

Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking Amendment Act of 2018

- Fact Sheet for Employers -



(created September 25, 2019)

About The Law

Under the *Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking Amendment Act of 2018*, employers, employment agencies, and labor organizations (“employers”) in the District of Columbia may not discriminate against an employee or an applicant (“employee”) based on their status as a victim or family member of a victim of domestic violence, a sexual offense, or stalking (“DVSOS”). The Law amends the DC Human Rights Act of 1977 and OHR will begin enforcing this law on **October 1, 2019**.

What is “domestic violence”? A pattern of abusive behavior that is used by one partner to gain or maintain power and control over another intimate partner, dating partner, or family member.

What is a “sexual offense”? Incest, sexual abuse, or attempt to commit incest or sexual abuse.

What is “stalking”? Engaging in a course of conduct directed at a specific individual – with the intent to cause the individual to or knowing the conduct would cause the individual reasonably to: (1) fear for personal safety or safety of another; (2) feel seriously alarmed, disturbed, or frightened; or (3) suffer emotional distress.

Who is included in the definition of “family member”?

- Spouse – *including domestic partners*
- Parents of a spouse
- Children – *including foster children and grandchildren*
- Spouses of children
- Parents
- Brothers and sisters
- Spouses of brothers and sisters
- Child who lives with an individual and for whom the individual permanently assumes and discharges parental responsibility
- Person with whom an individual shares or has shared, for not less than the preceding 12 months, a mutual residence and with whom the individual maintains a committed relationship

What Does The Law Require Of Employers?

1. **Do Not Discriminate:** Employers may not take an adverse employment action against an employee based wholly or partially on the fact that:
 - The employee attended, participated in, prepared for (or requested leave to attend, participate in, or prepare for) a criminal, civil, or administrative proceeding related to DVSOS;
 - The employee sought physical or medical health treatment or counseling relating to DVSOS; or
 - An individual caused a disruption at the employee’s workplace or made a threat to the employee’s employment, related to DVSOS.

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2. Provide Reasonable Accommodations: Employers are required to provide reasonable accommodations to victims of or family members of victims of DVSOS when it is necessary to ensure the employee's security and safety – unless the accommodation would cause the employer an undue hardship.

- **Examples of reasonable accommodations:**

- o Transfer/Reassignment
- o Modified Schedule/Leave
- o Changed work station, telephone number, email address
- o Lock installation
- o Assistance with documenting DVSOS that occurs in the workplace
- o Implementation of another safety procedure in responses to actual/threatened DVSOS

- **When is an accommodation an “undue hardship”?** If it requires significant difficulty or expense when considered in relation to factors such as: size of the employer; financial resources of the employer; and the nature and structure of the employer's operations.

3. Do Not Wrongfully Disclose Information: Employers may not disclose any information related to an employee's status as a victim of or family member of a victim of DVSOS that was provided to the employer by the employee.

- **EXCEPTIONS:** An employer may disclose information if disclosure is:
 - o Requested or voluntarily authorized in writing by the employee
 - o Ordered by a court or administrative agency or otherwise required by law
 - o Provided to a law enforcement agency
 - o Necessary to protect other employees from imminent harm, or
 - o To provide reasonable accommodation.

- If the employer discloses, it MUST notify the employee of the disclosure.

The Complaint Process At The DC Office of Human Rights

The District of Columbia Office of Human Rights (OHR) is charged with enforcing the DC Human Rights Act of 1977, as amended. If OHR docket a formal Charge of Discrimination against an employer, the complaint process is as follows:

- 1. Formal Complaint:** OHR will notify the employer of the Charge.
- 2. Mediation:** OHR will require the employer and the complainant to attend mediation to attempt to resolve the Charge.
- 3. Investigation:** If mediation is unsuccessful, OHR will launch a full investigation of the Charge.
- 4. Conciliation:** If OHR finds probable cause to believe that a violation occurred, the parties will be required to attend conciliation (similar to mediation).
- 5. Hearing:** If conciliation is unsuccessful, the case will be sent to a full hearing before the Commission on Human Rights (private sector cases) or before an Administrative Law Judge (District government cases).
- 6. Final Decision:** If, after the hearing, the employer is found in violation of the DC Human Rights Act, the employer will be ordered to immediately discontinue the unlawful discriminatory action and may be ordered to pay the complainant's damages and fees.

To learn more about your responsibilities as an employer under the *DC Human Rights Act of 1977* and the *Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking Amendment Act of 2018*, visit www.ohr.dc.gov.