

**Economically Abused: The Need for Financial Protections for Victims of
Domestic Violence**

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Introduction

Victims of domestic violence lead a life that is extremely difficult for an average person to comprehend or accurately empathize with. These victims often live in constant fear for not only their own safety, but also other family members. They live a double life, privately enduring unimaginable physical and emotional abuse while trying to portray to the unsuspecting outside world that all is well within their homes and lives. Victims have a multitude of reasons for not wanting to report the abuse and protecting their abusers,¹ however a dominating factor in the decision making process is economic independence and security.² Victims must account for the changes to economic independence and housing that will accompany the decision to leave an abusive relationship.

An economically secure future is an element many victims would require to break off an abusive relationship or family situation. To ensure economic security a victim must be free to access housing, employment, and insurance. Unfortunately for victims of domestic violence the ability to secure such a future or arrangement is largely left in the hands of third parties.³ Third parties that will generally act in their own best interests in lieu of consideration of the special and challenging circumstances victims face. These third parties can also be directly and indirectly influenced by the abuser in an effort to continue harassing the victim. Recent state and federal legislation give hope that these serious issues are properly recognized and addressed,⁴ however several questions remain regarding potential economic vulnerabilities for victims of domestic violence.

This article explores some of the economic hardships faced by victims of domestic violence and the legal protection and rights to which they are entitled. Section I examines the

history of discriminatory behavior and procedures utilized by third parties such as employers, insurers, and landlords that negatively impact victims. Next, Section II explores current and pending legislative reforms at both the state and federal level aimed at rectifying these injustices. Finally, the article concludes with an evaluation of relevant current and pending legislation and discussion regarding the future for victims of domestic violence and their economic security prospects.

I. A History of Discrimination

A. Victims in the Workforce

The harmful impacts of domestic violence do not end for a victim once they are out the front door of their home. Approximately 20% of employed adults in America are also victims or survivors of domestic violence and the violence experienced at home results in 8 million lost paid work days a year, costing employers upwards of \$6 billion annually.⁵ These victims are spread across a wide range of companies and positions. In a 2007 survey of workers employed by Fortune 1,5000 companies results revealed that 26% of women and 8% of men considered themselves victims or survivors of domestic violence.⁶ However their coworkers and bosses may be unaware of the plight of the victims, 83% of CEOs surveyed believe fewer than 10% of their employees to be either survivors or victims of domestic violence.⁷ Some studies have shown that up to 96% of working victims of domestic violence considered their work productivity to be diminished.⁸ There can be little doubt that domestic violence impacts not only the victims and their family, but also the seemingly unsuspecting employer in terms of work productivity and financial loss.

Victims must also shoulder the burden and responsibility of the impact the domestic violence will have on coworkers and bosses. The victim's decreased efficiency may result in increased responsibility for coworkers as well as potential disruption and greater tension in the workplace.⁹ There is also potential for batterers to hassle coworkers and managers in an attempt to unsettle the workplace and cast responsibility on the victim.¹⁰ Unfortunately this was the case for Francesca La Rose. La Rose's ex-boyfriend contacted her manager and insisted she be fired or he would come to the workplace and kill her.¹¹ Although the supervisor had received a specific threat on Francesca's life, the only action taken was to warn her to isolate her domestic problems from the office.¹² The former boyfriend entered the workplace and fatally shot Francesca the next day.¹³ In turn La Rose's family filed a wrongful death suit against her employer and would eventually settle the case before trial.¹⁴ Francesca's story illustrates the danger victims face while in a work setting and why employers would be reluctant to have an employee with a history of domestic abuse.

The workplace provides the abuser another method and forum for harassing and hurting the victim. If a victim attempts to escape an abusive relationship or seeks a protective injunction, the batterer may stalk and harass them at work as they can be sure the victim will be there.¹⁵ This is precisely what happened in *State v Byars*.¹⁶ In *Byars*, the batterer was barred from entering the victim's workplace as a condition of the protective injunction.¹⁷ Despite the protective order the batterer shot and killed the victim while she was at work.¹⁸ This case exemplifies how a victim may still be in danger in the workplace, regardless of potential protective injunctive orders. It also illustrates the lengths batterers will go to stalk, harass, and even kill their victims outside of the home.

This extension of control by the abuser may further decrease the victim's productivity, in turn costing the employer.¹⁹ The intent of the abuser is clear, if the victim is unable to keep gainful employment and achieve economic independence, they are more likely to stay in the abusive relationship and under the abuser's control.²⁰ Victims are afraid of losing their jobs because it can mean the difference in moving away from the batterer supporting their children, or possibly becoming homeless.²¹ The victim also loses the potential one place of refuge from the abuse at home and must now also be fearful while at work.

Domestic violence not only decreases a victim's productivity on the job, but also can force them to be absent from work. As mentioned, it is estimated that there are 8 million lost paid work days annually and these occur for a variety of reasons and impact a majority of victims.²² It is estimated that between 55% and 85% of employed victims missed work as a result of domestic violence.²³ Victims may miss also work to consult counsel or aid agencies about their situation.²⁴ They will also be likely to be absent due to legal proceedings concerning the abuse.²⁵ Annually over one million victims apply for protective injunctions, often resulting in numerous court appearances to ensure the order is upheld.²⁶ There are also the associated medical treatments required and security issues, such as changing of locks to attend to.²⁷ Unexplained, or in some cases, unexcused absences can ultimately result in what the victim works so hard to avoid, termination of employment.

An example of unwarranted termination when a victim has done everything possible to mitigate the damages caused by their abuser is the situation experienced by Sophia Apossos. Ms. Apossos had worked as a reporter for over a year for Memorial Press Group.²⁸ Ms. Apossos was beat by her husband on Saturday, July 29 and obtained a temporary abuse prevention order with the assistance of the police.²⁹ The husband violated that order by calling Ms. Apossos and thus

she was required to appear in court on Monday to apply for an extension of the protective order and to testify at the arraignment. As well, she heeded the police's advice and had her locks changed, requiring her to miss all of Monday. Ms. Aspeccos called her employer and left a message that she would be absent due to the legal proceedings. She also spoke with her supervisor about having to meet the locksmith and that she would be in the next door. Upon reporting to work on Tuesday her employment was terminated, in her determination, likely due to her absence the day before.³⁰ The employer terminated the victim, who acted in strict compliance with their procedural and legal requirements, purely based on a single missed day of work.

Unfortunately the injustice that Ms. Aspeccos faced regarding her termination is not an aberration. The 1998 report by the U.S. General Accounting Office uncovered that between 25% and 50% of victims interviewed had lost a job at least in part due to domestic violence.³¹ This startling statistic helps put in context why victims work so hard to keep their domestic violence issues separate from their work environment, generally to no avail. Termination on these grounds is seemingly discriminatory; however employers are free to proceed in such a fashion unless legislation specifically prohibits said conduct.

The "termination at will" doctrine is the prevailing legal theory in regards to employment termination in the United States.³² This policy allows employers to let an employee go for almost any conceivable reason and in some situations, no reason at all.³³ Unless specific state or federal legislation provides specific protection to victims of domestic violence, they can be fired due to their situation.³⁴ As disturbing as it is to accept, victims can be terminated merely for being victims of domestic violence.³⁵ The discriminatory treatment of victims of domestic violence in

regards to employment does not end here however; victims may also be robbed of employment benefits of which they would be otherwise entitled.

During times of unemployment caused by domestic violence, victims will often rely on unemployment insurance benefits as a source of financial security.³⁶ To qualify for unemployment insurance applicants must generally be seeking employment and fit to complete the required work.³⁷ The unemployment insurance requirements were created based on the “male breadwinner” role which is incompatible with the situation most victims of domestic violence, specifically women face.³⁸ Common reasons employees are disqualified from unemployment insurance include leaving a job voluntarily, poor attendance, and other misconduct that can lead to termination.³⁹ Unfortunately for victims of domestic violence, these conditions occur frequently during the course of their employment.⁴⁰ Furthermore, employers will act in the best interests of the company’s financial well being and consider expanding benefits to victims of domestic violence an economic hardship.⁴¹ This poses another situation where third parties will act only in their own best interests and disregard the special needs of victims of domestic violence.

Employers are hesitant to hire or retain for employment victims of domestic violence for many reasons, both personal and financial. Employers may view the victim and their situation as an unnecessary distraction and potential safety risk in the workplace. They may also be worried about missed work days and decreased productivity from victims. Finally, they may want to avoid the increased costs associated with unemployment benefits for victims and other associated costs. Overall the situation of victims in the workplace is a bleak one and legislative protections are needed to ensure that victims are not exploited, and essentially doubly victimized by their batterer and employer.

B. No Place to Call Home

Not only must victims face overwhelming discrimination in the work place, but also in their efforts to secure or maintain suitable housing. The correlation between homelessness and poverty with victims of domestic violence is very real and illustrative of the many adversities victims face. Women living in households with an income under \$7500 were 7 times more likely to experience domestic violence than those in households with incomes over \$75000.⁴² A 2005 report half of American cities surveyed identified domestic violence as a predominating cause of homelessness.⁴³ A study in Florida in 2003 reported that 46% of domestic violence victims or survivors explained that they were homeless as a result of the abuse, while another 83% reported they struggled to find reasonable housing alternatives.⁴⁴ Victims are denied or removed from their housing arrangements by a variety of discriminatory methods and processes fuelled by misunderstanding and lack of sympathy for their situations.

Victims and survivors of domestic violence encounter difficulties from the initiation of their attempts to secure housing. Batterers often wield economic control over the victim to manipulate them, combined with little employment protection; victims lack the financial means to begin the process of ensuring housing.⁴⁵ The expenses associated with security deposit, first and last months' rent and other fees are prohibitive for most victims to consider.⁴⁶ Furthermore, victims usually will not have strong credit records or access to private loans, in part due to their inability to maintain steady employment as a result of the domestic abuse.⁴⁷ Victims may also be responsible for the expenses associated with a breach of their lease if they choose to move in an attempt to flee their batterer.⁴⁸ Some lease provisions not only require the victim to pay the remainder of the rent, but also additional months' rent in full.⁴⁹ This situation however only

applies to the minority of victims of domestic violence, those that can afford private or non-subsidized housing.

The strong link between poverty and victims of domestic violence often leaves only the option of public housing. Batterers deny victims the possibility of staying with family and friends by alienating and possibly threatening associates of the victim.⁵⁰ Victims face discrimination from the outset of application for subsidized housing.⁵¹ Housing managers will require criminal record checks for applicants and the victim will appear as the complainant if they have applied for an order of protection.⁵² This occurrence raises a red flag and leads many managers to reject applications by victims.⁵³ Unjustly, victims will also appear as an initiator of violence if the batterer applies for a mutual order of protection.⁵⁴ Housing managers also have the discretion to impose discriminatory conditions of tenancy, including that no future violence transpires in the residence, an occurrence that victims neither control nor desire.⁵⁵ The odds are seemingly stacked against victims of domestic violence in regards to acquiring private or public housing.

Victims that succeed in the application process still face an enormous obstacle in the stigma that creates unfair prejudices in the minds of landlords and housing authorities. This stigma and prejudice is best exemplified by a 2005 study by the Anti-Discrimination Center of Metro New York.⁵⁶ Employees from the Center contacted various landlords and housing agencies on behalf of victims or survivors of domestic violence to inquire as to the availability of advertised housing.⁵⁷ Not surprisingly, the responses were less than accommodating. Of those contacted 27.5% completely rejected the inquiry or refused to respond to requests.⁵⁸ Furthermore, a common response insinuated that the respondents “don’t want no husband to come and beat her up.”⁵⁹ This problem is not one isolated to New York however. A 2005 report

compiled by legal service providers nationwide found 150 instances of victims being evicted based purely on their status.⁶⁰ This statistic may also underestimate the true nature of the problem as it has been reported that 83% of domestic violence victims who face housing discrimination refused to make a claim.⁶¹ Landlords and housing authorities use a multitude of legal theories and legislation to justify their discriminatory behavior.

The seemingly discriminatory eviction of domestic violence is often executed in ways that are supported by legislation and normal renting practice. The Anti-Drug Abuse Act passed by Congress in 1988 instituted a zero tolerance policy that enabled landlords and housing agencies to evict tenants if they, their guests, or others under their control engaged in criminal activity in or near the housing premises.⁶² Many private landlords followed suit and utilized similar lease provisions in their rental agreements.⁶³ Landlords and housing agencies evict victims based on the criminality of the domestic abuse they suffer and their batterers' status as "guests" or person under control of the tenant.⁶⁴ This one-strike policy was further strengthened by the Housing Opportunity Program Extensions Act of 1996 by requiring housing authorities to enforce the policy.⁶⁵ The one-strike law was upheld as constitutional by the Supreme Court in *Department of Housing & Urban Development v Rucker*.⁶⁶ In *Rucker* the tenants argued that the policy allowed for "innocent" tenants to be evicted, even if they were unaware of or did not initiate the alleged criminal activity.⁶⁷ The Court rejected this contention and endorsed the policy, stating, "strict liability maximizes deterrence and eases enforcement difficulties."⁶⁸ This one-strike rule enables the eviction of victims of domestic violence based on incidents over which they have no control.

The discriminatory use of the one-strike policy is best exemplified by the case of Tiffani Alvera. Ms. Alvera was severely assaulted by her husband on August 2, 1999.⁶⁹ As a result, Ms.

Alvera was hospitalized, reported the incident to the police, and obtained a temporary restraining order.⁷⁰ Upon returning to her apartment complex, subsidized government housing, she informed her housing manager of the incident and also furnished a copy of the protective order.⁷¹ The manager responded by serving Alvera with an eviction notice giving her 24 hours to vacate the premises.⁷² The eviction was based on the one-strike rule and zero-tolerance policy for violence.⁷³ This case is typical of how landlords and managers would rather evict a victim and justify it by the one-strike rule, rather than showing some compassion for the victim and trying to work out an alternate arrangement.

Landlords also have other options to legally evict victims of domestic violence based on the conduct of their batterers. Chronic nuisance laws combine the rationale of the public nuisance doctrine with the operation of municipal public services.⁷⁴ Essentially chronic nuisance codes allow local governments to penalize landlords and housing managers for disproportionate use of police response and services.⁷⁵ Therefore landlords seek to avoid situations of domestic violence that require repeated responses by the police to the property.⁷⁶ Accordingly, these laws have a disparate and discriminatory impact on victims of domestic violence.⁷⁷ Alternatively, landlords may use the implied covenant of quiet enjoyment, unless such a term is explicitly barred by law.⁷⁸ Landlords will posit that the incidents of domestic violence interfere with the quiet enjoyment that other tenants are entitled to and to avoid liability, will evict the victim on this basis.⁷⁹ Victims will also face eviction if repeated incidents of domestic violence occur regardless of attempts to restrict the batterer's access to the home.

This is precisely the situation the victim faced in *T.J. v. St. Louis Housing Authority*.⁸⁰ In *T.J.* the victim lived in subsidized housing with her children but not her abusive ex-boyfriend.⁸¹ After initially being assaulted in fall of 2003, the victim made efforts to secure transfer to

another housing unit and refused the batterer entry to the premises.⁸² The batterer stalked and harassed the victim and also threatened to cause her eviction.⁸³ The harassment escalated and the batterer threw objects through the victim's window causing property damage on three separate occasions.⁸⁴ The disruptions and property damage resulted in a lease violation and eviction notice being served on the victim.⁸⁵ To add insult to injury, the victim was also demanded to pay for the damage caused by the attacks.⁸⁶ The housing authority justified the eviction based on the failure to pay for the damage caused by her "guest."⁸⁷ Victims in subsidized housing face not only the potential for discriminatory eviction but can also be denied a request to transfer based on fear of their batterer.

Victims of domestic violence may attempt to flee their batterer by transferring from their subsidized housing unit. In the 2008 case *Robinson v Cincinnati Metropolitan Housing Authority* the victim found herself in this type of predicament.⁸⁸ After being abused in her home, having her life threatened, and moving in with friends and family Robinson applied to the CMHA for a transfer to another unit.⁸⁹ The housing authority denied her request because there was no policy in place that allowed for transfers based on a tenant's status as a victim of domestic violence.⁹⁰ The Court in *Robinson* sided with the housing authority, finding that the CMHA acted in compliance with the requirements of VAWA and the law does not require the housing authority to award a transfer based on a future threat of domestic violence.⁹¹ The Court's holding in *Robinson* seems to accept the discriminatory behavior by the CMHA and disregard Robinson's very real and immediate need to be transferred.

The discriminatory treatment towards victims of domestic violence in regards to housing is a legitimate concern. Victims face difficulty in locating, securing, and maintaining suitable housing both privately and with government assistance. Victims face potential eviction based on

abuse they suffer or the actions of their batterers. They also may be unable to secure a transfer to ensure safety from their abusive situations. It is unfortunate that landlords and housing authorities do not more heavily consider the plight of victims and the extreme adversities they face.

C. Uninsured and Unprotected

Victims of domestic violence may also face discrimination by another third party acting in their pecuniary interest, insurance companies. Similarly to landlords and employers, insurers will use a victim's status and history to protect themselves from potential financial cost. Insurance companies use both public and secret methods to distance themselves from victims of domestic violence and avoid the risk involved in insuring them.

The objective of the insurance industry is simple: turn a profit while assuming the risk of loss posed by insuring the customer.⁹² The basic premise is that individuals are classified based on the potential risk of loss, the higher risk the individual, the more they pay in premiums.⁹³ Insurers base this classification on a variety of risk factors, including age, sex, race, and physical or mental impairments.⁹⁴ The insurance companies justify that the use of an "abuse victim" category is no different than any other classification used in insurance pricing, for example a smoker.⁹⁵ Insurers further assert, with no consideration for the victim, that remaining in an abusive situation is voluntary and under the victim's control.⁹⁶ Insurance companies ultimately seek to achieve "actuarial fairness", where each applicant's insurance rates are equal to the risk created to draw from the insurance pool.⁹⁷ This rationale is insensitive and misguided and does not take into account how little control victims of domestic violence really have over their situations.

The difficulties faced by victims created by the insurance companies were recently highlighted in a 2008 report by the National Women's Law Center. Entitled, "Nowhere to Turn: How the Individual Health Insurance Market Fails Women" the report details in-depth the many ways victims, specifically women, are treated by prejudice by the insurance industry.⁹⁸ The report explores the practice of "Gender Rating", in which insurers are free to charge women more than men for individually-purchased insurance plans.⁹⁹ Insurers are free to employ such a practice and legislation prohibiting it can only be found in a minority of states.¹⁰⁰ Industry representatives justify gender rating in that it accurately accounts for the cost difference in insuring women rather than men.¹⁰¹ Gender rating is an example of how women victims are discriminated against by insurers, but this type of practice is symbolic of the more widespread prejudice facing victims of domestic violence.

This mistreatment of victims by insurance companies has become known as "pinklining".¹⁰² Insurers will sometimes outright refuse to extend coverage, pay claims, allow policies to be modified or cancelled, or increase rates for victims once they are aware the customer is a victim.¹⁰³ Furthermore, the insurance companies will not let the victims know the reason for their discriminatory treatment and will be continue to be treated unfairly.¹⁰⁴ This unfair practice on the part of insurance companies results in a difficult conundrum for victims when it comes to reporting abuse, receiving care, and risking their rating as insurance applicants or keeping quiet and keeping their insurance.

In addition to all the pressures victims face, they also face the dilemma of whether or not to report the abuse because of the effect it will have on their ability to obtain insurance coverage.¹⁰⁵ Insurance companies can mandate that applicants furnish a release allowing the insurers to access prior medical and court records.¹⁰⁶ Insurers will then use these records as a

basis for denying the victims coverage they would otherwise receive.¹⁰⁷ Victims have the undesirable position of either reporting the abuse and receiving much needed legal and medical assistance or not reporting the violence as to not be biased against by the insurance companies.¹⁰⁸ This discrimination is not limited to life or health insurance, expanding to all forms of insurance.¹⁰⁹ Insurers also have others way to deny victims coverage or otherwise dissuade them from seeking it.

Insurance companies will also justify their mistreatment of victims with methods used to deny coverage to non-victims. Most commonly insurers will deny applicants coverage or refuse to honor benefits when they believe an injury is a result of a preexisting condition.¹¹⁰ This discriminatory practice has been extended to victims and insurers are essentially penalizing victims for the past abuse they have suffered and will not protect them from potential future injuries committed by their batterers.¹¹¹ These companies are brazen in their prejudice towards victims and can act confidently as many victims do not have the resources or desire to legally challenge the insurers.¹¹² As shocking as this behavior is, it is entirely within the mandate of these insurers, to maximize profits for shareholders while taking on as few high-risk clients as possible.

The type of gall exhibited by insurers in discriminating against victims of domestic violence may best be illustrated in the case of Jody Neal-Post. An attorney, Neal-Post attempted to obtain insurance but was denied based on the treatment she received as a result of a domestic violence episode.¹¹³ The treatment consisted of Valium and personal counseling, which from the perspective of her insurer made Neal-Post a high risk applicant who would likely require further care.¹¹⁴ This case also provides another reason why victims may not report the abuse or refuse what care is available.

Batterers will also use insurance policies to control and degrade the victim. Some batterers will cancel a victim's car insurance to restrict the victim's mobility.¹¹⁵ They will also threaten to remove the victim and their children off medical insurance policy and then injure them.¹¹⁶ These two examples are typical of the bigger adversity faced by victims, the lack of control over their economic independence and eventually, be able to leave an abusive relationship.

Victims are easily exploited by the insurance industry and the batterers who abuse them. Insurance companies acting under the guise of turning a profit readily discriminate against victims and do nothing to protect victims with full knowledge of their situation. Unless there are fundamental changes in medical reporting and insurance underwriting practices, victims will be afraid to report abuse and continue to be treated as second-class citizens.

II. Legal Protections for Victims

A. Recognition of an Epidemic

Domestic violence is neither a new nor isolated phenomenon, yet the legislative response to protect victims has been delayed and inadequate. The issue of domestic violence has foundations in the classical Western patriarchal family organization and some claim only as recently as forty years ago and because of the reemergence of the feminist movement has the problem received much needed recognition.¹¹⁷ The first wave of legislative protective reform originated in the 1970's, due in part to concentrated advocacy on behalf of victims of domestic violence.¹¹⁸ These reforms and new found focus on the victim resulted in efforts concerning family and criminal law.¹¹⁹ Although the applicable governing law for domestic violence is

primarily at the state level, several federal legislative efforts have resulted in greater legal protection for victims.

Concerns raised over domestic violence in the 1970's would not be alleviated by any form of federal legislative reform until the 1990's. In 1994 Congress passed the landmark Violence Against Women Act (VAWA), which aimed to curb domestic and dating violence, stalking, and sexual assault.¹²⁰ VAWA was also intended to raise the national consciousness about the issue, educate the public, and certify domestic violence as a societal problem that required federal assistance and regulation.¹²¹ The law has been reauthorized in 2000 and 2005 and creates funding for diverse programs to assist victims including training for police, attorneys, and judges as well as legal advocacy and representation.¹²² The law also created various grants to fund shelters and the creation and operation of the National Domestic Violence Hotline.¹²³ VAWA and the reforms and programs it has instituted have surely benefited victims, however various other challenges remain.

B. Employment Safeguards

Victims of domestic violence require unique protections and accommodations to address their safety and privacy concerns, especially while in the workforce. A combination of federal and state legislation and programs are required to create a solution. The recent widespread legislative response at the state and municipal level has focused on granting employed victims increased leave from work, access to unemployment benefits, and greater anti-discrimination protection.¹²⁴

The issue of missed work due to dealing with the physical, legal, emotional, and other affects of domestic violence is common to employed victims. Batterers will utilize a variety of

methods to undermine and disrupt the victim's relationship with their employer and missed work is an unfortunately inevitable result.¹²⁵ Legal Momentum, a legal defense and education fund for women, tracks applicable legislation and educates victims on what potential remedies are available.¹²⁶ According to their April 2010 state law guide thirteen states, including Florida, have laws specifically mandating the employment rights of victims, with another twelve states having pending legislation on the subject matter.¹²⁷ These laws enable victims to participate in criminal or civil proceedings, seek medical attention or counseling, or make other arrangements to cope with the issues posed by the domestic violence.¹²⁸ Victims can receive unpaid leave, although some states allow victims to choose paid leave and must provide verification documents to their employers to certify their absence and receive this special employment protection.¹²⁹ These legislative reforms are much needed and welcomed; however there are certain misguided provisions and elements that may not protect victims as originally intended.

A major issue with the protective state laws is the basis for their origin and the model for their statutory creation. The Family and Medical Leave Act (FMLA) is the only federal legislation that creates a right to job-protected work leave for employees.¹³⁰ Thus, when advocating for and creating the state legislation FMLA was a natural example and legal model.¹³¹ Unfortunately the intention and purpose is incompatible with the special needs of victims of domestic violence. The FMLA is mainly aimed at large employers and is accessible to employees with a "serious health condition", usually requiring long-term work leave.¹³² Victims of domestic violence often need sporadic short-term work leave to address their issues.¹³³ Many state laws as a result are short-sighted in their attempts to help victims and do not adequately protect a majority of victims.

Closer investigation of the recent Florida legislation aimed to protect employed victims reveals these shortcomings. Entitled, “Unlawful Action against Employees Seeking Protection” Section 741.313 of the Florida Statutes was passed and enacted in 2008.¹³⁴ The first limiting provision consistent with the form of FMLA is subsection 3 which states the law only applies to employers who have 50 or more employees and employees who have been at the job for 3 or months.¹³⁵ This subsection excludes smaller employers and employees who experience domestic violence early during the course of their employment. Furthermore, the law only permits victims to request and receive up to 3 working days per 12-month employment term and only after the employee has used all other available personal or sick leave.¹³⁶ These provisions do not seem favorable to the working victim and would likely not cover the average number of days missed by a victim. Requiring the victim to exhaust all other available leave time, including personal vacation time, prior to relying on the protection afforded by the statute exhibits how victims are doubly victimized and may not receive benefits other employees are entitled to. The law is not without merit as it does include some positive and progressive provisions, among them the employer’s option to allow for paid work leave and the extensive reasons the victim may use the work leave including securing housing and obtaining other victim services.¹³⁷ An example of more effective, better concentrated state legislation is the law Illinois enacted in 2003 to protect the economic rights of victims of domestic and sexual violence.

The Victims’ Economic Security and Safety Act or VESSA as it is more commonly known is an ideal and comprehensive legal model for future state legislation.¹³⁸ VESSA extends protection to employed victims working for employers with fewer than 50 but at least 15 workers and allows employees up to 8 weeks of leave per 12 month employment term.¹³⁹ For employers with 50 or more employees up to 12 weeks of work leave are allowed.¹⁴⁰ VESSA allows

employees to use the leave time intermittently or on a reduced schedule.¹⁴¹ The act also extends coverage not only to victims but also to other affected household or family members.¹⁴² In addition VESSA contains a provision prohibiting retaliatory discriminatory acts on the part of the employer including failing to hire, refusing to retain, or wrongfully deny benefits to employed victims.¹⁴³ VESSA is lauded for directly addressing the discrimination faced by victims, ensuring confidentiality and autonomy for them, and accommodating them as much as possible so they can properly contribute to the workforce.¹⁴⁴ Laws like VESSA extend protection to the victims that need it and better equip both the victim and the employer for addressing the situation.

Courts have applied and upheld state legislation such as VESSA and an encouraging decision protecting the employment rights of a victim comes from a 2004 case from the Supreme Court of New York. In *Reynolds v. Fraser* the petitioner and victim of domestic violence was unlawfully terminated in violation of applicable New York law.¹⁴⁵ The victim left the abusive home where she was living and became homeless.¹⁴⁶ Petitioner finally received housing at a domestic violence shelter and provided this information to her employer.¹⁴⁷ When her employer attempted to visit her several times at the shelter and refused to sign a standard confidentiality agreement to be admitted as a visitor, the petitioner was terminated.¹⁴⁸ The Court in *Reynolds* agreed with the Petitioners contentions regarding discriminatory termination and applied New York's applicable law protecting the employment rights of victims.¹⁴⁹ The Court ordered the employer to reinstate the victim and pay applicable back-pay.¹⁵⁰ New York has extensive legislation to protect victims of domestic violence and in June of 2009 amended its Human Rights Law to address the issue of domestic violence in the workplace.¹⁵¹ More states should

emulate the focused efforts of states like Illinois and New York in protecting the economic rights of victims of domestic violence.

Overall the response to employment discrimination towards victims of domestic violence has been satisfactory. Employers will generally act in their own pecuniary interest rather than deal with the special accommodations required by employed victims. More education and training for employers may be one way to help alleviate the problem. Stricter penalties and liability for employers who discriminate might also create better compliance.

C. Housing Protections

With landlords and housing managers willing to use a vast array of discriminatory practices and methods to evict or deny housing to victims of domestic violence, legislative protections are necessary to provide remedies for victims.¹⁵² Perhaps the plight of victims in securing suitable housing and the need for legal protection is best surmised by Justice Louis York in the *Reynolds* opinion,

“The combination of constant danger, fruitless vigilance, exposure to another's rage, physical and psychic injury and pain, and inability to infuse sanity into reality all without surcease because it generally happens in one's own home, the one place that should be safe and sacrosanct is at best crippling and at worst lethal.”¹⁵³

Similar to the multi-level approach taken to address employment discrimination, state and federal legislation work in concert to ensure victims are protected. Whereas state legislation plays the primary role in prohibiting employment discrimination, federal law is more prevalent in protecting victims from housing discrimination.

VAWA can be considered the most comprehensive legislation on domestic violence and the 2005 reauthorization by Congress focused among other things, on the housing issues faced

by victims.¹⁵⁴ The 2005 reauthorization ensured victims who lived in public or subsidized housing could not be denied housing or evicted based on their status as a victim, could assert new unique defenses to evictions based on abuse experienced by the victim, and landlords were given the ability to bifurcate the lease and evict the abusive tenant.¹⁵⁵ These changes essentially prohibit the discriminatory “one-strike” eviction threat previously encountered by victims.¹⁵⁶ To assert a claim under the new VAWA provisions a victim must provide certification and the landlord must act to ensure confidentiality for the victim.¹⁵⁷ This coverage is also extended to any immediate family members residing with the victim.¹⁵⁸ While the 2005 reauthorization is comprehensive in application and vastly improves the situation of victims, it may dissuade potential landlords from accepting government subsidies or developing low-income housing because it restricts the landlord’s ability to evict. It also fails to address victims residing in private housing.

Victims of domestic violence who reside in private housing arrangements do not receive the protection enabled by VAWA. To challenge discriminatory operations in private housing victims are more likely to seek a remedy under the Fair Housing Act (FHA).¹⁵⁹ The FHA applies to both public and private landlords¹⁶⁰ and may be useful to victims facing evictions based on violation of chronic nuisance laws.¹⁶¹ The FHA prohibits housing discrimination on the basis of sex and also applies to discriminatory rental conditions based on sex but is generally interpreted quite broadly as any “aggrieved person” may bring a claim.¹⁶² To prevail on a FHA claim a victim must prove either disparate impact or intentional discrimination on the part of the landlord.¹⁶³ Both of these theories provide a challenge for victims to establish a prima facie case, especially considering their usual scarce resources.¹⁶⁴ Thus the FHA does not really provide much protection for victims and prevailing under this law’s available theories is unlikely. Federal

legislation in general seems to have room for great improvements and victims primarily have to rely on local or state law.

The states are not uniform in their approach to housing discrimination against victims and the levels of protection available vary greatly. States fall into three basic categories on the issue, the few that specifically prohibit discrimination against victims, those that do not prohibit discrimination but provide some form of protection, and those that do not address the issue at all.¹⁶⁵ Unfortunately only 3 states provide explicit protection for victims.¹⁶⁶ An alarming majority of state have either ignored the issue or passed pared down versions of protective legislation.¹⁶⁷ Some states that offer no direct affirmative protection offer some options for victims of domestic violence such as early lease termination based on an incident of domestic violence or in fear of future abuse.¹⁶⁸ Overall the level of housing protection afforded victims of domestic violence is alarmingly low and nowhere near meets the standard set by protective employment legislation for victims.

Washington is one of the states that offer specific protection for victims from housing discrimination. Entitled, “Victim Protection-Limitation on Landlord's Rental Decisions” under the Residential Landlord-Tenant Act, Chapter 59.18.580 of the Revised Code of Washington explicitly prohibits landlords from terminating tenancy, failing to renew, or refusing to rent to a victim based on their or a household’s member status.¹⁶⁹ The law holds landlords in violation liable in civil action and provides a defense for victims facing an unlawful detainer action.¹⁷⁰ Washington’s law is an encouraging step towards recognizing the issue of discriminatory treatment of victims in private housing, yet with so many states affording victims no protection, there is a long way to go on this issue.

The legislative response to housing discrimination towards victim of domestic violence is incomplete at best. Although comprehensive federal legislation and programs have been created to address the issue, wide gaps still remain in the coverage provided by states. Greater emphasis and recognition is needed at the state and local level to provide a proportionate response to such a serious issue.

D. Insured and Assured

Victims of domestic violence require protective legislation to foster them from the predatory and discriminatory practices employed by insurance companies. These insurers will act in their own best interest and with complete disregard for the victims. Fortunately, legislators at the state and federal level have recognized this issue and have acted to prohibit prejudice towards victims.

At the federal level there has been consistent effort on the part of legislators to end insurance discrimination against victims. Perhaps the best example of the resistance met by legislators and victims' advocates is the history of the Survivors' Empowerment and Economic Security Act (SEES) and the Security and Financial Empowerment Act (SAFE).¹⁷¹ First introduced in 2007 by Senator Patty Murray of Washington, SEES was accompanied by the SAFE act introduced in Congress.¹⁷² These acts would end discriminatory practices by insurers and increase employment protections for victims of domestic violence.¹⁷³ Common criticism of the acts is the potential enormous costs and the undue hardship it will place on employers and insurers.¹⁷⁴ The most recent incarnations of the SAFE act are H.R. 739 and S.1740, both of which have been Referred to Committee and will likely meet the fate of its' predecessors, death on the floor.¹⁷⁵

Although the SAFE act may never be realized and become legislation, elements of it have found their way into recent federal legislation. A prime example is H.R. 3962 or the Affordable Health Care for America Act (AHCAA) introduced in the fall of 2009 by Rep. John Dingell.¹⁷⁶ The bill was passed and incorporated into the comprehensive and controversial Health Care and Education Reconciliation Act of 2010 signed into law by President Obama on March 31, 2010.¹⁷⁷ AHCAA directly addressed the issue of insurance discrimination in Section 107 entitled, “Prohibiting Acts of Domestic Violence from Being Treated as Preexisting Conditions”.¹⁷⁸ The section prohibits the previously common practice of insurers and amends the existing Employee Retirement Income Security Act and Public Service Health Act to account for victims of domestic violence.¹⁷⁹ The final health care bill signed into law prohibits insurers from denying insurance based on a preexisting conditions and this will apply to victims as well.¹⁸⁰ Victims also receive protection in a majority of states from state anti-discriminatory laws.

The response at the state level to insurance discrimination against victims has been well-measured. As of October 2009, only 8 states and the District of Columbia lacked specific legislation prohibiting insurers from discriminating based on domestic violence.¹⁸¹ Florida is one of these states and enacted chapter 626.9541 entitled, “Unfair methods of competition and unfair or deceptive acts”.¹⁸² Subsection G describes unfair discrimination and prohibits denying insurance based on abuse, including domestic violence.¹⁸³ This type of legislation is encouraging and an examination of one of the more recent pieces of state legislation shows improvement in drafting and application.

Oklahoma was one of the few states that did not have legislation addressing the issue as of October 2009. The passing of Senate Bill 1251 by the State Senate will remove Oklahoma from this minority.¹⁸⁴ The bill is more extensive than other existing state law, such as Florida’s,

and not only prohibits domestic violence as a pre-existing condition, but also ensures victims are included in group health benefit plans and cannot be terminated.¹⁸⁵ The Oklahoma legislation incorporates effective provision of other state laws and provides comprehensive protection for victims.

The legislative response addressing insurance discrimination against victims of domestic violence has been positive, but there is still room for improvement. It is tough to prognosticate the impact the recent health care reform will have, but hopefully it will provide victims much needed protection. The states that continue to ignore this issue will hopefully soon address it with the proper legislative response.

Recommendation and Conclusion

Victims of domestic violence face a tough and uncertain path to economic independence and stability. The third parties with whom victims interact will generally act in their own interest, specifically when it comes to finances. Victims require legislative protection and special victims' assistance programs to overcome the extreme adversity they face. The incidence rate of domestic violence is underreported and the true nature of the problem is tough to gauge. The recent legislative response at all levels is a step in the right direction yet significant progress remains if victims are to receive the comprehensive protection they require.

Perhaps the best opportunity to address the needs of victims is the upcoming reauthorization of VAWA. In 2011 VAWA will be reauthorized by congress and hopefully there is a greater focus on the economic security of victims. Congress should consider enacting a VESSA style federal law that covers smaller employers and offers a wider range of employment protections for victims. Another consideration is housing protections for victims in private

housing. The inclusion of an early lease termination option for victims of domestic violence and coverage for costs associated with damage done by batterers would be beneficial. Congress must also consider the privacy and confidentiality needs of victims. Victims must be unafraid to report abuse and receive the benefits and services they deserve. VAWA is still in what can be considered its legislative infancy and the long term impact of the law is yet to be seen, hopefully future renditions of the law adequately addresses the needs of victims.

There must also be a greater emphasis on community education and training. Insurers, employers, and landlords need to be better educated on the situation of victims so they can appropriately react when there is an incident of domestic violence. If possible, financial incentives should be created for landlords and employers to give preferential treatment to victims of domestic violence. As controversial as this may be, it seems money is the driving motive for these third parties' actions and creating financial incentives may be the key to influencing their actions. The decision making must be taken out of the hands of uninterested third parties and when third parties must make decisions, there should be no financial benefit to discriminate against victims. Other professionals such as doctors and lawyers who interact with victims at crucial stages of the abuse should also receive more training to ensure victims are treated and counseled properly. To describe the constant mindset of victims as fragile would be an understatement and any source of stability and strength is beneficial.

Victims of domestic violence require all the resources and tools available to establish economic independence and security. The government must recognize when action is necessary to protect victims and ensure their safety and wellbeing. The last two decades have seen a focus on and assistance for victims, hopefully the next two will see the fruits of this labor.

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- ¹ Jennifer L. Snodgrass, *Who are We Protecting: The Victim or The Victimizer?*, 33 McGeorge L. Rev. 249, 250 (2002).
- ² See Ralph Henry, *Domestic Violence and the Failures of Welfare Reform: The Role for Work Leave Legislation*, 20 Wis. Women's L.J. 67, 68 (2005) ("The economic dependence of the victim is a crucial tool for abusers.").
- ³ See Tamara L. Kuennen, *Analyzing the Impact of Coercion on Domestic Violence Victims: How much is too much?*, 22 BERKJGLJ 2, (2007) (discussing the coercion exerted by the many third parties involved in a domestic violence issue on the victim, including attorneys, landlords, employers, and family members).
- ⁴ See Meg Hobday, *Domestic Violence Comes to Work*, 67 Mar Bench & B. Minn. 20, 21 (2010) ("Over the last 30 years, criminal and family laws have evolved to address this epidemic.").
- ⁵ Safe Horizon, http://www.safehorizon.org/safework/dv_overview.htm (last visited March 6, 2010).
- ⁶ Hobday, *supra* note 4, at 21.
- ⁷ Deborah A. Widdis, *Domestic Violence and the Workplace: The Explosion of State Legislation and the Need for Comprehensive Strategy*, 35 Fla. St. U. L. Rev. 669, 685 (2008).
- ⁸ Rebecca Smith, *Unemployment Insurance and Domestic Violence: Learning From Our Experiences*, 1 Seattle J. for Soc. Just. 503, 505 (2002).
- ⁹ Hobday, *supra* note 4, at 21.
- ¹⁰ *Id.*
- ¹¹ *La Rose v State Mut. Life Assurance Co.*, No. 9322684 (214th Dist. Ct., Harris County, Tex. Dec. 5, 1994).
- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ *Id.*
- ¹⁵ Hobday, *supra* note 4, at 21.
- ¹⁶ *State v Byars*, 823 So. 2d 740, 741 (Fla. L. Weekly 2002).
- ¹⁷ *Id.*
- ¹⁸ *Id.*
- ¹⁹ Hobday, *supra* note 4, at 21.
- ²⁰ Wendy R. Weiser and Deborah A. Widdis, *Employment Protection for Domestic Violence Victims*, Clearinghouse Review Journal of Poverty Law and Policy, 4, (2004).
- ²¹ Widdis, *supra* note 7.
- ²² *Id.*
- ²³ See Nina W. Tarr, *Employment and Economic Security for Victims of Domestic Abuse*, 16 S. Cal. Rev. L. & Soc. Just 371, 376 (2007) ("According to a 1998 report by the United States General Accounting Office on the effects of domestic violence on employed victims, between 35% and 56% of employed battered women were harassed at work by their batterers; 55% to 85% missed work because of domestic violence; and 24% to 52% lost their jobs as a result of the abuse.").
- ²⁴ Widdis, *supra* note 7, at 677.
- ²⁵ *Id.*
- ²⁶ Tarr, *supra* note 23, at 377.
- ²⁷ Widdis, *supra* note 7, at 677.
- ²⁸ *Apossos v Memorial Press Group*, 2002 WL 31324115 (Mass.Super.)
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ *Supra* note 20.
- ³² Tarr, *supra* note 23, at 395.
- ³³ *Id.*
- ³⁴ *Id.*
- ³⁵ *Supra* note 17.
- ³⁶ Smith, *supra* note 8, at 503.
- ³⁷ *Id.* at 506.
- ³⁸ *Id.*
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ *Id.*
- ⁴² Women's Rights Project, ACLU, *Domestic Violence and Homelessness 2* (2006) <http://www.aclu.org/pdfs/dvhomelessness032106.pdf> (last visited March 16, 2010).

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- ⁴³ Id.
- ⁴⁴ Id.
- ⁴⁵ Id.
- ⁴⁶ Eliza Hirst, *The Housing Crisis For Victims of Domestic Violence: Disparate Impact Claims and Other Housing Protection for Victims of Domestic Violence*, 10 Geo. J. on Poverty L. & Pol’y 131, 133 (2003).
- ⁴⁷ Lenora M. Lapidus, *Doubly Victimized: Housing Discrimination Against Victims of Domestic Violence*, 11 Am. U. J. Gender Soc. Pol’y & L. 377, 385 (2003).
- ⁴⁸ Anne C. Johnson, *From House to Home: Creating a Right to Early Lease Termination for Domestic Violence Victims*, 90 Minn. K. Rec. 1859, 1863 (2006).
- ⁴⁹ Id.
- ⁵⁰ Hirst, *supra* note 46 at 134.
- ⁵¹ Lapidus, *supra* note 47 at 384.
- ⁵² Id.
- ⁵³ Id.
- ⁵⁴ Id. at 385.
- ⁵⁵ Id.
- ⁵⁶ Anti-Discrimination Center of Metro New York, *Adding Insult to Injury: Housing Discrimination against Survivors of Domestic Violence*, available at <http://antibiaslaw.com/sites/default/files/files/DVReport.pdf> (last visited March 12, 2010)
- ⁵⁷ Id.
- ⁵⁸ Id.
- ⁵⁹ Id.
- ⁶⁰ Kristen M. Ross, *Eviction, Discrimination, and Domestic Violence: Unfair Housing Practices Against Domestic Violence Survivors*, 18 Hastings Women’s L.J. 249, 250 (2007).
- ⁶¹ Id.
- ⁶² Anti-Drug Abuse Act of 1988, Pub. L. No 100-690, § 5101, 102 Stat. 4181, 4300 (1988).
- ⁶³ Elizabeth M. Whitehorn, *Unlawful Evictions of Female Victims of Domestic Violence: Extending Title VII’s Sex Stereotyping Theories to the Fair Housing Act*, 101 Nw. U. L. Rev. 1419, 1434 (2007).
- ⁶⁴ Id. at 1435.
- ⁶⁵ Id.
- ⁶⁶ Department of Housing & Urban Development v Rucker, 535 U.S. 125, 130 (U.S. 2002).
- ⁶⁷ Id.
- ⁶⁸ Id. at 134.
- ⁶⁹ *Alvera v. Creekside Village Apts.*, HUD ALJ No. 10-99-0538-8 (U.S. Dep’t of Hous. & Urban Dev., Portland, Or., Oct. 22, 1999).
- ⁷⁰ Id.
- ⁷¹ Id.
- ⁷² Id.
- ⁷³ Id.
- ⁷⁴ Cari Fais, *Denying Access to Justice: The Cost of Applying Chronic Nuisance Laws to Domestic Violence*, 108 Colum. L. Rev. 1181, 1184 (2008).
- ⁷⁵ Id. at 1182.
- ⁷⁶ Id. at 1191.
- ⁷⁷ Id. at 1196.
- ⁷⁸ Ross, *supra* note 60 at 255.
- ⁷⁹ Id. at 256.
- ⁸⁰ *T.J. v. St. Louis Hous. Auth.* (Mo. Cir. Ct., 22d Jud. Cir. 2005) (settled).
- ⁸¹ Id.
- ⁸² Id.
- ⁸³ Id.
- ⁸⁴ Id.
- ⁸⁵ Id.
- ⁸⁶ Id.
- ⁸⁷ Id.
- ⁸⁸ *Robinson v Cincinnati Metropolitan Housing Authority*, 2008 WL 1924255.

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- ⁸⁹ Id. at 1.
- ⁹⁰ Id.
- ⁹¹ Id. at 6.
- ⁹² Sheri A. Mullikin, *A Cost Analysis Approach to Determining the Reasonableness of Using Domestic Violence as an Insurance Classification*, 25 J. Legis. 195, 200 (1999).
- ⁹³ Id. at 201.
- ⁹⁴ Id. at 202.
- ⁹⁵ Deborah S. Hellman, *Is Actuarially Fair Insurance Pricing Actually Fair: A Case Study in Insuring Battered Women*, 32 Harv. C. R.-C.L.L. Rev. 355, 357 (1997).
- ⁹⁶ Mullikin, *supra* note 92 at 216.
- ⁹⁷ Hellman, *supra* note 95 at 358.
- ⁹⁸ National Women's Law Center, "Nowhere to Turn: How the Individual Health Insurance Market Fails Women" available at <http://nwl.org/reformmatters/NWLCReport-NowhereToTurn-WEB.pdf> (last visited March 10, 2010).
- ⁹⁹ Id. at 8.
- ¹⁰⁰ Id.
- ¹⁰¹ Id. at 9.
- ¹⁰² Rebecca Brannan, *Unfair Trade Practices: Prohibit Discrimination Against Victims of Family Violence in Insurance Coverage, Rates, and Claims*, 17 Ga. St. U. L. Rev. 220, 222 (2000).
- ¹⁰³ Id.
- ¹⁰⁴ Id.
- ¹⁰⁵ Michelle J. Mandel, *Ensuring That Victims of Domestic Abuse are not Discriminated Against in the Insurance Industry*, 29 McGeorge L. Rev. 677, 678 (1998).
- ¹⁰⁶ Mullikin, *supra* note 92 at 199.
- ¹⁰⁷ Mandel, *supra* note 105 at 678.
- ¹⁰⁸ Ellen J. Morrison, *Insurance Discrimination Against Battered Women: Proposed Legislative Protections*, 72 Ind. L. J. 259, 260, (1996).
- ¹⁰⁹ Id.
- ¹¹⁰ Id. at 275.
- ¹¹¹ Id.
- ¹¹² Id.
- ¹¹³ Jenny Gold, *Domestic Abuse Victims Struggle with Another Blow: Difficulty Getting Health Insurance* <http://www.kaiserhealthnews.org/Stories/2009/October/07/Domestic-Abuse.aspx> (last visited March 12 2010).
- ¹¹⁴ Id.
- ¹¹⁵ Anique Drouin, *Who Turned out the Lights?: How Maryland Laws Fail to Protect Victims of Domestic Violence from Third-Party Abuse*, 36 U. Balt. L. Rev 105, 122 (2006).
- ¹¹⁶ Id.
- ¹¹⁷ Widdis, *supra* note 7 at 690.
- ¹¹⁸ Id.
- ¹¹⁹ Id. at 691.
- ¹²⁰ VAWA PL 103-322 (1994).
- ¹²¹ Marcy L. Karin, *Changing Federal Statutory Proposals to Address Domestic Violence at Work*, 74 Brook. L. Rev. 377, 396-97 (2009).
- ¹²² Widdis, *supra* note 7 at 691.
- ¹²³ Jenifer Knight, *Advancing Housing Protections for Victims of Domestic Violence*, 36-SEP Colo. Law. 77, 79, (2007).
- ¹²⁴ Karin, *supra* note 121 at 392.
- ¹²⁵ Tarr, *supra* note 23 at 386.
- ¹²⁶ Legal Momentum <http://www.legalmomentum.org/>
- ¹²⁷ Legal Momentum, EMPLOYMENT RIGHTS FOR VICTIMS OF DOMESTIC OR SEXUAL VIOLENCE, available at <http://www.legalmomentum.org/assets/pdfs/employment-rights.pdf> last check April 7
- ¹²⁸ Widdis, *supra* note 7 at 700.
- ¹²⁹ Id. at 701.
- ¹³⁰ Id.
- ¹³¹ Id.
- ¹³² Id. at 699

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- ¹³³ Id. at 700.
- ¹³⁴ Fla. Stat. § 741.313 (2008).
- ¹³⁵ Fla. Stat. § 741.313 (2).
- ¹³⁶ Fla. Stat. § 741.313 (2a)(4b).
- ¹³⁷ Fla. Stat. § 741.313 (2a).
- ¹³⁸ VESSA IL ST CH 820 § 180/1 (2003).
- ¹³⁹ IL ST CH 820 § 180/20 (2003).
- ¹⁴⁰ Id.
- ¹⁴¹ Id.
- ¹⁴² Id.
- ¹⁴³ IL ST CH 820 § 180/30 (2003).
- ¹⁴⁴ Tarr, *supra* note 23 at 412
- ¹⁴⁵ Reynolds v. Fraser, 5 Misc. 3d 758 (N.Y. Sup. Ct. 2004).
- ¹⁴⁶ Id. at 887.
- ¹⁴⁷ Id.
- ¹⁴⁸ Id.
- ¹⁴⁹ Id. at 891.
- ¹⁵⁰ Id.
- ¹⁵¹ John D. Shyer, *Employment Rights of Domestic Violence Victims*, 17 N O. 11 Emp. L. Strategist 5 (2010).
- ¹⁵² See *infra* Pg 1.
- ¹⁵³ Reynolds 761-762.
- ¹⁵⁴ VAWA 2005 H.R. 3171, 109th Congress (2005).
- ¹⁵⁵ Id.
- ¹⁵⁶ See *infa* Section I,B.
- ¹⁵⁷ Id.
- ¹⁵⁸ Id.
- ¹⁵⁹ Fair Housing Act 42 USCA § 3601(2010).
- ¹⁶⁰ Whitehorn, *supra* note 63 at 1424.
- ¹⁶¹ Fais, *supra* note 71 at 1208.
- ¹⁶² Id.
- ¹⁶³ Knight, *supra* note 123 at 79.
- ¹⁶⁴ Id. at 80.
- ¹⁶⁵ Ross, *supra* note 60 at 257.
- ¹⁶⁶ Id. at 258.
- ¹⁶⁷ Id. at 260-61.
- ¹⁶⁸ Id. at 258.
- ¹⁶⁹ Wash. Rev. Code § 59.18.580 (2010).
- ¹⁷⁰ Wash. Rev. Code § 59.18.580 (2)(3).
- ¹⁷¹ Karin *supra* note 121 at 397.
- ¹⁷² Id.
- ¹⁷³ Id.
- ¹⁷⁴ Alan Karmin, SAFE Act will Cost Employers Billions and Hobble the Economy, Report Concludes, http://www.mediaradar.org/press_release_20090316.php, <http://www.mediaradar.org/docs/RADARanalysis-HR739-SAFE-Act-Costs.pdf> (last visited March 15, 2010).
- ¹⁷⁵ H.R. 739, 111th Congress (2009), S. 1740, 111th Congress (2009).
- ¹⁷⁶ H.R. 3962 111th Congress (2009).
- ¹⁷⁷ Noam N. Levey, *House Passes Historic Healthcare Overhaul*, <http://articles.latimes.com/2010/mar/22/nation/la-na-healthcare-passage22-2010mar22>, (last visited April 4, 2010)
- ¹⁷⁸ AHCAA available in full at http://docs.house.gov/rules/health/111_ahcaa.pdf, page 41 (last visited March 18 2010).
- ¹⁷⁹ Id.
- ¹⁸⁰ Levey, *supra* note 177.
- ¹⁸¹ Gold, *supra* note 113.
- ¹⁸² Fla. Stat. § 626.9541 (2009).
- ¹⁸³ Fla. Stat. § 626.9541(g)(3)(e).

¹⁸⁴ House Next Stop for Bill Protecting Domestic Violence Victims from Insurance Discrimination, http://www.oksenate.gov/news/press_releases/press_releases_2010/pr20100311a.html, (Last visited at April 12 2010).

¹⁸⁵ Text of Senate Bill 1251 available at <http://ftpcontent.worldnow.com/griffin/NEWS9/PDF/1003/SENATE%20BILL%201251.pdf>, (Last visited at April 12).