

Several states have proposed or enacted laws allowing employers to apply for restraining orders to prevent violence, harassment, or stalking of their employees. The laws vary in significant way, such as in terms of whether the employer may seek a restraining order or injunction on behalf of itself rather than on behalf of the employee, and whether an employee who is the target of violence must be consulted prior to the employer's seeking a restraining order.

### STATE LAWS

**ARIZONA:** [Ariz. Rev. Stat. § 12-1810](#).

Allows an employer or an authorized agent of an employer to petition for an injunction prohibiting workplace harassment on behalf of the employer or “any person who enters the employer’s property or who is performing official work duties.” The employer must make a good faith effort to provide notice to the person(s) targeted. The law specifies that it does not change the duties of the employer, and that the employer will be immune from civil liability for seeking/not seeking an injunction except if it seeks injunction for illegitimate purposes.

**ARKANSAS:** [Ark. Code § 11-5-115](#).

Provides that “if an employer or employer’s employee or invitee” has been a victim of unlawful violence, received a threat of violence at the work site, or been stalked or harassed by an individual at the work site, the employer may, in addition to or instead of filing criminal charges against the individual, seek a temporary restraining order (TRO), a preliminary injunction, or an injunction prohibiting further unlawful acts by that individual at the work site. The law specifies that it does not change the duties of the employer, and that the employer will be immune from civil liability for actions taken under the statute unless lack of good faith is shown by clear and convincing evidence.

**CALIFORNIA:** [Cal. Civ. Proc. Code § 527.8](#) & [§ 527.85](#).

If an employee has suffered violence or a credible threat of violence that can “reasonably be construed to be carried out or to have been carried out at the workplace,” the employer may apply for a TRO and injunction prohibiting an individual from carrying out further acts of unlawful violence or threats against the employee. The TRO and/or injunction may also include “other named family or household members who reside with the employee.” The law states that it does not change the duties of the employer. The time period between the issuance of the TRO and hearing on the injunction was amended to 25 days. Section 527.85 expands the reach of the act to private postsecondary educational institutions. The chief administrative officer or designated employee of such an institution may seek a temporary restraining order and an injunction, on behalf of a student or students at the campus, if the student has suffered a credible threat of violence made off the campus by any individual which can reasonably be construed to be carried out or to have been carried out at the school campus or facility. The school official seeking the order must first obtain the written consent of the student who received the threats.

**COLORADO:** [Colo. Rev. Stat. 13-14-102\(4\)\(B\)](#) [*click open Colorado Revised Statutes; click open Title 13; click on Civil Protection Orders; click on Article 14; then click on 13-14-102*].

A court, upon finding that “an imminent danger exists to the employees of a business entity,” may issue a civil restraining order in the name of the business for the protection of the employees. The law specifies that the employer shall not be subjected to liability for failure to obtain a restraining order under this law.

**GEORGIA:** [Ga. Code Ann. § 34-1-7.](#)

“Any employer whose employee has suffered unlawful violence or a credible threat of violence from any individual, which can reasonably be construed to have been carried out at the employee’s workplace,” may seek a TRO and an injunction on behalf of the employer prohibiting further unlawful violence or threats “at the employee’s workplace or while the employee is acting within the course and scope of employment with the employer.” The court may grant a TRO if the petitioner demonstrates that “great or irreparable harm shall result to an employee if such an injunction is not granted.” The law specifies that it does not change the duties of the employer.

**INDIANA:** [Ind. Code § 34-26-6.](#)

On behalf of an employee, an employer may seek a TRO or injunction prohibiting further violence or threats of violence if: “(1) the employee has suffered unlawful violence or a credible threat of violence from the person; and (2) the unlawful violence has been carried out at the employee’s place of work or the credible threat of violence can reasonably be construed to be carried out at the employee’s place of work.” The law specifies that it does not change the duties of the employer.

**NEVADA:** [Nev. Rev. Stat. § 33.200 - .360.](#)

An employer or an authorized agent of an employer may apply for a temporary order for protection (TOP) and, if successful, an extended order for protection against “harassment in the workplace.” If an employer has knowledge that a specific person is the target of harassment in the workplace, the employer shall make a “good faith effort” to notify the person who is the target that the employer intends to seek an order for protection. “Harassment in the workplace” is defined as occurring when a person knowingly injures or harms, or threatens to injure or harm, the physical or mental health or safety of a person or property and the action is targeted against an employer, an employee of the employer while the employee performs his or her duties of employment, or a person present at the workplace of the employer. The law specifies that it does not change the duties of the employer, and that the employer will be immune from civil liability for seeking an injunction if acting in good faith, and immune from liability for failure to seek an injunction.

**NORTH CAROLINA:** [N.C. Gen. Stat. 95-261.](#)

An employer may seek a civil no-contact order on behalf of an employee who has been subject to unlawful conduct, such as physical injury or threats of violence, at the workplace. Prior to seeking such an order, the employer must consult with the employee who is the target of the violence to determine whether the employee’s safety would be jeopardized by participating in the process. An employee who is the target cannot be disciplined based on their involvement or lack of involvement in the process.

**RHODE ISLAND:** [R.I. Gen. Laws § 28-52-2.](#)

If an employer or an employer’s employee or invitee has (1) suffered unlawful violence by an individual; or (2) received a threat of violence by an individual which can reasonably be construed as a threat which may be carried out at the worksite; or (3) been stalked or harassed at the worksite, the employer may seek a TRO, a preliminary injunction, and an injunction (“in addition to, or instead of, filing criminal charges”). The law specifies that the employer will be immune from civil liability for actions taken under the statute unless lack of good faith is shown by clear and convincing evidence, and that the employer is not negligent for failing to utilize the procedures.

**TENNESSEE:** [Tenn. Code §§ 20-14-101 to -109](#) [*click on Title 20, then Chapter 14*]

An employer whose employee has experienced violence or a credible threat of violence that can reasonably be construed to have taken place in the employee’s workplace may seek a TRO and injunction on behalf of the employer, prohibiting “further unlawful violence or threats of violence by that individual at the employee’s workplace or while the employee is acting within the course and scope of employment with the employer.” The law specifies that it does not change the duties of the employer.

## RECENT LEGISLATIVE PROPOSALS

The following legislation has been introduced in the current or prior legislative sessions. The contents of the bills vary and the status of a particular bill may change very quickly. For more information about each bill, check your legislature's website.

**CONNECTICUT:** [H.B. 5496](#), Gen. Assemb. Feb. Sess. (Ct. 2010).

This bill would allow an employer, whose employee has suffered from unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a restraining order on behalf of the employee and any other employees or animals at the workplace. The employer must provide a sworn affidavit about the threat or violence, and a hearing on the application will be held within 14 days. If the employer alleges an immediate and present physical danger, the court may issue an ex parte order. The bill died in committee.

**FLORIDA:** [S.B. 200](#), 108<sup>th</sup> Reg. Sess. (Fla. 2006).

This bill would provide standing for a government employer to seek an injunction on behalf of an employee who is suffering from at least two incidents of violence or stalking in a public workplace. This bill is very similar to S.B. 512, introduced in 2005. This bill died in committee.

**HAWAII:** [H.B. 2940](#), 25<sup>th</sup> Leg. (Haw. 2010).

This bill would allow an employer, whose employee or invitee has been threatened or harassed by an individual at the worksite, to obtain a temporary restraining order and injunction. The employer must consult the employee or employees subject to the threats or harassment before seeking the order, to the extent feasible. The employee who is the target of the threats or harassment and is unwilling to participate in the request for an order shall not face disciplinary action based on the extent of their participation or cooperation with the process. If the perpetrator is a current employee of the employer, the court shall be provided with evidence concerning the employer's decision to retain, discipline or terminate the employee. The bill died. This bill is similar to [H.B. 762](#) (2005).

**KENTUCKY:** [H.B. 221](#), 2003 Reg. Sess. (Ky. 2003).

"If an employer, or an employer's employees or invitees have suffered unlawful violence . . . or received a threat of violence from an individual which can reasonably be construed as a threat which may be carried out at the worksite, or been stalked or harassed at the worksite, the employer may . . . seek a restraining order . . . prohibiting further unlawful acts by that individual at the worksite, which shall include any place at which work is being performed on behalf of the employer." Not utilizing this procedure shall not be the basis for a finding of negligence, and evidence of not using it is not admissible as evidence of negligence. Unless an employer and its agents lack good faith, as "shown by clear and convincing evidence," they are immune from civil liability for actions taken under this section. This bill failed to win approval in the House.

**MARYLAND:** [H.B. 1210](#), Reg. Sess. (Md. 2006).

The bill allows an employer to file for a peace order on behalf of an employee who has been the victim of certain unlawful acts at the workplace. The qualifying acts include: bodily harm, acts that place the individual in fear of imminent serious bodily harm, assault, rape or sexual offense, false imprisonment, harassment, stalking, and malicious destruction of property. The bill requires the employer to "make[] a good faith effort to notify the alleged victim of the employer's intention to seek the temporary restraining order." The bill specifies that it does not change the duties of the employer. The bill died in committee.

**MISSISSIPPI,** [H.B. 1359](#), Reg. Sess. (Ms. 2010).

An employer may seek a temporary restraining order or injunction if the employer, an employee or employee has suffered "unlawful conduct" (assault, rape, sexual battery, stalking, cyberstalking, or a credible threat of

violence) by any person, and the employer has a reasonable belief that the person may carry out further unlawful conduct at the workplace. The bill passed the House but died in the Senate.

**NEW JERSEY:** [A.1159](#), 213<sup>th</sup> Leg. (N.J. 2008).

An employer whose employee has been a “victim of an assault, harassment, stalking or has suffered a credible threat of violence from any individual, which can reasonably be construed to be carried out . . . at the work place” can seek a restraining order on behalf of the employee. If the alleged perpetrator of the violence or threats is also an employee of the employer, the court shall receive evidence concerning the employer’s decision to retain, terminate, or otherwise discipline that employee. An order may restrain the defendant from making “any communication likely to cause annoyance or alarm” with the victim or his or her family members, employer, or fellow workers; it may also require the defendant to pay a fine or reimburse the victim for “any reasonable medical expenses, including reasonable counseling costs” or prohibit the defendant from possessing a firearm. The Department of Labor shall develop a training course and curriculum for agencies involved in handling reports of violence in the workplace. The bill died in committee.

**NEW YORK:** A.B. 3280, 228<sup>th</sup> Leg. (N.Y. 2005).

Provides for the protection of employees from violence in the workplace through the use of temporary restraining orders and permanent injunctions to enjoin credible threats of violence; permits employer to seek such restraining order on behalf of an employee upon a showing that such employee has suffered unlawful violence or a credible threat. The bill specifies that it does not change the duties of the employer to provide a safe working environment. The bill died in committee.

**NORTH DAKOTA:** [H.B. 1057](#), 58<sup>th</sup> Leg. Assembly (N.D. 2003).

This bill allows an employer to seek a temporary restraining order (TRO) and injunction prohibiting workplace harassment. The petition must specify the events “that constitute harassment toward the employer or any individual who enters the employer’s property or who is performing official work duties.” The court may restrain the defendant from coming near the employer’s property, contacting the employer or other individual while at the property or performing work duties, or “grant any other relief necessary for the protection of the employer, the workplace, the employer’s employees or any other individual who is on or at the employer’s property or place of business or is performing official work duties.” The bill does not “expand, diminish, alter, or modify the duty of an employer to provide a safe workplace.” “An employer is immune from civil liability for seeking or failing to seek a [TRO] and injunction under this section unless the employer is seeking [them] primarily to accomplish a purpose for which this section was not designed.” The bill died in the House.

**OKLAHOMA:** H.B. 2395, 29<sup>th</sup> Leg., 2d Sess. (Okla. 2004).

An employer may seek an injunction prohibiting “workplace harassment” on the basis of harassment toward “the employer or any person who enters the property of the employer or who is performing official work duties.” The injunction may restrain the defendant from coming near the property of the employer or place of business and restrain the defendant from contacting the employer or “other person while that person is on or at the property of the employer or place of business or is performing official work duties,” as well as grant “any other relief necessary” to protect the subject of the harassment. When an employer has knowledge that a specific person is the target of the harassment, the employer “shall make a good faith effort to provide notice” to that person that the employer intends to seek an injunction. This section shall not “expand, diminish, alter or modify the duty of an employer to provide a safe workplace.” An employer generally is immune from civil liability for seeking or failing to seek an injunction under this section. The bill passed the House but died in the Senate.

**WASHINGTON:** [S.B. 6024](#), 58<sup>th</sup> Leg., Reg. Sess. (Wash. 2003).

An employer or an authorized agent of an employer may petition for an order of protection in cases of workplace harassment. The court may “[r]estrain the defendant from coming near the employer’s property or

place of business” and “[r]estrain the defendant from contacting the employer, or other person while that person is on or at the employer’s property or place of business or is performing official work duties.” Nothing in this chapter shall be construed to expand, diminish, alter, or modify the duty of an employer to provide a safe workplace. An employer is generally immune from civil liability for seeking or failing to seek a order of protection under this provision. The bill died in the Senate.

*This state law guide, with links to cited laws and bills, is available on the Legal Momentum web site at <http://www.legalmomentum.org/our-work/domestic-violence/state-law-guides.html>. For more information, contact Senior Staff Attorney Maya Raghu, [mraghu@legalmomentum.org](mailto:mraghu@legalmomentum.org), at (212) 925-6635.*