



M26 Domestic and Sexual Violence Workplace Leave, Accommodation and Training Act, 2016

BACKGROUNDER

Bill 26 was originally introduced as Bill 177 on March 8, 2016 and passed second reading with unanimous support on March 10, 2016. Following prorogation the Bill was re-introduced on September 27, 2016 and once again passed second reading on October 20, 2016. The Bill has been referred to committee.

What's in the Bill

- The Bill amends the *Employment Standards Act* (ESA) and the *Occupational Health and Safety Act* (OHSA) to require employers to provide “reasonable and necessary” leave to workers who have experienced domestic violence (DV) or sexual violence (SV) or whose children have experienced DV or SV. Employees can access up to ten (10) days of paid leave, as well as “reasonable” unpaid leave, each calendar year.
- DV and SV leave is in addition to any other leave entitlements, and can only be taken for specific purposes related to or arising from the violence:
 - To seek medical attention
 - To obtain services from a victim services organization, women’s shelter, rape crisis centre, sexual assault centre, or other social services program or community agency
 - To obtain psychological or other professional counselling
 - To relocate temporarily or permanently
 - To seek legal or law enforcement assistance or participate in civil or criminal proceedings
- Employers can request “reasonable” evidence that the leave is for one of these purposes.
- Employers are also required to provide flexible work arrangements (changes to location of work and/or hours of work) on request so long as it does not cause undue hardship.
- The OHSA amendments require employers to provide mandatory training on DV and SV to all managers, supervisors and workers.

Background

- Canadian employers lose \$78 million annually due to the direct and indirect impacts of DV, and \$18 million due to SV (largely lost productivity costs).
- Women with a history of DV change jobs more often, have lower personal incomes, and are more likely to be precariously employed than women without violence.
- [Can Work be Safe When Home Isn't](#), a national survey conducted in 2014 by the Centre for Research and Education on Violence Against Women and Children (CREVAWC) and the Canadian Labour Congress found:
 - 34% of respondents reported ever experiencing DV from an intimate partner
 - Of these

- 82% of these said it hurt their job performance
 - 43% disclosed to their coworkers
 - 38% said DV caused them to be late for work or miss work
 - 8.5% said DV caused them to lose their jobs
- 29% of coworkers said their own job performance suffered because of the stress and concern they felt for their colleague
- Australia has DV leave provisions covering most unionized workplaces and about one-third of large firms (10 days paid is developing norm). Australian Labour Party pledged to introduce five (5) days paid.
- In November 2015, Manitoba became first Canadian province to provide paid leave for domestic violence (five (5) days paid, five (5) days unpaid, and up to seventeen (17) weeks block leave). The new law took effect in June 2016.
- Many US states provide unpaid leave for domestic violence, sexual assault and stalking (California, Colorado, Florida, Hawaii, Illinois, Kansas, Maine, New York City, Oregon, Philadelphia, and Washington). The District of Columbia provides paid domestic violence and sexual assault leave of three to seven days depending on size of employer.
- Bill 26 incorporates a number of recommendations on DV and SV workplace training included in the Final Report of the Select Committee on Sexual Violence and Harassment:
 - The Ontario government amend the OHSA to make education about domestic or intimate partner violence in the workplace mandatory for managers, supervisors, and workers.
 - The Ministry of Labour provide greater resources and tools to help employers train and educate employees on workplace sexual violence and harassment, focusing on creating a greater awareness of employees' rights, available resources, and recourse options.

Recent Developments

- One week after it passed second reading, Bill 177 received editorial endorsement from the [Toronto Star](#) on March 18, 2016.
- On August 30, 2016, it was [reported](#) that the federal Liberal government is looking at the bill: *"While not applicable to workers under federal jurisdiction, some elements of Bill 177 (e.g. reasonable accommodation) are in line with a federal commitment found in your mandate letter," said the memo, which The Canadian Press obtained under the Access to Information Act.*
- Paid and unpaid domestic or sexual violence leave are specifically referenced in the special advisors' interim report on the [Changing Workplaces Review](#) as options that must be considered when the government is looking at changes to the leave provisions of the Employment Standards Act.
- [London for All: A Roadmap to End Poverty](#), the report of the City of London Mayor's Advisory Panel on Poverty, recommended support for the bill as an important poverty reduction strategy:
 - *Recommendation 2.12 Support provincial efforts to enhance legislation to support workers in maintaining employment, such as provincial Bill 177, which provides survivors of sexual or domestic violence with up to 10 days of paid leave to deal with the harm they experienced.*
- In the November 8, 2016 US election, voters in Arizona and Washington voted to approve paid leave for Domestic violence and sexual assault ("safe leave")
http://www.huffingtonpost.com/entry/paid-safe-leave_us_58239673e4b0d9ce6fc0a934

- In November 2016, the Ontario Federation of Labour (OFL) declared paid domestic and sexual violence leave a bargaining priority and began their “Thunderclap” social media campaign. <https://www.thunderclap.it/projects/50163-save-lives-and-protect-jobs>

WHO SUPPORTS THE BILL?

- Dr. David McKeown, Former Medical Officer of Health, Toronto Public Health
- Canadian Resource Centre for Victims of Crime
- WomanACT
- Womenatthecentre
- Ontario Coalition of Rape Crisis Centres (OCRCC)
- Ontario Federation of Labour
- CUPE Local 79
- CUPE Ontario's Women's Committee
- Elementary Teachers' Federation of Ontario
- OECTA
- International Association of Machinists and Aerospace Workers (IAMAW)
- Ontario Provincial Council of Machinists
- OPSEU Provincial Women's Committee
- Silvia Samsa, Executive Director, Women's Habitat of Etobicoke
- Nadine Sookermany, Executive Director, Springtide Resources
- Sharlene Tygesen, Executive Director, Ernerstine's Shelter for Women
- Louise Pitre, Executive Director, Family Service Thames Valley
- Marianne M. Park, Network of Women with Disabilities (NOW)
- Unifor (Women's Department)
- Middlesex-London Board of Health
- Windsor-Essex County Board of Health
- YWCA Toronto
- Thrive Counselling
- Halton Violence Prevention Council
- Youth in Transition Program of Stormont, Dundas & Glengarry
- MCIS Language Solutions
- Peterborough Domestic Abuse Network
- Women's Community House (London)
- Rainy River District Women's Shelter of Hope
- Women's Initiatives for Safer Environments
- End Violence Against Women Renfrew County
- Prescott-Russell Coalition to End Violence Towards Women
- Centre for Research and Education on Violence Against Women and Children (UWO)
- Domestic Violence Community Coordinating Committee for Brantford, Brant County, and Six Nations of the Grand River
- London Coordinating Committee to End Woman Abuse
- Ontario Association of Interval and Transition Houses
- USW Women of Steel
- Oakville District Labour Council
- London Regional Psychological Association

HOW YOU CAN SUPPORT THE BILL:

- Sign up for the OFL Thunderclap Campaign: <https://www.thunderclap.it/projects/50163-save-lives-and-protect-jobs>
- You can email the clerk of the committee (Trevor Day tday@ola.org) to express your support for the bill, and your interest in seeing it move forward for public input immediately. Your email should be copied to the Government House Leader Yasir Naqvi (ynaqvi.mpp@liberal.ola.org), Premier Kathleen Wynne (premier@ontario.ca), and Minister MacCharles (tmaccharles.mpp.co@liberal.ola.org). Please copy me as well (psattler-qp@ndp.on.ca).
- In the same email, you can request to appear before the committee when the hearings are scheduled. This is important in case the committee decides to hear witnesses on a first come, first-served basis. If you are scheduled and are unable to participate, you can always decline the opportunity.
- You can collect signatures on my Bill 26 petition for me to present in the Legislature. Signed petitions should be mailed or dropped off at my Queen's Park office: Room 359, Main Legislative Building, Queen's Park, Toronto, ON M7A 1A5.