

## Why we need paid domestic violence leave

Unpaid domestic violence leave will not provide workers with the safety and security they need, and indeed may make them more vulnerable. Over 90 per cent of women in abusive relationships are being financially controlled, so if a worker decides to take a day off to meet with a lawyer or find a place to live, she would be vulnerable to questioning.

These paid days must be employer-paid and it cannot be through Employment Insurance (EI) benefits. It takes a long time to get EI, and the leave may be for shorter periods of one or two days, making a claim unjustified given the red tape to get EI.

In Australia, where over 2 million workers are covered by collective agreement clauses with paid domestic violence leave, employers report the average amount of leave taken is 2-3 days (and not necessarily consecutively).

No one should have to choose between a paycheque and abuse.

While domestic violence may not seem like a workplace issue, it can and frequently does have health and safety consequences that extend into the workplace. Beyond its effects on individuals, families and society, Canadian employers lose \$77.9 million annually due to the direct and indirect impacts of domestic violence.

The Ontario Government has been the first to respond to this growing issue. In 2009, it introduced Bill 168, a Bill which would amend the province's Occupational Health and Safety Act by imposing new obligations on employers with respect to workplace violence and harassment. Bill 168 became law on June 15, 2010. Bill 168 requires employers who are aware, or who should reasonably be aware, that domestic violence may occur in the workplace to take every precaution reasonable in the circumstances to protect a worker at risk of physical injury.

In Nova Scotia employers are required to have policies and programs regarding workplace violence, including domestic violence, in the workplace.

See Manitoba's Bill 8 for a model <https://web2.gov.mb.ca/bills/40-5/b008e.php>

They amended their employment standards act to give workers experiencing domestic violence the right to 5 paid days as well as additional unpaid days. See below what the NS NDP are proposing as changes to the act and have put their bill before the legislature sitting in the spring of 2018.

The Nova Scotia Federation of Labour encourages all members and workers to be proactive in creating and maintaining a safe and healthy work environment. To use your Joint Occupational

Health & Safety Committee or the Department of Labour who can help ensure your concerns are addressed in a satisfactory manner.

In Canada, one in three workers have experienced domestic violence. Approximately every six days, a woman in Canada is killed by her intimate partner. On any given night in Canada, 3,491 women and their 2,724 children sleep in shelters because it is not safe at home.

The rate of self-reported violent victimization among Aboriginal women was almost three times higher than the rate reported by non-Aboriginal women. The 2009 nearly 67,000 or 13% of Aboriginal women aged 15 or older living in Canadian provinces self-reported that they had been a victim of sexual assault, robbery, and/or physical assault

We know that certain groups bear the brunt of domestic leave including:

- Aboriginal Women
- Young women
- Women with disabilities

More info:

[Intimate Partner Violence](#) (December 2017)

[Intimate Partner Violence](#) (December 2016)

[Intimate Partner Violence](#) (December 2015)

[Intimate Partner Violence](#) (December 2014)

## **Nova Scotia**

In June 2015, the province released its first sexual violence strategy, which you can read here. <https://novascotia.ca/coms/svs/docs/Sexual-Violence-Strategy-ENG.pdf>

According to their web site available data indicates that sexual assault is significantly under reported, with approximately 9 in 10 incidents (88%) going unreported to the police.

In 2014, there were 591 sexual assaults were reported to police in Nova Scotia.

Data collected through the 2014 General Social Survey also indicate that:

- Nearly 90% of sexual assaults occur against women and girls
- Youth ages 15-24 are at a greater risk for being sexually victimized

Available statistics are limited and do not adequately represent the incidence of sexual violence in diverse populations. Existing data from Statistics Canada's General Social Survey indicates that some populations are at an increased risk for sexual violence victimization.

For instance, in 2009, the rate of self-reported violent victimization among Aboriginal women was almost three times higher than the rate reported by non-aboriginal women.

In 2016, there were 2,462 victims of police-reported violence committed by an intimate partner in Nova Scotia. The number of victims of intimate partner violence increased by 135, or 8%, over the previous year and, as was the case in 2015, the vast majority of victims (78%) were female.

In 2016, the rate of intimate partner violence was more than three times higher for female victims in Nova Scotia than it was for male victims. In 2016, the rate of intimate partner violence was higher for female victims (466 per 100,000 population) than for male victims (140 per 100,000 population) in Nova Scotia.

Compared to 2015, the rate increased by 7% for female victims and decreased by 1% for male victims in 2016 (See Table 2). Also, in 2016, the rate of intimate partner violence for female victims in Nova Scotia (466 per 100,000 population) was lower than the national rate (480 per 100,000 population). However, the rate of intimate partner violence for male victims in Nova Scotia (140 per 100,000 population) remained higher than the national rate.

Between 1997 and 2016, there were 40 female victims of intimate partner homicide in Nova Scotia, for a rate of 4.9 victims per 100,000 population. The rate for female victims during this time was more than 6 times greater than the rate for male victims. A similar pattern can be seen at the national level, where rates for female victims are close to 4 times greater than for male victims. See data here:

[https://women.gov.ns.ca/sites/default/files/documents/factsheets/2017/IPV%20FS%202017\\_FINAL.pdf](https://women.gov.ns.ca/sites/default/files/documents/factsheets/2017/IPV%20FS%202017_FINAL.pdf)

In 2011, a total of 708 sexual assault incidents in Nova Scotia were reported to the police, where 98% were level 1 sexual assault. Sexual assault at level 2, a weapon or bodily harm in Nova Scotia we had 6 making up 0.8% of reported incidents and Sexual assault at level 3, aggravated in Nova Scotia 8 or 1.1% of reported incidents

Police-reported data for Nova Scotia indicate that, in 2011, 82% of victims of sexual assault were female while 97% of suspects were male.

Also, in Nova Scotia for 2011, there were 105 police-reported incidents of sexual violations against children which translate to a rate of 11.11 per 100,000 population.

You can see the tables here as reported by the Nova Scotia A Domestic Leave - Advisory Council of the status of women. Click Here

[https://women.gov.ns.ca/sites/default/files/documents/factsheets/2012FS\\_Sexual%20Violence\\_FINAL.pdf](https://women.gov.ns.ca/sites/default/files/documents/factsheets/2012FS_Sexual%20Violence_FINAL.pdf)

## **Costs to Employers**

Canadian employers lose upwards of \$80 million annually due to the direct and indirect impacts of domestic leave. Employers pay a high price for survivors' lower productivity rates and higher absenteeism, tardiness, and job loss.

In terms of the employer's medical-related costs there are higher employee benefit costs, increased insurance premiums. Unquantifiable impact domestic leave has on employees and the workplace environment.

## **Our Solution**

We are offering 4 legislative amendments to assist the province in meeting its obligations to the survivors of domestic leave.

### **1. The Labour Standards Act**

An Act to Amend Chapter 246 of the Revised Statutes, 1989, the Labour Standards Code

Be it enacted by the Governor and Assembly as follows:

1 Section 7 of Chapter 246 of the Revised Statutes, 1989, the Labour Standards Code, as amended by Chapter 14 of the Acts of 1991, Chapter 4 of the Acts of 2003 (2nd Session), Chapters 10 and 13 of the Acts of 2006, Chapter 18 of the Acts of 2009, Chapter 37 of the Acts of 2010, Chapter 19 of the Acts of 2011, Chapter 11 of the Acts of 2013 and Chapter 11 of the Acts of 2016, is further amended by adding immediately after clause the following clauses:

While we will not list the entire amendments here they are available at the link [Click Here](#):

We have list a few:

(2) An employee who has been employed by an employer for at least thirteen consecutive weeks is entitled to a leave of absence if the employee or a child of the employee experiences domestic, intimate partner or sexual violence, or the threat of domestic, intimate partner or sexual violence, and the leave of absence is taken for any of the following purposes:

(a) to seek medical attention for the employee or the child of the employee in respect of a physical or psychological injury or disability caused by the domestic, intimate partner or sexual violence;

(b) to obtain services from a victim services organization for the employee or the child of the employee;

(c) to obtain psychological or other professional counselling for the employee or the child of the employee;

(d) to relocate temporarily or permanently;

(e) to seek legal or law enforcement assistance, including preparing for or participating in a civil or criminal legal proceeding related to or resulting from the domestic, intimate partner or sexual violence;

This Bill provides for paid leave when an employee or the child of an employee is a victim of domestic, intimate partner or sexual violence.

(f) such other purposes as may be prescribed by the regulations.

(3) Subsection (2) does not apply if the domestic, intimate partner or sexual violence is committed by the employee.

(4) An employee is entitled to take up to ten days of leave under this Section in each calendar year.

(5) If an employee takes a leave under this Section, the employee is entitled to take the first five such days as paid days of leave in each calendar year and the balance of the employee's entitlement under this Section as unpaid leave.

(6) Subject to subsections (7) and (8), when an employee takes a paid day of leave under this Section, the employer shall pay the employee.

### **Benefits**

- It helps the survivor
- It saves money
- Increased productivity
- Reduced turnover
- Happier workplace

Supporting paid leave for paid domestic leave is the right thing to do.

### **Frequently Asked Questions**

- Why not just take sick leave?
- Why not use Employment Insurance benefits?
- Why does domestic leave need to be paid?
- Could this entitlement be misused?
- Is this too much of a burden on employers?

## **Sick Leave**

Sick leave and domestic leave cover 2 different issues. Survivors of domestic leave can still get sick and sick people can still be survivors of domestic leave. Forcing domestic leave survivors to take sick leave disadvantages women and minorities. Many survivors of domestic leave don't qualify for any paid leave including sick leave.

Employment Insurance EI benefits and domestic leave cover 2 different issues. Survivors of domestic leave can still lose their jobs. Forcing domestic leave survivors to take EI benefits disadvantages women and minorities. Many of those most vulnerable to domestic leave do not qualify for EI. For instance, women are much more likely than men to work part time hours that do not qualify them for EI. Depending on EI demands dishonesty from employers.

Without paid leave there is a much higher chance that survivors cannot meet their needs and obligations. Evidence shows abused women sometimes stay in abusive relationships because leaving will plunge them into poverty. Women who leave a partner to raise children on their own are more than five times likely to live in poverty than if they stay with their partner. There is a global shift toward expansive laws and policies enshrining paid domestic leave including the federal Canadian government and the US Congress.

A UK study by the Director of Public Prosecutions found that out of almost 12,000 prosecutions for domestic violence only 6 were found to be false, that is 0.005%. Survivors of domestic violence are much more likely to lie to downplay rather than exaggerate abuse. All leave entitlements have the potential to be misused but that does not negate the importance of the entitlement.

The costs to employers associated with those payouts are likely to be largely or completely offset by benefits to employers associated with the provision of paid domestic violence leave: including reduced turnover and improved productivity. Despite the high level of domestic leave in our province, the likelihood of employers having an employee who experiences domestic leave is relatively low and having one who requires the maximum benefit is even lower.

## **The Occupational Health and Safety Act**

While Occupational Health and Safety legislation in Nova Scotia does not specifically address domestic violence in the workplace, the definition of "violence" provided in the legislation arguably encompasses domestic violence that occurs in the workplace. Like the Ontario legislation, the Violence in the Workplace Regulations under our Occupational Health and Safety Act defines violence to mean not only acts or attempted acts of physical violence but also threats of physical violence.

Under the Nova Scotia Regulations, violence is defined to mean:

- (i) threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury,
- (ii) conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee.

The Nova Scotia Regulations also require that every employer conduct a violence risk assessment at least once every five years, and if a significant risk of violence is identified, the employer is required to have a Workplace Violence Prevention Plan, which must be available for examination at the workplace by any employee.

Further, section 13(a) of our Occupational and Safety Act provides that “every employer shall take every precaution that is reasonable in the circumstances to... (a) ensure the health and safety of persons at or near the workplace.”

Given these elements, domestic violence that occurs in the workplace is likely captured by our provincial legislation. Therefore, despite the fact that domestic violence is not explicitly referred to in our Occupational Health and Safety Act or Regulations, employers have a duty to protect workers from any such violence. If you have concerns about domestic violence affecting the health and safety of employees at your school/campus, you should first bring your concerns to the attention of your principal/supervisor. If you are not satisfied with your employer’s response, you should then bring your concerns to the Joint Occupational Health and Safety (JOHS) Committee and ask the Committee to make specific recommendations to the employer in writing. The employer will then have to respond within 21 days. Finally, if the JOHS Committee has not addressed your concerns adequately, you may bring your concerns to an Officer with the Occupational Health and Safety Division of the Nova Scotia Department of Labour.

We would propose that changes to the OH&S act be implemented where necessary to ensure that the Occupational Health and Safety Act

- Defines domestic violence as a form of workplace violence and hold the employer accountable for workplace safety
- Provide domestic leave training to OHS committee members
- Prepare a workplace policy and emergency security plan
- Accommodate the worker

A large number of reporting of domestic violence experiences indicated that at least one type of abusive act occurred at or near the workplace. A large number of those experiencing domestic leave reported they discussed it with someone at work.

Video: Ontario Nurses’ Association: The Tragedy of Lori Dupont: Ten Years Later

## **Benefits**

- It protects employees and employers.
- It promotes a responsible corporate culture that cares for its employees.
- It requires minimal investment.

## **Frequently Asked Questions**

- How will this provision improve safety at work?
- Is this too much of a burden on employers?
- How will an employer know when an employee is experiencing domestic leave?

## **Safety at Work**

This provision creates a culture of openness and good information when it comes to domestic leave. When domestic violence comes to work, it can put everyone's safety at risk. The amendment would treat domestic violence like other workplace hazards, making employers obligation clear.

We believe changes are need to ensure worker safety and that the requirements associated with this are largely informational or policy oriented requiring a dedication of a limited amount of human and financial resources.

Australian employers reported positive effects of domestic leave clauses, viewing them as a demonstration of the organization's commitment to staff. It enhances the overall reputation and status of the organization.

We encourage the NS occupational Health and Safety branch to develop certified training to assist employers.

Overall, 43.2% of those experiencing domestic leave reported they discussed it with someone at work. The most common people disclosed to were co-workers (81.6%) and supervisors/ managers (44.7%) 10% of domestic leave survivors say their employer knew whether they disclosed directly or not. Domestic violence occurs at work.

## **Changes we are looking to get to the Residential Tenancies Act**

The Residential Tenancies Act (RTA) is the law that applies to most people who rent the place where they live. The RTA sets out requirements and minimum standards of conduct for landlords and tenants during the term of a tenancy.

We are suggesting that the Residential Tenancies act provide safer spaces for victims of

domestic violence with amendments to the act that will allow victims of domestic violence to end a tenancy early and without financial penalty.

These changes in legislation would apply in cases where if:

- The tenant's safety is at risk;
- A dependant child's safety is at risk; or
- A protected adult's safety is at risk. The amendment to the act would establish that a designated authority to receive an application from, and issue a certificate, to a victim of domestic violence. This certificate confirms that there are grounds to terminate the tenancy and is used by the tenant to give notice to their landlord that they are terminating the tenancy.

The designated authority can also help individuals applying for a certificate to find other supports, such as emergency shelters and financial supports for victims of domestic violence. The Ministry of Community Services Human has been appointed the Designated Authority for the purposes of the proposed legislative changes to the act.

### **The Residential Tenancies Act**

We propose: The Safer Spaces for Survivors of Domestic Violence Amendment to the Residential Tenancies Act

Tenancy Termination A tenant may terminate a tenancy if, because of domestic violence, the tenant believes that his or her own safety or that of a dependent child of the tenant is at risk if the tenancy continues.

To terminate a tenancy under subsection (1), the tenant shall serve the landlord with: a notice at least 28 days before the day that the tenancy is to terminate, and a certificate confirming that there are grounds for terminating the tenancy.

### **Benefits**

This allows survivors to more quickly leave a dangerous situation without fear of incurring financial penalty. Landlords benefit from the diffusion of a dangerous situation in their property, which has a financial and environmental impact.

### **Frequently Asked Questions**

- This amendment asks for 28 day's notice to terminate a rental agreement.

Isn't this already the law?

- Is this too much of a burden on Landlords?

Isn't this already the law? Tenants can be held financially responsible for their rental agreement for two months or more: If the premises are rented for a fixed term. Where the parties have agreed in writing for a longer period of notice. If the tenant breaks their lease they can be held financially responsible for their rental agreement until the landlord secures a new tenant.

Burden on Landlords 28 day's notice is already the requirement for several kinds of leases. Landlords benefit from the elimination of a potentially violent, potentially costly situation associated with their property. 28 days' notice is a reasonable accommodation to protect a survivor from violence.

The Residential Tenancies Act Support domestic leave safety at home and at work!