

Dear Broome County Employer,

Violence at home and in the workplace is more than a moral issue. It is also a bottom-line issue. Domestic violence raises absenteeism, health care costs and drives down productivity. Furthermore, employers recognize that if they don't create a safe work environment, they create an enormous liability for their organization. For these and many other reasons, many employers are increasingly working in the spirit of New York State's "Zero Tolerance" policy towards domestic violence.

In an effort to assist employers in improving their response to domestic violence, the Family Violence Prevention Council of Broome County has developed the enclosed model employee policy on domestic violence in the workplace. Because of the varied size, nature and culture of Broome County employers, this model is intended for employers to use as a tool in developing their own policy regarding the workplace response to domestic violence. We encourage employers to have their attorney review the policy that they develop.

I encourage all Broome County employers to consider joining me in improving workplace safety for our employees by implementing a policy on your workplace response to Domestic Violence. On October 3, 2000, I issued an executive order effecting our adaptation of the enclosed policy and procedures. This is one of many steps that we can take toward a county where families live free from abuse.

As with most policies, the implementation of the policy will require procedure development and staff training. Therefore, we have also enclosed some suggested procedures to assist you in with that process. The Family Violence Prevention Council is willing to assist Broome County's employers in developing and implementing policy and procedures. You can reach the Council by calling Heather Gow, Coordinator of the Family Violence Prevention Council at 607-778-2153.

Sincerely,

Jeffrey P. Kraham
Broome County Executive

MODEL POLICY FOR EMPLOYEES ON DOMESTIC VIOLENCE IN THE WORKPLACE¹

I. PURPOSE: [Employer X] is committed to providing a safe and healthy workplace. Domestic Violence is a leading cause of injury to women in this country. The purpose of this policy is to heighten awareness of domestic violence and to provide guidance for management and employees to address the occurrence of domestic violence and its effects in the workplace.

II. DEFINITIONS:

A. Domestic Violence: A pattern of coercive behavior that is used by one person to gain power and control over another which may include physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking, and economic control. Domestic violence occurs between people of all racial, economic, educational, and religious backgrounds; in heterosexual and same sex relationships; living together or separately, married or unmarried and in short term or long term relationships. Domestic violence is a major cause of injury to women, although men also may be victims of such violence.

B. Batterer, Perpetrator, or Abuser: The individual who commits an act of domestic violence as defined above.

C. Batterers' Intervention Programs: Programs batterers attend that are designed to address the issues of violence and abuse in intimate relationships and increase victim safety. Couples, marriage, family counseling, mediation and anger management courses will not be considered as appropriate resources for addressing domestic violence. Although these programs have their value, they have proven to be ineffective in stopping domestic violence and may increase risk to the victim.

D. Victim: The individual who is the subject of an act of domestic violence.

III. POLICY:

A. Early Intervention and Education Prevention Strategies

1. It is the policy of [Employer X] to use early prevention strategies in order to avoid or minimize the occurrence and effects of domestic violence in the workplace. [Employer x] will provide available support and assistance to employees who are victims of domestic violence. This support may include: confidential means for coming forward for help; resource and referral information, additional security at the workplace, work schedule adjustments or leave necessary to obtain medical, counseling, or legal assistance, and workplace relocation. Written resource and referral information will be available in the primary languages spoken by employees. Appropriate assistance will be provided based on individual need and the ability of the employer. In all responses to domestic violence, [Employer X] will respect the privacy and autonomy of the adult victim, to the fullest extent permitted by law, to

¹ This material was adapted from the Appendix of the publication entitled, "The Workplace Response to Domestic Violence: A Resource Guide for Employers, Unions and Advocates." Produced by the Family Violence Prevention Fund. Edited by Donna Norton, Esq., Stephen T. Moskey, Ph.D., and Elizabeth Berstein.

direct her or his own life.

2. [Employer X] will attempt to publish, post and maintain a list of resources for victims and perpetrators of domestic violence that includes but is not limited to: the phone number and description of local domestic violence resources, the Statewide Domestic Violence Coalition number, the National Domestic Violence Hotline number (see Handout A) and the Employee Assistance Program number in locations of high visibility (such as bulletin boards and break rooms, health/first aid offices, company phone directories, paycheck envelopes and online information data bases)

B. Leave Options for Employees who are Experiencing Threats of Violence

1. When an employee needs to be absent from work as a result of being a victim of domestic violence (such as for medical care, counseling, criminal and/or civil court proceedings, legal consultation, relocation or arrangement for childcare) employers will maximize the employee's options in order to prevent loss of wages. We recognize that time without pay may be the only option available to the employee. In compliance with ²Penal Law 215.14, any approved leave should not be held against the employee.
2. Managers, supervisors, and employees will first explore whether paid options can be arranged which will help the employee cope with a domestic violence situation without having to take a formal unpaid leave of absence. Depending on the circumstances, this may include:
 - Arranging flexible work hours so that the employee can handle legal matters, court appearances, housing, and childcare.
 - Consider [sick, annual, shared leave, or leave without pay], especially if requests are for relatively short periods as defined by the employer.
3. Employees should strive to maintain communication with their manager during the approved leave as determined by the employer.

² Penal Law 215.14 Employer unlawfully penalizing witness or victim

Any person who is the victim of an offense upon which an accusatory instrument is based or, is subpoenaed to attend a criminal proceeding as a witness pursuant to article six hundred ten of the criminal procedure law or who exercises his rights as a victim as provided by section 380.50 or 390.30 of the criminal procedure law or subdivision two of section two hundred fifty-nine of the executive law and who notified his employer or agent of his intent to appear as a witness, to consult with the district attorney, or to exercise his rights as provided in the criminal procedure law, the family court act and the executive law prior to the day of his attendance, shall not on account of his absence from employment by reason of such service be subject to discharge or penalty except as hereinafter provided. Upon request of the employer or agent, the party who sought the attendance or testimony shall provide verification of the employee's service. An employer may, however, withhold wages of any such employee during the period of such attendance. The subjection of an employee to discharge or penalty on account of his absence from employment by reason of his required attendance as a witness at a criminal proceeding or consultation with the district attorney or exercise of his rights as provided under law shall constitute a class B misdemeanor.

For purpose of this section, the term "victim" shall include the aggrieved party or the aggrieved party's next of kin, if the aggrieved party is deceased as a result of the offense, the representative of a victim as defined in subdivision six of section six hundred twenty-one of the executive law, a good Samaritan as defined in subdivision seven of section six hundred twenty-one of such law or a person pursuing an application or enforcement of an order of protection under the criminal procedure law or the family court act.

(1995, chg. By chap. 331, effect. 11/1/96)

C. Procedures for Employees with Performance Issues Related to Domestic Violence

1. While the employer retains the right to discipline employees for cause, [Employer X] recognizes that victims of domestic violence may have performance or attendance problems as a result of the violence. When an employee subject to discipline confides that such a problem is a result of domestic violence, the employer will make reasonable efforts to consider all aspects of the employee's situation in an attempt to assist the employee in resolving the performance problems. A referral for appropriate assistance (i.e. local domestic violence agency) will also be offered to the employee.
2. [Employer X] realizes that the effects of domestic violence can be severe and may take extended periods of time to fully address. The employer will therefore attempt to determine a reasonable amount of time to improve job performance issues.

D. Disciplinary Procedures for Employees who Commit Acts or Threats of Domestic Violence

1. [Employer X] is committed to providing a workplace in which the perpetration of domestic violence is neither tolerated nor excused. Any physical assault, harassment or threat made by an employee while on [Employer X] premises, during working hours, or at a [Employer X] sponsored social event is a serious violation of [Employer X] policy. This policy applies not only to acts against other employees, but to acts against all other persons, including intimate partners. Employees found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.
2. Employees who are convicted of a crime as a result of domestic violence will be subject to corrective or disciplinary action, up to and including discharge, when such action affects the work performance of the employee or affects the normal operation of [Employer X].

E. Reporting of Domestic Violence Crimes in the Workplace

All Domestic violence crimes that occur at the workplace or on work time, including violations of Orders of Protection, which may be submitted by the victim, will be reported to the police.