

## **NYC Administrative Code 8-107.1**

\*\*\* Current through October 12, 2023 \*\*\*

***New York City Municipal Code, Charter and Rules > New York City Administrative Code > Administrative Code of the City of New York > Title 8 Civil Rights > CHAPTERS 1-76 > CHAPTER 1 COMMISSION ON HUMAN RIGHTS\****

### **§ 8-107.1 Victims of Domestic Violence, Sex offenses or Stalking.**

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**[Became 8-107 Subd. 27 Effective Oct. 16, 2018]**

Section 1. Legislative findings and intent. The City Council finds and declares that domestic violence is a widely recognized problem in New York City. Indeed, New York City Police Department statistics indicate that although the overall crime rate has decreased in recent years incidents of domestic violence have increased. However, little attention has been paid to the impact of domestic violence on the work lives of victims and on the City economy as a whole. In recent years, a growing body of evidence has documented the devastating impact of domestic violence on the ability of victims over 90% of whom are women to participate fully in the economy. Yet a victim's capacity to escape an abusive relationship is dependent in large part on economic factors such as finding and keeping a job and gaining economic security and independence. One study found that over one half of women surveyed who were victims of domestic violence stayed with their abusers because they lacked alternative resources with which to support themselves and their children. Other studies have determined that between twenty-four and fifty-two percent of battered women surveyed had lost their jobs at least in part due to domestic violence, which included harassment by the batterers both on and off the job.

Employers are also affected by domestic violence. It has been estimated that absenteeism caused by domestic violence costs the nation's employers between three and five billion dollars annually. In a survey conducted by Roper Starch Worldwide for the Women's Work Program at Liz Claiborne Inc., forty percent of the senior executives at Fortune 1000 companies surveyed reported that domestic violence had a harmful effect on their company's productivity, and sixty-six percent believed that their company's financial performance would benefit by addressing the issue. In response several corporations have established policies and programs to assist employees struggling with domestic violence and the State of New York has enacted legislation that established an executive office to develop model domestic violence policies for counties, state agencies and private employers as well as an advisory council to develop strategies for domestic violence prevention (

*N.Y. Exec Law § 575*). Further, the State of Maine has enacted legislation requiring employers to provide unpaid leaves of absence to victims of domestic violence, and similar legislation has been enacted in the City of Miami and is pending in the State of Pennsylvania.

Because they are embarrassed or because they fear losing their jobs, victims are often reticent about informing their employers about incidents of domestic violence or about requesting simple accommodations that might assist them in fulfilling their job duties. A growing body of anecdotal evidence suggests that the fear of negative employment actions such as demotion, suspension, loss of pay and/or benefits or termination against employees who have revealed that they are victims of domestic violence is not unwarranted. For example victims of domestic violence have been terminated or demoted after requesting simple protective measures such as time off or flexible hours to confer with an attorney or a domestic violence counselor, obtain an order of protection or obtain medical or other services for themselves or family members.

The City Council finds that it is in the best interests of the City of New York to protect the economic viability of victims of domestic violence and to support their efforts to gain independence from their abusers. Victims of domestic violence who are receiving medical treatment or therapy for the physical and/or psychological effects of domestic violence may be covered under the disability provisions of sections 8-102(16) and 8-107 of the Human Rights Law. However, not all victims of domestic violence need or obtain such treatment and would therefore not be considered disabled. Further, many victims of domestic violence do not consider themselves disabled.

Accordingly, the Council further finds that in order to enable victims of domestic violence to speak with their employers without fear of reprisal, about a domestic violence incident or about possible steps that will enhance their ability to perform their job without causing undue hardship to the employer, the Human Rights Law should be amended to provide employment discrimination protection for New Yorkers who are actual or perceived victims of domestic violence.

## **2. Provisions of L.L. 38/2016:**

- § 2. This local law takes effect 120 days after it becomes law, except that the commission on human rights may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

### **Case Notes**

¶ 1. An employee of the New York City Department of Corrections was on sick leave. The sick leave policy required that (with certain exceptions) she stay at the residence address on file with the Department. When the Department sought to ascertain her whereabouts, she was not at the address she had given to the Department. Instead, she was at a shelter for victims of domestic violence, where she had gone (along with her children) after her boyfriend abused her. The court held that, under the circumstances, the termination of the employee by reason of the alleged abuse of sick leave policy violated the statutory prohibition on discrimination against victims of domestic violence. [\*Reynolds v. Fraser\*, 5 Misc.3d 758, 781 N.Y.S.2d 885 \(Sup.Ct. New York Co.\)](#).

### **HISTORICAL NOTE**

Section amended (without section heading) L.L. 38/2016 § 1, eff. July 26, 2016.

[See Note 2]

Subd. b amended L.L. 40/2016 § 16, eff. Aug. 4, 2016. [See Note 6]

**DERIVATION**

Section amended L.L. 75/2003 § 4, eff. Dec. 22, 2003.

Section added L.L. 1/2001 § 2, effective Jan. 5, 2001. [See Note 1]

Annotations

**Notes Applicable To Upper Hierarchy**

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[Footnote 20]: \*Formerly Title B added LL 55/1955 § 1; Title amended LL 11/1962 § 1; Title laid out LL 97/1965 § 1; Title laid out LL 95/1968 § 1

**Note**

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1.

Provisions of L.L. 1/2001 § 1:

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