

DOMESTIC/INTIMATE PARTNER VIOLENCE AND THE LAW

A number of different laws provide protection for employers and their employees when domestic/intimate partner violence (DIPV) spills over into the workplace. These laws can be federal or provincial. They may fall under the criminal, civil or family law systems, and may refer to various terms that fit within the criteria of DIPV, such as family violence or abuse in an intimate personal relationship. They present opportunities for employers to address DIPV that comes into the workplace and enhance safety for employees.

Employers can play a direct and active role in educating workers and facilitating employees' access to information, services and resources that answer basic questions about the law and legal processes. These laws can guide employers as to their legal responsibility to address domestic/intimate partner violence.

CRIMINAL LAW

If an employee is the victim of a crime, they may wish to report it to the police. Criminal law is law that relates to offences committed under the [Criminal Code of Canada](#). While there is no offence called "intimate partner violence" under the *Criminal Code*, there are many offences that may apply to situations of domestic/intimate partner violence.

If an intimate partner is charged and convicted of a criminal offence, they may be fined and/or receive a jail sentence, or a probationary period that restricts specific conduct. This can help protect the victim/survivor¹, and other employees from further abuse in the workplace.

It is the responsibility of the police to investigate the alleged crime. In New Brunswick, the Crown Prosecutor reviews the evidence before the police lay charges in court. In addition to crimes such as murder, manslaughter and criminal negligence, domestic/intimate partner violence victims may experience offences such as:

Assault: An assault occurs when a person intentionally uses force against another person without his or her consent. Threats to harm somebody may also be an assault when the victim believes the person can carry out the threat. The *Criminal Code* does not distinguish between assault on spouses, common law partners or strangers.

Sexual assault: Sexual contact without consent, including by a spouse or partner, is a crime. This includes participation in sexual activity because of threats or fear of refusing.

Criminal harassment: Criminal harassment is also sometimes called "stalking". This section to the *Criminal Code* prohibits anyone from repeatedly following, communicating, watching, or threatening the person or any family member in a way that causes the person to fear for her/his safety or the safety of someone else.

Uttering threats: It is illegal to threaten a person, directly or indirectly, with death or bodily harm, or with damage or destruction of property.

Intimidation: Intimidation occurs when a person tries to frighten or coerce another person by using violence or threats of violence against them, their spouse or their children. Intimidation also involves damaging the victim's property, persistently following them around and watching their home or work.

Publication of intimate images without consent:

It is an offence for someone to knowingly post, distribute, sell or make available an intimate image, film, or recording of another person without that person's consent. An intimate image is a picture or video of a person who is nude, partially nude, or engaged in sexual activity. Even if the individual consented to the pictures or videos, it is an offence to distribute them if the individual had a reasonable expectation of privacy at the time they were taken.

Failing to provide the necessities of life: Parents have an obligation to provide their children with food, clothing and shelter. Spouses have the same obligation to each other. It is a criminal offence, for example, to underfeed dependents to the point of starvation, or to purposefully deprive them of shelter.

Abduction: Kidnapping children from a parent with a custody order and taking children away from the parent who had everyday care of them, even where there is no custody order, are crimes of abduction in the *Criminal Code*.

¹Please note: the word "victim" is used throughout our toolkit where the term "survivor" could also be used to describe people subjected to domestic or intimate partner violence. While some identify as surviving the experience and others, as being victimized, we respectfully acknowledge that some people subjected to abuse do not relate to either term.

NOTE : [Victim Services](#) provides support and resources for victims of crime. More information is available for victims of crime on the [PLEIS-NB website](#).

OTHER REMEDIES

There are other pieces of legislation, both provincial and federal, that can help assist victims of intimate partner violence. These remedies provide provisions to help support victims and to provide guidance for employers. For more information on any of them including how to obtain them, visit the Public Legal Education and Information Service of New Brunswick (PLEIS-NB) [website here](#).

Peace Bonds: A [peace bond](#) under the *Criminal Code* is intended to prevent one person from harming another. If an employee is fearful of their abusive partner, they can ask the court for a peace bond. A peace bond may contain provisions like no contact by any means (e.g. in person or by phone, email or social media), and prohibiting someone from going to a certain location (e.g. a place of work). Violating the conditions of the peace bond is a criminal offence.

Restraining Orders: A [restraining order](#) is a protection order under the *New Brunswick Family Services Act*. It is a family law remedy to prevent someone in a family relationship from annoying or harassing the other person, particularly in relation to child custody and access situations. There is no requirement to be fearful in order to request a restraining order.

Emergency Intervention Orders under the *Intimate Partner Violence Intervention Act (Province of New Brunswick)*: An [Emergency Intervention Order \(EIO\)](#) is a civil law order made under the Intimate Partner Violence Intervention Act on application of someone experiencing intimate partner violence. These orders may contain a variety of temporary conditions to enhance the safety of victims. Examples of provisions that can be granted in an Emergency Intervention Order include no contact, exclusive occupation of the residence, temporary care and custody of children, removal of firearms, and supervision to remove specified property. Emergency Intervention Orders are intended for situations where intimate partner violence has occurred or is likely to occur, and the situation is serious enough to require an immediate response.

Emergency Protection Orders for Couples Living on Reserve: An [Emergency Protection Order \(EPO\)](#) is a civil remedy made under the *Family Homes on Reserves and Matrimonial Interests or Rights Act*. It is intended to address the safety concerns of the victims of family violence living on reserve. An eligible victim can apply for an EPO in Family Court. The abusive partner can be ordered to leave the family home on a reserve for up to 90 days and maybe longer. Although other types of no-contact orders and conditions are available in situations where the couple is living on reserve, including Emergency Intervention Orders, only EPOs apply directly to occupying and using a family home on a First Nations reserve.

OTHER PROVINCIAL LEGISLATION THAT IS IMPORTANT FOR EMPLOYERS TO KNOW ABOUT:

[Employment Standards Act : Domestic Violence, Intimate Partner Violence or Sexual Violence Leave](#)

The *Employment Standards Act (ESA)* governs the minimum standards, rights and obligations for employees and employers in the province including the rules for minimum wages, payroll rules, public holidays, and different types of leaves. One type of leave that the Act provides for is Domestic, Intimate Partner or Sexual Violence Leave. Employees may be able to access this leave if they are a victim of domestic violence, intimate partner violence or sexual violence or if their child is a victim. This leave provides employees with the opportunity to deal with the trauma they have suffered, move to a safer residence, participate in legal proceedings or any other purposes related to or resulting from the domestic violence, intimate partner violence or sexual violence.

The regulations of the ESA set out the rules for this leave. In one calendar year, a victim (or their dependent child who is a victim) of domestic, intimate partner or sexual violence may take up to 10 days (intermittently) and up to 16 weeks in a continuous period. Five of these days are paid days.

The Employment Standards Branch of the Department of Post-Secondary Education, Training and Labour has a [fact sheet](#) which helps explain the details of this regulation, including who is eligible, what the leave is and how long it is, what portion is paid leave, notice requirement and confidentiality provisions.

Occupational Health and Safety Act

WorkSafeNB is a Crown Corporation that is responsible for New Brunswick's [Occupational Health and Safety Act](#). Every worker has a right to a healthy and safe workplace that is free of violence and harassment. The regulations under this Act require all provincial workplaces to develop a code of practice to prevent workplace harassment. It is also necessary for every New Brunswick employer to conduct a risk assessment for violence, which includes sexual violence, intimate partner violence and domestic violence.

Find out more about an employer's responsibility under the *Occupational Health and Safety Act* with respect to violence and harassment at [WorkSafeNB](#).

Note: An employee or employer requiring specific advice on their particular situation should consult a lawyer. Legal advice and representation are clearly in the realm of legal professionals



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YOUR
BUSINESS**
A Domestic & Intimate
Partner Violence
Workplace Toolkit



**C'EST
VOTRE
AFFAIRE**
Une trousse d'outils sur la violence
conjugale et entre partenaires
intimes pour les milieux de travail