



**Bill 21-0211: The “Employment Protections for Victims of Domestic Violence  
Amendment Act of 2015”**

**Testimony for the Joint Public Hearing of the Committee on the Judiciary  
and the Committee on Business, Consumer & Regulatory Affairs  
January 26, 2016**

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The Legal Aid Society of the District of Columbia<sup>1</sup> submits this testimony in support of the “Employment Protections for Victims of Domestic Violence Amendment Act of 2015.” This bill fills a crucial gap in legal protections for victims and, in turn, should reduce preventable job losses due to domestic violence and improve safety in our workplaces and communities. Legal Aid urges the Committees to also amend the D.C. Human Rights Act to more broadly prohibit discrimination based on domestic violence. Legal Aid recognizes and thanks Councilmembers Vincent B. Orange, Sr. and Kenyan R. McDuffie for their leadership on these important issues.

**I. The Need for Employment Protections for Victims of Domestic Violence**

For fifteen years, Legal Aid has represented victims of domestic violence in Civil Protection Order and related family law cases. Four years ago, Legal Aid also began representing low-wage workers in unemployment benefit matters. Since then, our attorneys have counseled dozens of victims who were at risk of losing or actually lost their jobs as a result of domestic violence. Fortunately, thanks to this Council’s action twelve years ago to amend the unemployment statute, some of these victims were able to secure temporary unemployment benefits after a job loss caused by domestic violence.<sup>2</sup> However, currently, our clients have few legal protections to *prevent* a job loss or to require an employer to provide a reasonable accommodation that allows them to stay safe or seek legal protections to end the abuse.

As we know, the economic security provided by employment is crucial to creating conditions where a victim can leave an abusive relationship as safely as possible. Abusers often target their victims’ workplace to erode this source of social and financial support and increase the victims’ dependence on them. Our clients’ abusers have called Human Resources and falsely

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<sup>1</sup> The Legal Aid Society of the District of Columbia was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” For more than 80 years, Legal Aid attorneys and volunteers have served tens of thousands of the District’s neediest residents. Legal Aid currently works in the areas of housing, family law, public benefits, consumer, and appellate law. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org), and our blog, [www.MakingJusticeReal.org](http://www.MakingJusticeReal.org).

<sup>2</sup> A significant decision by the D.C. Court of Appeals favorably interpreted the unemployment code’s provision on domestic violence. *See E.C. v. RCM of Washington, Inc.*, 92 A.3d 305 (D.C. 2014) (interpreting D.C. Code § 51-131 *et seq.*). Further, for the past three years, Legal Aid attorneys have trained DOES staff members on domestic violence and unemployment claims processing for domestic violence, in an effort to secure more accurate decisions at the initial claims processing stage.

reported that our client “quit” (even when they did not); hid our client’s keys and physically blocked them from leaving home; and stalked them at work, harassing them with dozens of phone calls, text messages, and unwanted surveillance while on the job. Other times, assaults or threats occurring far outside the workplace still impacted our client’s attendance or job performance. One abuser threatened to kill our client’s children if she did not return home at certain hours. Multiple clients have missed work because they were ashamed to be seen with visible bruising and injuries. Stronger legal protections are needed to help victims and advocates reduce preventable job losses due to domestic violence in these circumstances.

## **II. Important Provisions in the Bill**

This bill strengthens the Accrued Sick and Safe Leave Act in important ways. First, the current bill more clearly prohibits an employer from discharging, demoting, or suspending an employee who requests time off due to a domestic violence incident. All too often, a Legal Aid client feels that she must choose between preserving the low-wage job that supports her family and pursuing time-consuming legal action, such as a Civil Protection Order case. Few employers are familiar with existing protections in the Sick and Safe Leave Act, and without strengthened protections that more clearly prohibit termination or retaliation, too many employers deny our clients’ reasonable requests for time off work to attend court hearings. For a low-income mother living paycheck-to-paycheck, the choice is clear: she must do anything she can to keep her job, including dropping the Civil Protection Order case that will keep her abuser away from her. This was the decision of one of Legal Aid’s clients just last week when her employer threatened to fire her if she took off another day from work to go to court. When workers are protected from a job loss or other disciplinary action for taking time off work, more victims can seek legal protections against an abuser, thus reducing preventable job losses and keeping our communities safer.

Second, this bill’s reasonable accommodation provision is an important amendment for our client community. Some victims require on-the-job accommodations to stay safe and perform well at work. It is crucial that the reasonable accommodation provision prohibits retaliation against the victim, such as a demotion. For example, one of Legal Aid’s clients reported to her employer that she was in a domestically abusive relationship with a fellow employee – in response, her employer moved her to an alternate work location, which was much farther from her home, and only offered her part-time hours. Thus, for reporting domestic violence and requesting an accommodation, our client lost substantial income. Employers must be required to make good faith efforts to provide a “substantially equivalent” position or location, if a job-related transfer is needed. Legal Aid believes the Office of Human Rights Act is in a better position than the Department of Employment Services to enforce the reasonable accommodations provision, since the Office of Human Rights enforces similar provisions in other employment discrimination contexts.

Third, another crucial amendment is that an employer shall not terminate an employee who provides certification of domestic violence within a “reasonable period of time after the absence.” It is especially important to allow explanations after a period of absence because the exigent circumstances caused by domestic violence – including recovering from injuries,

involvement in legal matters, or homelessness – may prevent employees from immediately notifying their employers of the domestic violence.

Further, few employees are aware of their rights under even the existing law and are ashamed to share details of their private lives relating to domestic violence with an employer. The “reasonable period of time” amendment will allow some victims to seek help, learn about their rights, and notify their employers, if they choose. The stigma of domestic violence, and the reluctance of many victims to come forward, also justifies a strong privacy provision in the law that will require employers to keep information about domestic violence in the “strictest confidence.” Employers should also be required to post a notice in their workplaces to educate workers (and managers) about their rights under the amended Act.

### **III. Additional Employment Protections Needed**

Finally, even with a strengthened Accrued Sick and Safe Leave Act, additional protections are needed to prohibit employers from discharging, demoting, or suspending an employee on the basis of her status as a victim of domestic violence alone. This should be implemented by amending the D.C. Human Rights Act. In Legal Aid’s opinion, the D.C. Office of Human Rights (OHR) is the most appropriate enforcement agency for this type of provision, as OHR already has the infrastructure and experience in anti-discrimination investigation and enforcement.

Legal Aid proposes this because many victims lose their jobs when it is revealed that they are the victims of an abusive relationship – even if they do not need or request time off of work. For one of our clients, her abuser showed up uninvited at her workplace and yelled and assaulted her, attracting the attention of customers and her manager. The manager fired her on the spot for bringing “drama” to the workplace. This employer could have taken common sense steps to secure his workplace and ensure that his customers and his employee (the victim of a crime) were safe. For example, he could have brought her to a safe location and discussed whether to call the police. Instead, he fired her. This employer failed to recognize that by terminating her for being on the receiving end of someone else’s crime, he was unconsciously playing a part in further driving her relationship underground and cutting off desperately needed economic resources. This only exacerbates domestic violence in our communities.

Legal Aid believes that employers want to do the right thing when they are faced with domestic violence in the workplace – but most do not have the knowledge and training to recognize domestic violence and to react appropriately. We propose adding a provision and later, funding, for the enforcing D.C. agency to educate and train employers on how to implement these protections in the workplace. When employers collaborate with victims, more domestic violence will be reported.

### **Conclusion**

Legal Aid thanks the Joint Committee for the opportunity to submit this testimony and we look forward to working with Councilmembers Orange and McDuffie to strengthen the employment protections for low-income survivors of domestic violence.