swanberg et al., 2005, 2007).

Third, analysis reveals significant variation across states as to the types of policies adopted to protect the employment of domestic violence victims, the criteria for employer

inclusion by these policies, and parameters of the specific legislation. Table 5 illustrates this variation by summarizing the prevalence of the eight categories of employment protections for domestic violence across the 50 U.S. states. None of the states have policies in all eight categories.

Such difference across states may create confusion for domestic violence victims and employers. As an example, a woman covered by certain employment protection laws in one state, should she opt to move due to safety reasons, may not be covered by the laws in the state to which she moves. Such a situation could put the domestic violence victim, her family, and her new employer in harm's way. This disparity in availability of employment protection supports across states could also create confusion for employers with operations in more than one state. While it would be ideal if employers created a culture of inclusion that would have a zero tolerance for discrimination of any kind, including biases towards victims of domestic violence, it is more likely that corporate entities will be prompted to establish such policies when mandated to do so by state laws and regulations.

While this is one of the first published study to systematically examine state policies designed to protect the employment of domestic violence victims, like all studies, this too has limitations. First, though authors conducted an exhaustive review of state policies that fit this study's criteria, it is possible that the research team unintentionally omitted state employment protection policies that are inaccessible using the methods used by the study's authors. If this is the case, the research team apologizes in advance to these states, and asks that readers bring this information to the author's attention so that a correction can be submitted to the journal. Second, states may have developed other mechanisms, other than state statutes or administrative regulations, to protect the employment rights of domestic violence victims. As such, this study

does not include these innovative approaches. However, a study of these innovative approaches is further warranted. Finally, this article presents a descriptive analysis of eight categories of state policies designed to protect the employment of domestic violence victims, along with the prevalence of each policy by state. While this is an important first step to determining the prevalence of employment protections available to domestic violence victims, the analysis does not include an investigation of the perceived effectiveness of these policies in protecting the economic security of domestic violence victims, nor does it examine what factors explain why certain states have enacted such legislation. While these later analyses would contribute significantly to the policy discussion pertaining to employment protections for this population of workers, it goes beyond the scope of this article.

Limitations notwithstanding, the results of this study contribute to the literature and policy discussions. Collectively, these results imply that employed domestic violence victims in many states may be unaware of the employment protections available to them, and may be still at risk of losing their jobs due to misinformation. Given the costs associated with domestic violence to employers, employees, and their families, this study's results suggest that more attention is needed at the policy level. States appear to recognize the need to protect the employment rights of domestic violence victims by establishing a range of policy strategies. Yet, the variation of policy implementation across states emphasizes the priority, or lack thereof, that states place on this issue. To reduce this disparity, some policy scholars may argue for the need for federal legislation to ensure consistency across states. While such an approach would help to reduce the stigma and associated work-related consequences of domestic violence, continued expansion of policy solutions at the state level may allow states to adopt policies that align with how this social problem manifests within individual states.

Table 5

Employment Protections for Victims of Domestic Violence by States in U.S.

Policy Category	Work Leave			Reduce Employment Discrimination			Workplace Safety & Awareness		
	Work leave related to DV I	Work leave for subpoena /court appearance	Waiver of work requirement (FVO)	Protect against employment discrimination & retaliation	Ensure right to unemployment benefits & wages	Employer Intercession Services	Employee Education and Awareness	Workplace restraining orders	Total policy category by state
State									
Alabama		x	x	x					3
Alaska		x	x	x					3
Arizona		x	x	x	x			x	5
Arkansas		x	x	x				x	4
California	x	x	x	x	x			x	6
Colorado	x	x	x	x	x	x		x	7
Connecticut		x	x	x	x				4
Delaware		x	x	x	x				4
Florida	x	x	x	x		x			5
Georgia		x	x	x	x			x	5
Hawaii	x	x	x	x					4
Idaho			x						1
Illinois	x	x	x	x	x	x	x		7
Indiana		x	x	x	x			x	5
Iowa		x	x	x					3
Kansas	x	x	x	x	x				5
Kentucky			x			x			2
Louisiana			x		x	x			3
Maine	x	x	x	x	x				5
Maryland		x	x	x					3
Massachusetts		x	x	x	x	x			5
Michigan		x	x	x					3

Employment Protections for Victims of Domestic Violence by States in U.S. cont.

Policy Category	Work Leave			Reduce Employment Discrimination			Workplace Safety & Awareness		
	Work leave related to DV I	Work leave for subpoena /court appearance	Waiver of work requirement (FVO)	Protect against employment discrimination & retaliation	Ensure right to unemployment benefits & wages	Employer Intercession Services	Employee Education and Awareness	Workplace restraining orders	Total policy category by state
State									
Minnesota		x	x	x	x				4
Mississippi		x	x	x					3
Missouri		x	x	x					3
Montana		x	x	x	x	x			5
Nebraska			x		x	x			3
Nevada		x	x	x		x		x	5
New Hampshire		x	x	x	x				4
New Jersey			x		x	x			3
New Mexico			x		x	x			3
New York		x	x	x	x	x	x		6
North Carolina			x	x	x	x		x	5
North Dakota		x	x	x		x			4
Ohio		x	x	x					3
Oklahoma	x			x	x	x	x		5
Oregon	x		x	x	x				4
Pennsylvania		x	x	x					3
Rhode Island		x	x	x	x	x		x	6
South Carolina		x	x	x	x				4
South Dakota			x		x				2
Tennessee		x	x	x				x	4
Texas			x		x	x			3
Utah		x	x	x		x			4
Vermont		x	x	x	x				4
Virginia		x		x		x			3
Washington	x		x		x	x			4
West Virginia			x			x			2
Wisconsin		x	x	x	x	x			5
Wyoming		x	x	x	x	x			5

Total States	10	37	48	40	30	23	3	10	202
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