

BCGEU SUBMISSION ON PAID LEAVE FOR DOMESTIC OR SEXUAL VIOLENCE



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Introduction

The BCGEU represents more than 79,000 workers in various sectors and occupations in communities throughout British Columbia. Our diverse membership includes direct government employees as well as workers in women's shelters, emergency housing, counseling centres and other community social services that support people who have experienced domestic and sexual violence.

Domestic and sexual violence affects far too many British Columbians. Statistics Canada reports that domestic violence—offences that take place between spouses, common-law partners, or people who are in intimate relationships—accounts for 30 per cent of all police-related violent crime in Canada, with women being the victim eight times out of 10.

Recent research from the Canadian Labour Congress and Western University found that one in three workers in Canada has been impacted by domestic violence. The study also found that workers' ability to return to their workplace and perform their duties while feeling safe was also compromised, as harassing phone calls and stalking may continue when a worker returns to the workplace.¹

Clearly, domestic and sexual violence is not only a personal issue, but has broader implications for our workplaces and our communities. It is essential that we find policy tools to assist those fleeing violent relationships, including those who are recovering from abuse, rebuilding their lives, or otherwise dealing with the emotional and physical impacts of domestic and sexual violence.

As the BCGEU conveyed in an August 2019 letter to Labour Minister Harry Bains, the provincial government took an important initial step in 2019 legislating 10 days of unpaid leave. However, the

province still trails other jurisdictions in Canada on this issue, and lags far behind the most progressive legislation internationally regarding paid leave for domestic and sexual violence.²

With this in mind, the BCGEU calls on the provincial government to amend British Columbia's *Employment Standards Act* to include 10 days of fully paid leave for people who experience domestic and sexual violence, as well as the right to request flexible working arrangements without jeopardizing their employment. Legislating paid leave for people who experience domestic violence will provide economic security and stability during a period of vulnerability in an affected person's life—a time when they likely cannot afford to be missing work. Paid leave will mean that people have at least some of the time needed to deal with the effects of violence, seek help, and take steps to keep themselves and their children safe.

Recommendations

1. 10 Days of Paid Leave

BCGEU recommends that the provincial government legislate a minimum of 10 days' employer-paid leave for employees if they, their child, or individuals in their care, experience domestic or sexual violence. This should be separate from, and in addition to, any annual leave, sick leave and bereavement leave already stipulated in a worker's contract, and no minimum length of service should be required before employees are able to access these leave provisions. This would move B.C. toward a position of leadership on par with New Zealand's precedent-setting 2018 legislation,

¹ Wathen, C. N., MacGregor, J. C. D., MacQuarrie, B. J. with the Canadian Labour Congress. (2014). *Can Work be Safe, When Home Isn't? Initial Findings of a Pan-Canadian Survey on Domestic Violence and the Workplace*. London, ON: Centre for Research & Education on Violence Against Women and Children.

² See the August 16, 2019 letter from BCGEU President Stephanie Smith to The Honourable Harry Bains, Minister of Labour, re: "Paid leave for people who experience intimate partner violence."

which allows affected workers 10 days of paid leave and the right to request flexible working arrangements.³ Currently, B.C. is one of the only Canadian jurisdictions without paid leave for domestic or sexual violence.

2. Up to 15 weeks leave of absence

In addition to 10 days' paid leave, the BCGEU recommends that the *Employment Standards Act* be amended to allow for an additional 15 weeks' leave of absence upon request by an affected employee.

3. The right to request short-term flexible working arrangements

B.C. should also mirror New Zealand's provision allowing workers affected by domestic or sexual violence to request short-term flexible working arrangements for up to two months. Working arrangements covered under the New Zealand legislation include hours and days of work; location of the employee's workplace; and duties at work.

4. Prioritize the safety and privacy of affected workers and/or people in their care

Employers should be legally responsible for protecting their employees' personal information in situations involving domestic and sexual violence leave, becoming subject to enforcement measures from the Employment Standards Branch for failing to do so. The government should also provide educational resources to ensure employers understand these obligations and their significance.

5. Minimize potential barriers to accessing leave for domestic and sexual violence

Regulations should ensure that barriers to accessing leave are minimal. In practice, this means ensuring that those needing leave are not confronted with proof requirements that create an additional burden under already difficult circumstances, or that could jeopardize privacy and safety. The gravity of situations involving domestic and sexual violence make it extremely unlikely that people will make false claims, and the seriousness of the stakes involved mean that the safety and wellbeing of victims should be prioritized over the low likelihood of misuse of leave provisions.

If proof and/or documentation requirements are included in legislation or regulations, they should be broadly defined and non-prescriptive. In New Zealand, "proof" is defined as letter or email about what's going on and how it affects the employee, sent from either a support organisation or person (for example, a counsellor or domestic violence support service); a report from a doctor or nurse; a report from a school; a declaration (a letter of evidence witnessed by an authorized person like a justice of the peace); or any court or police documents about the domestic violence.

6. Ensure access using oversight, education and enforcement by the Employment Standards Branch

The Employment Standards Branch should be resourced to provide a robust training program to ensure employers understand their obligations and to help them respond to a worker's request for leave in a trauma-informed way.

³ A comprehensive overview of the New Zealand legislation and regulations referenced throughout this submission can be found online at: <https://www.employment.govt.nz/leave-and-holidays/domestic-violence-leave/>

Employers should be required to reply in writing to a request for leave or short-term flexible work arrangements within 10 working days (at the latest). If denied, or if an employer does not respond within the allotted time, employees should have quick access to an appeal process through the Employment Standards Branch.

The government should also institute a process through which workers can seek paid leave via direct intervention by the Employment Standards Branch (for example, in cases where an employer or manager is the perpetrator of violence or is refusing to comply with a legitimate request).

It will be crucial to ensure that Employment Standards Branch has the necessary staff, resources and training to oversee enforcement of the provisions outlined here, and also the capacity to assist people with navigating the process of requesting leave and/or flexible working arrangements.

Conclusion

The BCGEU thanks government for the opportunity to make a submission on paid leave for domestic and sexual violence, and we commend them for moving forward on this crucial issue. After years of lagging behind other Canadian jurisdictions in the provision of paid leave, British Columbia should now take the lead and set a precedent by matching or exceeding international best practices. We believe that New Zealand's model of a minimum of 10 days' paid leave, coupled with provisions for longer leaves of absence and short-term flexible work arrangements, should form the basis of B.C. policy. In addition, we believe it will be important to minimize barriers to access and to establish effective oversight, education and enforcement through a properly resourced Employment Standards Branch.

