

**Domestic, Intimate Partner, or Sexual Violence Leave
in New Brunswick**



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Introduction

The New Brunswick Association of Social Workers (NBASW) is an organization representing more than 1,900 members provincially. The NBASW's mission is to protect the public and promote excellence in social work practice.

The NBASW is proud to be part of a coalition led by the New Brunswick Union promoting the introduction of domestic violence leave within the *New Brunswick Employment Standards Act*. As social workers, our members work on a daily basis with individuals experiencing domestic violence. We witness the impacts of domestic violence on individuals and families and are often involved in connecting survivors to the supports and services they require. We recognize that reaching out for help requires a great deal of courage and know how important it is that our systems facilitate this process.

We would like to congratulate the New Brunswick government on their commitment to introducing this crucial legislative change and offer the following recommendations to ensure this measure is implemented in a way that is most effective and supportive for survivors.

Leave length and use

As referenced in the consultation document published by the Department of Post-Secondary Education, Training and Labour, several jurisdictions in Canada have recently introduced domestic violence leaves. Each province has adopted its own model, providing different lengths of time for the leave and governing how the leave can be used.

While domestic violence leave is relatively new in Canada, Australian employers were some of the first to adopt the concept of domestic violence leave. A domestic violence clause was first negotiated in Australia in 2010 between a regional council and a union. By June 2014 over 1.6 million Australians working in diverse fields were covered by some form of domestic violence entitlements.

Research has been done in Australia about the impacts of domestic violence clauses in employment agreements. A 2015 report prepared by the Gendered Violence Research Network (University of New South Wales) examining the implementation of domestic violence clauses from employers' perspectives, concluded that employers who took part in the survey did not find these clauses excessively disruptive to their workplace and that the implementation of these clauses did not cause undue financial burden on the organization. In fact, in this research 40% of respondents reported that within a twelve-month period, employees usually requested two to three days of leave, and 17.1% of respondents reported employees requesting less than one day. The reported average time off for paid leave in the past 12 months in this same study was 43 hours.

Based on the success of domestic violence leave in Australia and the minimal disruption that its introduction has produced for employers, the NBASW recommends that New Brunswick provide ten days of paid leave per year, to be used consecutively or intermittently, as needed. Should the Province determine that ten days of paid leave is not feasible, the NBASW strongly believes that five days of paid leave and five days of unpaid leave is the *minimum* required to effectively support those experiencing domestic violence. The complexity of accessing medical services, counselling, law enforcement or legal services must not be minimized. It is crucial that a sufficient amount of time is provided to allow survivors to navigate these systems without concerns about their job security.

Accessing leave- requirements for verification

A critical component to implementing domestic violence legislation that is effective in supporting survivors, is ensuring accessibility and avoiding the creation of unnecessary barriers. The NBASW recommends that the *New Brunswick Employment Standards Act* avoid requirements for formal proof or verification of domestic violence, in order for employees to access this leave. Having strict requirements around verification will likely make this support inaccessible to many individuals. Requiring a survivor to provide documentation from a medical professional or law enforcement officer in order to access domestic violence leave is counterintuitive, as survivors often require leave from work to access these very services. In addition, disclosures of domestic violence can be accompanied by stigma and place the survivor in a vulnerable position. As a result, it is highly unlikely that domestic violence supports would be abused, even without requirements for formal verification.

Should the Province determine that verification is required, there must be a wide variety of options available in terms of who can provide this verification. Acceptable providers of verification should not be limited to health professionals or law enforcement professionals, and should include informal supports such as spiritual leaders, staff of community centres (multicultural organizations, non-profit community serving organizations), or other professionals in a position of trust who can attest to signs of domestic violence. Requirements for verification should not be permitted to delay access to domestic violence leave in circumstances where employees need to relocate or access services on an emergency basis. In such circumstances, documentation could be required following the leave.

Requirements for confidentiality

While the introduction of paid domestic violence leave is a crucial component of the legislative changes being supported by the Coalition, it is important to clarify that paid

leave is only one component of a larger overall strategy for addressing the impacts of domestic violence in the workplace.

In order for employees to feel confident and safe in disclosing experiences of domestic violence, a reasonable expectation for confidentiality must be implemented. Information about disclosures of domestic violence or use of domestic violence leave should only be made accessible to employees who require this information in order to carry out their job responsibilities. As noted above, there is often stigma associated with disclosures of domestic violence, therefore confidentiality is an important aspect in providing employment protection and avoiding the potential for discrimination.

Additional Supports

In addition to maintaining confidentiality, it is crucial that individuals in positions of authority are appropriately equipped to respond to disclosures of domestic violence. The model of domestic violence clauses in Australia typically includes a variety of support above and beyond access to paid leave. In addition to paid leave, the Coalition recommends that the modernized legislation include a provision requiring that workplace accommodations be available for individuals experiencing domestic violence. These accommodations could include changes or flexibility in work location and hours. Domestic violence is often not limited to the home environment, and for some survivors, harassment continues at their workplace through threatening phone calls, emails or unwelcomed visits. Like all workplace accommodations, employers should be required to accommodate up to the point of undue hardship, and accommodations should be tailored to the unique needs of the individual experiencing the violence.

Other types of support available in Australia include training of appropriate personnel, and referrals to appropriate services. The NBASW recommends that individuals working in Human Resources and management positions, have access to training resources about how to support employees who come forward to access this type of leave or accommodations. This could be in the form of a recorded webinar or other online training that offers practical strategies and resources.

These resources could be based upon existing Australian materials that address good practice and implementation of domestic violence policies in the workplace. New Brunswick can also build upon resources developed by local organizations with expertise in family violence research, such as the Muriel McQueen Fergusson Centre. In developing resource materials, the unique experiences of the LGBTQ+ community and aboriginal communities with respect to domestic violence must be considered. Once equipped with proper training and resources, employers should be responsible for creating safe and supportive environments for disclosure.

Due to the fact that domestic violence has often been considered a private issue and one that is not discussed in the workplace, it is critical that this legislative change is accompanied by a robust promotional campaign, educating both employees and employers about available supports and the process to access them.

Summary of Recommendations

The NBASW strongly believes that the introduction of paid domestic violence leave and accompanying job protection and accommodation will be an effective tool in supporting survivors of domestic violence. Financial barriers are often identified as a reason that individuals choose to remain in an abusive situation, or are unable to access the medical attention, counselling, law enforcement or legal services they require. As part of a greater holistic approach to addressing domestic violence, this legislative change has the potential to greatly enhance the safety and wellbeing of many New Brunswickers.

The inclusion of domestic violence leave and associated supports in legislation further solidifies New Brunswick's commitment to reducing domestic violence. It also promotes a workplace culture in which domestic violence can be discussed and workers feel supported.

In conclusion, the NBASW recommends the following changes to the *New Brunswick Employment Standards Act*:

- Introduction of ten days of paid leave per year, to be used consecutively or intermittently, as needed.
- No requirement for formal proof or verification of domestic violence in order to access this leave. Should the Province decide that verification is required, there must be a wide variety of options available in terms of who can provide this verification.
- Requirement of confidentiality by employers whose employees access domestic violence leave or other associated supports.
- Introduction of a provision requiring that workplace accommodations be available for individuals experiencing domestic violence (accommodation in work location or hours).

Along with formal legislative changes, the NBASW also recommends:

- That individuals working in Human Resources and management positions have access to training. This could be in the form of a recorded webinar or other online training, and could be developed using existing materials from Australia and local materials from the Muriel McQueen Fergusson Centre.
- The creation and roll-out of a robust promotional campaign, educating employees and employers about available supports and the process to access them.

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