



Testimony of Kathy Rodgers, President, Legal Momentum

Submitted to the Subcommittee on Employment and Workplace Safety
of the U.S. Senate Committee on Health, Education, Labor, and Pensions

Hearing: Too Much, Too Long? Domestic Violence in the Workplace

Kathy Rodgers
President

Lisalyn Jacobs
Vice-President for Government Affairs

Deborah Widiss
Staff Attorney

April 17, 2007

I. Legal Momentum Is A Leader in Promoting The Economic Security of Victims of Domestic and Sexual Violence

For thirty-seven years, Legal Momentum has advanced the rights of women and girls through the power of the law and effective public policy. As President of Legal Momentum, I am grateful for this opportunity to testify before the HELP Subcommittee on Employment and Workplace Safety and to submit this written testimony on the issue of domestic and sexual violence in the workplace. My colleagues and I, and the women we represent, are also indebted to Senator Murray, her staff and the staff of the Subcommittee for their enduring commitment to this important issue.

Legal Momentum's commitment to assisting victims of domestic violence and sexual assault secure economic independence stems from our longstanding dedication to two related goals – ending violence against women and eliminating barriers that deny women economic opportunities. We helped craft and generate support for the Violence Against Women Act of 1994 and its reauthorizations in 2000 and most recently in 2005. We created and currently chair the National Task Force to End Sexual and Domestic Violence Against Women, the umbrella entity under which national, state, and local organizations representing hundreds of thousands of survivors, advocates, and professionals join together to work for VAWA reauthorization. We also chair the workplace subcommittee of the Task Force, which specifically works to ensure that victims of domestic and sexual violence have the economic independence they need to separate effectively from an abuser or recover from a sexual assault. Through our “Employment and Housing Rights for Victims of Domestic Violence” program, we provide information to domestic and sexual violence survivors to help them understand their employment and housing rights and we represent individual women seeking to enforce those rights. Additionally, we work closely with employers to develop best practices for companies that seek to deal with the workplace effects of violence against women.

Our advocacy in both the workplace and housing areas is a direct response to calls we receive every day from real people: women and men seeking guidance in how they can keep their jobs and their housing while they address the effects of domestic violence or a sexual assault, or, worse, women and men who have lost their jobs or their housing because of that violence. A few of their stories are included

in the testimony below. More are attached as an appendix. A victim of violence should not need to choose between her physical safety and her economic independence, especially since that economic independence is a linchpin for ensuring that she is able to end an abusive situation.

II. Dimensions of the Problem

Since its enactment in 1994, VAWA has dramatically improved the response of the police and the criminal and civil justice systems to victims of domestic and sexual violence and the availability of shelters, counseling, and other essential services for them. But far too many working women and men who are victims of domestic and sexual violence remain unable to access these services simply because they cannot take any time off from work. Many victims are too afraid of losing desperately-needed jobs to take the time to pursue legal remedies, seek medical treatment, or to take other essential steps to secure their safety.

I wish I could tell you that this fear is unfounded – but it is not. For example, we represented Sophia Apossos, a newspaper reporter in Plymouth, MA. On Saturday, July 29, 2000, her day off from work, Sophia's then-husband assaulted her in her home. Sophia fled to the local police department to report the incident and seek assistance. The police immediately arrested her husband, charged him with assault and battery, and helped Sophia obtain a temporary restraining order. Because the temporary restraining order could not be extended unless Sophia appeared in court during regular business hours, she called her work supervisor and left a message that she would be absent on Monday, July 31, to attend court proceedings relating to domestic violence. When she reported to work on Tuesday morning, the human resources director called Sophia into her office and fired her.¹

Sophia's story is typical. Forty percent of Americans working for private industries have no paid leave.² Thus, taking a single day off from work to go to court to get a protective order can mean that a victim will lose her job – and with it the economic security she needs to separate from her abuser. Additionally, victims of domestic violence and sexual assault often face harassment at the workplace. As many as 96% of employed domestic violence victims experience problems at work due to their abuse or

abuser, and 70% report being harassed by telephone or in person by their abuser.³ The combination of necessary absences related to the violence and harassment or discrimination at work means many victims lose their jobs. According to a 1998 report of the U.S. General Accounting Office, between 25% and 50% of domestic violence victims in three studies reported that they lost a job due, at least in part, to domestic violence.⁴ Similarly, almost 50% of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.⁵ The prevalence of sexual assault and other violence against women at work is also dramatic. About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999.⁶ Domestic violence also affects perpetrators' ability to work. A recent study found that 48% of abusers reported having difficulty concentrating at work and 42% reported being late to work.⁷ 78% reported using their own company's resources in connection with the abusive relationship.⁸

Recognizing the need to support survivors of sexual and domestic violence that are seeking to establish or maintain their financial independence, state legislatures and advocates for survivors have worked to enact legislation to ensure that victims can have access to job-protected leave, or if they have to leave a job because of violence, unemployment insurance. Twenty-eight states and the District of Columbia have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances; some of these laws also explicitly provide benefits to victims of sexual assault or stalking. Thirty-two states have enacted statutes that afford protection to victims of crime who need time off to attend court proceedings, while eight have statutes that specifically afford leave to survivors of intimate partner violence. Three states and New York City protect, at least in certain circumstances, employees who are victims of violence from being fired simply because they are victims or have obtained a protective order.

Experience in states that have enacted these laws demonstrates that these provisions reasonably protect employers' interests and will help make workplaces safer. As Maine Labor Commissioner Fortman discusses in her testimony, implementation of its domestic violence workplace protections were

not onerous for employers. Reports from states such as California and Illinois, which have enacted comparable legislation, likewise confirm that implementation has worked well for employers and employees.⁹ Federal legislation is necessary, however, to ensure that all workers have these essential protections.

III. Addressing Domestic and Sexual Violence is Good for Business

Forward-thinking companies, such as Harman International, Liz Claiborne, American Express, Verizon Wireless, Altria have realized that proactively addressing the effects of violence against women in their workplaces is simply good business practice. They understand that this issue affects their most important asset – their employees – and so undeniably affects their bottom line. Domestic violence costs employers at least \$3 to \$5 billion a year in missed days of work and reduced productivity.¹⁰ These figures do not begin to address the costs of additional security, liability, and employee assistance benefits, or the toll violence takes on women’s personal economic security.¹¹ In addition to costs associated with diminished productivity, businesses often lose valuable employees when those employees are victimized.¹² Losing loyal and experienced employees generates substantial hiring and training costs, which would be largely avoided by addressing the impact of domestic and sexual violence in the workplace.¹³

Recognition of the costs that domestic and sexual violence impose on businesses is growing. Sixty-six percent of corporate leaders identified domestic violence as a major social issue and one that affect business functioning and the “bottom line.”¹⁴ Seventy-eight percent of human resources professionals consider intimate partner violence a serious workplace issue.¹⁵ Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.¹⁶ And 44% of employed adults report personally experiencing the effects of domestic violence in their workplace.¹⁷ However, according to a 2006 study by the Bureau of Labor Statistics, more than 70% of United States workplaces have **no** formal program or policy that addresses workplace violence, including domestic violence that spills into the workplace.¹⁸ In fact, only 4% of employers provide

training on domestic violence.¹⁹ Sue Willman, who will also be testifying this morning, has written about the importance of employer-employee training in other contexts. To the extent that employers are already providing training on a variety of other subjects, broadening their already-existing curriculum to include domestic and sexual violence would help support employees and would not be unduly burdensome to them.²⁰

Fortunately, we know that there are effective steps that businesses can take to help keep victims and their co-workers safe. Permitting individuals to take time off to take actions outside of work to address the violence – like going to court or moving to a safe location – is one important aspect of supporting employees. Other easy, low-cost or no-cost steps that a company might be able to take include changing a phone extension so that an abuser can no longer harass a victim at work, or letting an employee modify her regular working hours so that her abuser will no longer know when she’s likely to be commuting to or from work. If a batterer has threatened to come to the workplace, registering a copy of a protective order with building security or a receptionist, or transferring the employee to another work site, might be appropriate. Companies that make personal information available to other employees, through an internal intranet system or other directories, may need to take steps to protect the location of individuals who have successfully separated from a batterer. Importantly, addressing domestic or sexual violence does not mean that a company must (or should) counsel the individual involved about how to address the violence in her life; instead, generally an employer should simply help her access resources in her community and give her the support she needs at work to take the steps that she (after consultation with appropriate professionals) determines are appropriate.

Many businesses are taking the lead in implementing such policies. Their experience shows that programs can be effective for both victims and their employers. Creating legal mandates that set a reasonable floor of protections to ensure that victims can take necessary time off from work and can safely tell their employers about their situation without jeopardizing their jobs will spur further business leadership in addressing domestic and sexual violence and their effects on the workplace.

IV. The Need for Federal Involvement

As described above, states and some businesses are very actively trying to support survivors of intimate partner violence who are trying to achieve or maintain financial independence. Well over half of the states now have at least some explicit employment-related protections for victims of domestic or sexual violence. States have crafted legislation that appropriately balances employer and employee interests and, perhaps even more important, helps employers and employees work together effectively to keep workplaces safe. Congress can look to these proven models in crafting legislation addressing these issues. But the existing state laws have created an uneven patchwork of protection, where a victim's access to the economic security she needs to separate from an abuser depends on the state in which she happens to live. For the true potential of these statutes to be realized, federal legislation is needed to ensure all survivors of sexual and domestic violence receive at least basic economic protections.

Congress began the process of addressing this vital issue as a federal matter during reauthorization of VAWA. The 2005 VAWA reauthorization bill introduced in the Senate, S.1197, made up to ten days job-protected leave available to all eligible employees. Another VAWA 2005 reauthorization bill, HR. 3171, contained several strong provisions that would promote the economic security of victims, including a right for victims to take up to 30 days off to address the effects of the violence and anti-discrimination protections for victims. A third, HR. 2876, would have permitted individuals who already had paid leave to use it for purposes related to domestic or sexual violence. Although the leave and anti-discrimination protections were not included in the final bill, Congress took an important step forward by authorizing appropriations to create a workplace resource center to assist employers in learning how to support their employees who are victims of intimate partner violence.

Other federal agencies, focusing on the domestic violence that spills over into violence in the workplace, have also made addressing the issue a priority. The Centers for Disease Control (CDC), particularly its National Institute on Occupational Safety and Health (NIOSH) unit which is charged with enforcement of workplace safety rules, and the Occupational Safety and Health Agency each recognize

domestic violence and its workplace effects as a significant risk to workplace safety.²¹ In 2004, these agencies worked with leading employers to organize a national conference that brought together experts to develop proposed policies.²² NIOSH has also funded several grants to outside researchers to conduct systematic research into the prevalence of violence and effective prevention mechanisms. These are welcome steps forward, but they are not enough. Congress should continue its commitment to supporting the workplace needs of victims of sexual and domestic violence by building on the successful experience of states and businesses that have made protecting the economic security of victims and the safety of businesses a priority.

V. Anti-Discrimination Protections Are Necessary to the Workplace Safe

Victims of domestic violence, dating violence, sexual assault, and stalking are often afraid that telling their employers what is going on outside work will jeopardize their employment. Again, unfortunately, this fear is quite reasonable. For example, we are currently representing Angela Thoma, a waitress in Wisconsin who was fired after she obtained a protective order because some of her ex-boyfriend's friends said they would stop coming to the tavern where she worked.²³ We were also involved in a case brought by a male bus driver in North Carolina who was fired after he was shot (off work premises) by his ex-wife because the incident "injured" reputation of his employer.²⁴ Although some such individuals are able to obtain relief under sex discrimination laws or tort-based claims that firing a victim violates public policy, most are left with no legal recourse. For example, in the North Carolina case, the North Carolina Supreme Court denied the bus driver's claim that the termination was a violation of public policy, affirming a lower court decision that held that absent specific legislation it was legal to fire victims simply because of the violence against them.²⁵

The experiences of our clients and of others who call us are typical. As noted above, between 25 and 50% of victims of domestic violence, and almost 50% of sexual assault survivors, lose their jobs as a result of the violence and almost 50% of sexual assault survivors.²⁶ In some cases, this is because of absences or job performance problems. But victims also lose their jobs *simply* because they are victims or

because an abusive partner disrupts the workplace. Supervisors or human resources personnel may subscribe to common stereotypes regarding domestic violence, which blame victims for the violence against them. Employers may not realize that there are other steps that they can take against the abuser – such as reporting harassment to the police or, in states that authorize it, seeking a workplace restraining order – to address harassing or disruptive conduct, rather than firing the victim of the violence. Likewise, employers may mistakenly believe that firing a victim is the only way to ensure that the violence does not spill over into the workplace. Again, the success of businesses that have proactively developed programs addressing domestic violence demonstrate that other mechanisms – such as changing an employee’s work shift, registering a protective order, alerting security, or transferring an employee – are effective means of addressing any potential threat to the workplace. But employers cannot take safety precautions if they do not know what is going on.

The best way to ensure that victims feel comfortable telling their employers about their situation is enacting legislation that makes clear that victims cannot be fired simply because of their status as victims. Illinois, New York City, and Westchester County have addressed this issue by enacting anti-discrimination protections that include domestic and sexual violence victims as protected classes under their human rights laws.²⁷ Rhode Island and Connecticut specifically prohibit firing victims because they have obtained protective orders.²⁸ Congress has also dealt effectively with a similar problem in the housing context by enacting provisions in the 2005 reauthorization of VAWA that make clear that victims cannot be denied access to or evicted from public housing or terminated from housing assistance based on incidents of violence against them.²⁹ Although privacy laws and good employment practices make clear that victims should never be *required* to disclose personal experiences such as domestic violence or sexual assault, victims who wish to disclose – or whose victimization is made obvious by physical markers such as bruises or harassment by the abuser at work – should know that the criminal acts against them will not cost them their employment. Anti-discrimination protections are necessary to ensure that victims can talk about their situation with employers without jeopardizing their jobs. Like other anti-

discrimination protections, such provisions would not limit the ability of employers to terminate victims for legitimate performance problems. What they would do is ensure that employers and victims can work together to jointly assess any security risk and take appropriate precautions. These protections also ensure that victims feel comfortable asking for time off or other modifications they may need at work to remain productive while addressing the violence.

VI. Victims Cannot Obtain Essential Services When They Fear Losing Their Jobs

The Violence Against Women Act and other legislation that Congress has passed have made an enormous difference for victims by creating emergency shelter services and improving the response of the criminal and civil justice systems to domestic and sexual violence. However, too many victims are afraid to access those services because they are worried that if they miss work, they will lose their jobs. For example, “Penny,” in St. Claire, MO, called us to ask for advice. She had been fired after 18 years working as a shipping clerk because had missed work to go to court for a restraining order and get treatment for injuries; although she had provided her employer paperwork from the doctor and the court, she hadn’t been able to provide her employer with the 24-hours advance notice required under her employment policy to use vacation days. She was fired for excessive absences – and unfortunately, there was no law to protect her.

Forty percent of the American workforce has *no* paid sick leave.³⁰ Low-wage workers, who tend to be at greater risk for domestic and sexual violence, are even less likely to have paid time off – one study found that 76% of low-wage workers have no paid sick leave.³¹ Additionally, as Penny’s experience makes clear, even employees who do have sick days or vacation days may not be able to use them to cover the range of needs associated with addressing domestic or sexual violence. Thus, without legislative protection, a victim of domestic violence who misses work to testify at a criminal prosecution, to obtain a civil protective order or to take other steps to address the violence typically knows that her absence could cause her to lose her job. And therefore many victims, knowing their safety depends on an independent income stream even more than other safety-enhancing measures such as a protective order, forego

services rather than risk their employment.

Responding to this reality, more than half of the states have passed laws that permit crime victims time off to attend court proceedings and laws specifically addressing the needs of domestic and sexual violence victims. Thirty-two states (AL, AK, AZ, AR, CO, CT, DE, FL, GA, HI, IN, IA, MD, MA, MI, MN, MS, MO, MT, NY, NV, ND, OH, PA, RI, SC, TN, UT, VT, VI, VA, WI, WY) and the Virgin Islands have laws specifically permitting an employee who is a victim of a crime to take time off from work attend court, at least under certain circumstances.³² These laws obviously can be a great help to some victims of domestic or sexual violence – but they are not sufficient. Many of the laws only apply if the victim is subpoenaed to appear. They do not address the specific needs of victims of these particular crimes to take a range of other steps, such as finding safe housing, in addition to attending court proceedings related to the crime. In fact, since generally a victim can seek a protective order only in *civil* court (a criminal protective order may sometimes be issued in conjunction with a criminal prosecution, but a victim does not determine whether a given case is prosecuted), crime victim leave laws do not even ensure that a victim may take time off from work to get a protective order. And of course, they offer no protection at all to individuals who live in the twenty-eight states that do not have any kind of crime victim leave law.

As of April 2007, California, Colorado, Hawaii, Illinois, Kansas, and Maine provide an affirmative right to victims of domestic violence (and in some of these states, sexual assault) to take unpaid leave to go to court, seek medical treatment, obtain counseling, or take other steps to address the effects of such violence.³³ New York and North Carolina provide victims time off to seek civil protective orders but do not address the need of victims to take other steps related to the violence.³⁴

These state laws can provide workable models for federal legislation providing victims time off from work. The state laws have ensured that victims can take necessary steps to address the violence, while appropriately protecting business interests by specifying appropriate forms of certification that victims can use to demonstrate their eligibility for these protections. In most state laws, the leave is

unpaid, although victims may use available paid leave in its place. This likewise helps ensure that the provisions are not abused. Survivors who have only unpaid leave need the income to maintain their independence and those who have paid leave tend to safeguard it for crisis situations.

Importantly, the protections provided under the federal Family and Medical Leave Act (FMLA) are not adequate to meet the many of the needs of survivors of domestic or sexual violence. Of course, victims of domestic or sexual violence will in certain circumstances be able to take time off to address medical conditions under the FMLA. However, many of the typical injuries caused by domestic or sexual violence – such as a badly-swollen eye from a punch in the face or a sprained ankle from a push down the stairs – may not qualify as “serious health conditions” under the FMLA but could nevertheless require that an individual miss a day of work. Additionally, many victims work for employers who are too small to be required to provide FMLA leave.

Federal legislation that simply permitted individuals who have otherwise available leave to use it for purposes related to domestic or sexual violence would also be grossly inadequate. A provision that only permits individuals to use existing leave does *nothing* for the victims who are most vulnerable, low-wage workers who lack any paid time off at all. It is these workers for whom the loss of employment is most likely to result in the unconscionable choice of returning to an abuser or becoming homeless. To make a real difference for victims of domestic and sexual violence whose jobs are in jeopardy, any contemplated federal legislation must include provisions that guarantee that *all* eligible employees have the time off they need to take essential steps to secure their safety, not only those employees who are lucky enough to have otherwise available time off.

VII. Unemployment Insurance Benefits Can Help Transition Victims without Raising Costs to Businesses

Sometimes employees choose to leave their jobs to protect themselves, family members that are being victimized, their coworkers, or to take other essential steps to ensure their safety. In most states, the general rule is that individuals are ineligible for unemployment benefits if they leave work voluntarily without “good cause” or if they are discharged for “misconduct” such as absenteeism.³⁵ Such provisions

can bar victims who left or lost their jobs because of the violence from receiving benefits. (In fact, in some states, individuals who voluntarily quit a job to relocate *with* a spouse can receive benefits – but those who are forced to flee an abusive spouse cannot.) In recent years, however, there has been a dramatic growth in state laws explicitly making victims eligible for benefits if they left or were fired from their jobs for reasons relating to domestic violence.³⁶

In 1996, Maine was the first state to amend its unemployment insurance law to acknowledge the effects that domestic violence may have on employment.³⁷ Now eleven years later, twenty-eight states, and the District of Columbia, have amended their unemployment insurance laws to address domestic violence.³⁸ Most of these laws define “good cause” to include leaving a job for reasons related to domestic violence. A few states have laws excluding situations related to domestic violence (e.g., absences or tardiness) from “misconduct.” Experience in states shows that the number of claims made under existing laws is generally very low (typically well under .1% of all claims made).³⁹ In most states, claims are not charged to the employers’ accounts, and the number of claims, relative to all claims made in the unemployment insurance system, is quite small. Thus, allowing victims of domestic and sexual violence to receive unemployment benefits generally does not affect employer tax rates.

We urge you to adopt legislation that would make such benefits available to victims regardless of where they live. Provisions such as those that were included in the last Congress in Title VII of the VAWA 2005 bill sponsored by Representative Lofgren (H.R. 3171) and Title II of the Security and Financial Empowerment Act sponsored by Representative Roybal-Allard (H.R. 3185) are good models for federal legislation in this area. They are drafted to ensure that victims who must leave a job because of domestic or sexual violence can get benefits while permitting states flexibility in how they address the issue. A victim who must leave her job to protect herself, her family, or her coworkers must be able to maintain financial independence at this critical time and to return to the workforce as soon as possible.

IX. Conclusion

In the decade since it was first passed, VAWA has made a world of difference for victims of

domestic and sexual violence by opening up the court system and helping ensure that shelters, counseling, and other support services are available. But too many working women and men continue to fear – rightly – that accessing such services could cost them their jobs, and thus the financial independence they need to separate effectively from an abuser. There is a desperate need for economic security provisions that would make unemployment insurance benefits available to victims who must leave their jobs because of the violence. Victims cannot be forced to choose between their economic independence and their physical safety – both are essential if they, and we as a society, are to move forward in our efforts to end domestic and sexual violence.

¹ *Apessos v. Memorial Press Gp.*, No. 15 Mass. L. Rep. 322, 2002 Mass. Super. LEXIS 404, at *10 (Super. Ct. Mass. Sept. 30, 2002).

² Bureau of Labor Statistics, *Employee Benefits Survey: Most Requested Statistics, Benefits* (2004), available at <http://data.bls.gov/cgi-bin/survey/most?eb>. (Showing 41% of workers in private industry in 2004 had no available paid sick leave).

³ Connie Stanley, *Domestic Violence: An Occupational Impact Study* 3 (1992).

⁴ U.S. Gen. Acct. Office, *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998).

⁵ S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. Abnormal Psychology 264 (1981)).

⁶ United States Cong. Senate. 107th Congress, 1st Session. S. 1249, Victim's Economic Security and Safety Act of 2001, at 8 citing Greg Warchol, U.S. Dep't of Justice, *Workplace Violence, 1992-96* (July 1998).

⁷ Ellen Ridley, Maine Dep't of Labor & Family Crisis Services, *Impact of Domestic Offenders on Occupational Safety & Health: A Pilot Study* (2004).

⁸ *Id.*

⁹ Letter from Elizabeth Kristen, Legal Aid Society-Employment Law Center to Senators Arlen Specter, Joseph Biden, and Orrin Hatch (June 21, 2005) (on file with Legal Momentum); Letter from Wendy Pollock, Sargent Shriver National Center on Poverty Law to Senators Arlen Specter, Joseph Biden, and Orrin Hatch (June 21, 2005) (on file with Legal Momentum).

¹⁰ U.S. Cong. Senate. 107th Congress, 1st Session. S. 1249, Victim's Economic Security and Safety Act of 2001, at 19 citing Joan Zorza, *Women Battering: High Costs and the State of the Law*, Clearinghouse Rev., Vol. 28, No. 4, 383, 385 (1994); National Center for Injury Prevention and Control, *Costs of Intimate Partner Violence Against Women in the United States*, Atlanta: Centers for Disease Control and Prevention, 2003.; "Intimate Violence Costs Billions," ABC News, 4/29/2003.

¹¹ See Bureau Of Nat'l Aff., Special Rep. No. 32, *Violence And Stress: The Work/Family Connection* 2 (1990); Jody Raphael, Taylor Inst., *Prisoners Of Abuse: Domestic Violence And Welfare Receipt* 8-9 (1996).

¹² Legal Momentum, *The Impact Of Violence In The Lives Of Working Women: Creating Solutions – Creating Change* 5 (2002), available at: <http://www.legalmomentum.org/pub/pubs/CreatingSolutions.pdf>.

¹³ See generally New York State Office for The Prevention of Domestic Violence, *Domestic Violence – It Is Your Business: Employer Handbook & Resource Guide* 2 (2001), available at: <http://www.opdv.state.ny.us/workplace/privatepolicy/q&a.html>.

¹⁴ See Patrice Tanaka & Company, Inc., *Corporate Leaders See Domestic Violence As A Major Problem That Affect Their Employees According To Benchmark Survey* By Liz Claiborne, Inc. (October 2002)

¹⁵ National Institute for School and Workplace Safety (under the name of National Safe Workplace Institute), *Talking Frankly About Domestic Violence*, (1995).

-
- ¹⁶ Joseph A. Kinney, Nat'l Safe Workplace Inst., *Domestic Violence Moves into Workplace* (1994).
- ¹⁷ Corporate Alliance to End Partner Violence, National Benchmark Telephone Survey, available at: http://www.caepv.org/about/program_detail.php?refID=5.
- ¹⁸ Bureau of Labor Statistics, *The Survey of Workplace Violence Prevention* (2006).
- ¹⁹ *Id.*
- ²⁰ Sue K. Willman, "The New Law of Training: Training on Harassment and Discrimination Is Not a Luxury Anymore," *H.R. Magazine* 115 (May 2004).
- ²¹ Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, *Workplace Violence Prevent Strategies and Research Needs: Report from the Conference Partnering in Workplace Violence Prevention Nov. 2004*, 4-5 (2006). The vast majority (85%) of workplace homicides result from criminal activity such as robberies where the perpetrator has no legitimate relationship with the business or its employees. Domestic violence is estimated to cause about 5% of all workplace homicides. *Id.*
- ²² "Partnering in Workplace Violence Prevention: Translating Research into Practice." Conference held Nov. 15-17, 2004 (Baltimore, MD).
- ²³ *Thoma v. L.J.'s Bad Penny Bar and Grill*, No. CR200600641 (Wisc. Dep't of Workforce Development) (filed February 21, 2006).
- ²⁴ *Imes v. City of Asheville*, 606 S.E.2d 117 (N.C. 2004).
- ²⁵ *Id.*
- ²⁶ U.S. Gen. Acct. Office, *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients* 19 (Nov. 1998); S. Rep. No. 138, 103rd Cong., 2d Sess. 54, n. 69 (citing E. Ellis, B. Atkeson and K. Calhoun, *An Assessment of the Long Term Reaction to Rape*, 50 J. Abnormal Psychology 264 (1981)).
- ²⁷ 820 Ill. Comp. Stat. 180/1-180/45; N.Y.C. Admin. Code § 8-107.1; Westchester City Code §§ 700.02, 700.03.
- ²⁸ Conn. Gen. Stat. § 54-85b; R.I. Gen. Laws § 12-28-10.
- ²⁹ 42 U.S.C. §§ 1437d(c)(3); 1437f(c)(9); 1437f(d)(1); 1437f(o); 1437d(l)(5).
- ³⁰ Bureau of Labor Statistics, *Employee Benefits Survey: Most Requested Statistics, Benefits* (2004), available at <http://data.bls.gov/cgi-bin/surveymost?eb>. (Showing 41% of workers in private industry in 2004 had no available paid sick leave).
- ³¹ Institute for Women's Policy Research, Pub. No. C349, *The Widening Gap: A New Book on the Struggle to Balance Work and Caregiving* 3, Figure 4 (2001) (citing Jody Heymann, *The Widening Gap: Why America's Working Families Are in Jeopardy and What Can Be Done About It* (2000)).
- ³² Ala. Code § 15-23-81; Alaska Stat. § 12.61-017; Ariz. Rev. Stat. Ann. § 13-4439 and Ariz. Rev. Stat. § 8-420 (2004); Ark. Code Ann. § 16-90-1105; Colo. Rev. Stat. § 24-4.1-303(8); Conn. Gen. Stat. § 54-85b; Del. Code Ann. Tit. 11 § 9409; Fla. Stat. § 92.57; Ga. Code Ann. § 34-1-3; Haw. Rev. Stat. § 621.10.5; Ind. Code § 35-44-3-11.1; Iowa Code § 915.23; Md. Code Ann. Crim. Proc. § 11-102; Mass Gen. Laws ch. 258B, §§ 3(1), 268-14(b); Mich. Comp. Laws Ann. § 780.790; Minn. Stat. Ann § 611A.036; Miss. Code Ann. § 99-43-45; Mo. Rev. Stat. § 595.209(1)(14); Mont. Code Ann. § 46-24-205(3); Nev. Rev. Stat. § 50.070; N.D. Cent. Code § 27-09.1-17; N.Y. Penal Law § 215.14; Ohio Rev. Code Ann. § 2930.18; 18 Pa. Code. § 4957; R.I. Gen. Laws § 12-28-10; S.C. Code Ann. § 16-3-1550; Tenn. Code Ann. § 4-4-122; Utah Code § 78-11-26; Va. Code Ann. § 18.2-465.1; Vt. Stat. Ann. tit 13, § 5313; 34 V.I. Code Ann. § 203 (e); Wis. Stat. § 103.87; Wyo. Stat. Ann. § 1-40-209(a).
- ³³ Cal. Lab. Code §§ 230 & 230.1; Colo. Rev. Stat. § 24-34-402.7; Haw. Rev. Stat. § 378-72; 820 Ill. Comp. Stat. 180/1-180/45; Kan. Stat. Ann. §§ 44-1131, -1132; Me. Rev. Stat. Ann. tit. 26, § 850.
- ³⁴ N.Y. Penal L. § 215.14; N.C. Gen. Stat. §§ 50-B-5.5, 95-270a.
- ³⁵ For a good overview of the history of legislation in this area, see Rebecca Smith, Richard W. McHugh, and Robin R. Runge, *Unemployment Insurance and Domestic Violence: Learning from Our Experiences*, 1 Seattle J. Soc. Just. 503 (2002).
- ³⁶ *Id.*
- ³⁷ Me. Rev. Stat. Ann. tit. 26, § 1043(23)(B)(3) (providing "misconduct" may not solely be founded on actions taken by an employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment).
- ³⁸ Ariz. Rev. Stat. § 23-771; Cal. Unemp. Ins. Code §§ 1030, 1032 & 1256; Colo. Rev. Stat. Ann. § 8-73-108(4)(r); Conn. Gen. Stat. § 31-236(a)(2)(A); Del. Code Ann. tit. 19, § 3314(1); D.C. Code § 51-131; 820 Ill. Comp. Stat. 405/601; Ind. Code § 22-4-15-1(1)(C)(8); Kan. Stat. Ann. § 44-706(a)(12); Me. Rev. Stat. Ann. tit. 26, §§ 1043(23)(B)(3), 1193(A)(4); Mass. Gen. Laws Ann. ch. 151A, §§ 1, 14, 25, 30; Minn. Stat. §§ 268.095(1)(8), 268.095(6)(a)(c); Mont. Code Ann. § 39-51-2111; Neb. Rev. Stat. Ann. § 48-628(1)(a); N.H. Rev. Stat. Ann. tit. 23, § 282-A:32(I)(a)(3); N.J. Rev. Stat. § 43:21-5(j); N.M. Stat. Ann. § 51-1-7 (A); N.Y. Lab. Law § 593(1)(a); N.C. Gen. Stat. § 96-14(1f); Okla. Stat. tit. 40, §§ 40-2-405(5), 40-3-106(G)(8); Or. Rev. Stat. § 657.176(12); R.I. Gen.

Laws § 28-44-17.1; 2005 S.C. Acts 50, to be codified at S.C. Code Ann. § 41-35-125; S.D. Codified Laws § 61-6-13.1; Texas Lab. Law. §§ 207.045, 207.046; 2005 Vt. ALS § 49; Wash. Rev. Code §§ 50.20.050, 50.20.100, 50.20.240, & 50.29.020; Wis. Stat. § 108.04(7)(s); Wyo. Stat. § 27-3-311.

³⁹ National Employment Law Project, “Unemployment Benefits for Domestic Violence Survivors: What Are Its Costs?” (March 2005) (on file with Legal Momentum).