



# **Manitoba Federation of Labour**

**Submission to the Standing Committee on Justice**

**RE. Bill 8: The Employment Standards Code Amendment Act  
(Leave for Victims of Domestic Violence, Leave for Serious Injury  
or Illness and Extension of Compassionate Care Leave)**

**February 18, 2016**

## **Introduction:**

The Manitoba Federation of Labour (MFL) is very pleased to submit this brief in strong support of Bill 8, *The Employment Standards Code Amendment Act (Leave for Victims of Domestic Violence, Leave for Serious Injury or Illness and Extension of Compassionate Care Leave)*. Bill 8 represents another important step forward in Manitoba's Multi-year Domestic Violence Prevention Strategy, first introduced in 2012.

The MFL is Manitoba's central labour body, chartered by the Canadian Labour Congress to represent the interests of affiliated unions, whose members total over 100,000 working women and men in Manitoba. We believe that passing Bill 8 will significantly improve the health, safety and well-being of working families who are affected by domestic violence, both at home and in the workplace. This is especially true for working women, as women continue to make up the majority of domestic violence victims, and are also more likely than men to be the victims of severe forms of abuse.<sup>1</sup>

Bill 8 will help put a stop to domestic violence by affording workers greater flexibility to take time away from work to deal with abusive situations. It is groundbreaking legislation: a Canadian-first in providing job protection specifically for victims of domestic violence, and a Manitoba-first in providing paid leave, in recognition of the importance of income security to empowering victims to break free of domestic violence. Fundamentally, Bill 8 is about health and safety at home and in the workplace, about gender equality, and about fairness and compassion.

Bill 8 builds upon and reinforces the work of the labour movement in Manitoba, Canada and internationally in challenging domestic violence, in promoting gender equality, in ensuring employers live up to their obligations to provide safe workplaces (free from harassment and violence of all kinds), and in bargaining specific collective agreement protections from domestic violence, including employment leave. Bill 8 also represents a new tool for employers, many of whom try hard to provide meaningful support to employees affected by domestic violence, including offering time away from work to deal with emergency needs.

We commend the provincial government for taking a principled stand on these critical issues and bringing forward this important legislation. We encourage this Committee and all Members of the Legislative Assembly to send a strong signal in opposition to domestic violence and support Bill 8 unanimously.

## **Domestic Violence Leave:**

Domestic violence has often been overlooked as a workplace issue, but people in crisis don't leave their situations at home when they shut the door and leave for work each day

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<sup>1</sup> Sinha, Maire (2012): Family Violence in Canada: A Statistical Profile, 2010, as cited in Manitoba Family Services and Labour (2012): Manitoba's Multi-year Domestic Violence Prevention Strategy.

– the profound and disturbing impacts of domestic violence travel beyond the home, following people to work and beyond.

The MFL has long advocated for better research into the effects of domestic violence at work and for broader solutions that recognize the importance of secure employment and income protection to domestic violence prevention.

Justice Canada has estimated that Canadian employers lose \$77.9 million each year as a result of the direct and indirect impacts of domestic violence on employees in the workplace through lost days of work, reduced productivity and administrative costs.<sup>2</sup> That the cost of domestic violence is spilling over to employers is not all that surprising - domestic violence continues to occur all too frequently in our society, hurting people from all walks of life.

Of course, the fact that employers are bearing some of the financial costs of domestic violence pales in comparison to the immeasurable price being paid by individuals – primarily women – and families caught up in a cycle of domestic violence.

The fact that domestic violence remains such an unrelenting problem is what prompted the Canadian Labour Congress (CLC) to partner with researchers at the University of Western Ontario to conduct the first ever pan-Canadian survey on domestic violence in the workplace. We commend the CLC and its partner on this ground-breaking research, which is helping to inform policy and legislative initiatives, like Bill 8, which seek to promote violence prevention and safety in the home and workplace.

The CLC survey confirms that significant numbers of workers (especially women workers) experience violence, that violence follows people to work, and that the negative effects of violence spillover on to co-workers and the workplace more generally. Specific findings include:

- Many workers suffer from domestic violence: one third of survey respondents reported experiencing domestic violence at some point in their lives, and more than a third reported having at least one co-worker who they believed was experiencing, or had previously experienced, domestic violence.
- Women and men both reported experiencing domestic violence, but women in much larger numbers.
- Different groups are especially vulnerable: domestic violence was reported to be significantly more prevalent among transgendered, Aboriginal, and LGB respondents, as well as respondents with disabilities.
- Domestic violence interferes with work and job security: of those who reported experiencing domestic violence, 38% indicated that it impacted their ability to go to work and arrive on time, and 8.5% reported losing their job because of it. Additionally, more than half of domestic violence victims reported some form of

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<sup>2</sup> Zhang, T., Hoddenbagh, J., McDonald, S., and Scrim, K. (2012): An Estimation of the economic impact of spousal violence in Canada, 2009 Department of Justice Canada, Research and Statistics Division.

abusive act occurred at or near the workplace, while 37.1% reported spill-over effects on their co-workers, especially stress and concern for their welfare.<sup>3</sup>

These findings suggest that we need to put new solutions in place - solutions that recognize the workplace has an important role to play in stopping domestic violence.

We know that women trapped in domestic violence situations have more disrupted work histories due to their injuries and challenges. According to a commonly cited figure from a US advocacy group, Legal Momentum, victims of domestic violence miss an average of 137 hours of work a year (or the equivalent of 17 full-time days). As a result of interrupted work victims of domestic violence tend to have lower personal incomes, to change jobs more frequently (losing benefits and seniority), and are more likely to hold precarious casual and part-time jobs and women living in stable home situations.<sup>4</sup>

These are important consequences to consider because having a job and a decent income are essential foundations for women to be able to leave an abusive situation and maintain a decent standard of living for themselves and their children. These realities for individuals - as well as the financial cost to employers - support the position that we need work related policies to help women escape violent situations.

That's why the MFL is proud to support Bill 8, which introduces domestic violence leave protections that will address a broad range of circumstances – both short and long term - that may require victims of domestic violence to take time off work to deal with their situations. Bill 8 would amend The Employment Standards Code to provide victims of domestic violence with several forms of guaranteed employment leave to protect their jobs if they need to take time away from work to deal with abusive situations, including:

- Up to ten days to use intermittently or consecutively, including five days paid; and
- An additional 17 weeks to use consecutively for longer-term requirements.

Job protection will make it easier for victims of domestic violence to take time away to seek medical treatment or counseling, apply for a protection order or appear before court, speak with police or legal counsel, relocate to a new home or move into a shelter. In so doing, Bill 8 will open more doors for victims of domestic violence to escape abuse. There are already so many other barriers to escaping domestic violence - fearing for your job shouldn't be another one.

Of particular importance is the bill's provision for up to five (5) days of paid leave (available for intermittent use), which will allow victims to take time off without having to sacrifice their income. Financial stability is a critical empowering consideration for victims of domestic violence, and can make the difference between leaving a violent relationship or

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<sup>3</sup> Wathen, C. N., MacGregor, J. C. D., MacQuairrie, 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.

<sup>4</sup> Zhang, T., Hoddenbagh, J., McDonald, S., and Scrim, K. (2012): An Estimation of the economic impact of spousal violence in Canada, 2009 Department of Justice Canada, Research and Statistics Division.

staying. This is especially true when children are involved and need to be provided for. Paid domestic violence leave will be the first paid leave provided for in Manitoba.

While paid leave protection may result in a modest cost for employers, it is important to understand that they already bear significant costs as a result of domestic violence: increased absenteeism; higher replacement, recruitment and training costs; reduced productivity; higher employer health expenses; lower employee morale and strained co-worker relationships; and potential harm when violent abusers approach or enter the workplace. Many employers already try hard to provide meaningful support to employees affected by domestic violence – paid leave provides another tool to help build healthier workplaces.

Moreover, the experience of Australia, where more employers are offering their employees paid domestic violence leaves, suggests that employees are not using it unreasonably, but rather in short, strategic amounts to tend to critical needs.<sup>5</sup>

Bill 8 also provides for additional unpaid leave, including five (5) days of intermittent leave and 17 weeks of continuous leave if victims require longer periods to effect life-altering changes, such as relocation or intensive psychological or medical care. Bill 8 is unique in Canada in providing for leave specifically for victims of domestic violence.

The MFL strongly encourages the Government of Manitoba to work with the Government of Canada to make arrangements for this longer-term leave to be eligible for EI benefits. Job protection is vital, but requiring victims to forgo their income for an extended period of time threatens to undermine the usefulness and practicality of this protection. We understand that some victims of domestic violence requiring longer-term leave may already be eligible for EI support for serious illness or injury, but this would not capture victims requiring leave for other purposes, such as relocation.

We note and commend Bill 8's attention to confidentiality of information and restrictions on further disclosure. It is critically important that victims are assured that their disclosure of domestic violence circumstances to access leave protection will be kept confidential and not be used in any way that could worsen their situation or serve as a deterrent from taking steps to escape abuse.

Bill 8 proposes that Regulations will be developed to specify the types of verification that may be used to access domestic violence leave (verification will be mandatory for the use of paid leave, and required at the discretion of the employer for access to unpaid leave). The MFL encourages government to consult broadly with victims of domestic violence, caregivers and service providers to determine appropriate forms of verification. It will be important to ensure that verification documentation is easily accessible to victims and does not add to their stress and hardship.

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<sup>5</sup> Sydney Morning Herald (August 25, 2014): More Companies offer their employees paid domestic violence leave.

Of course, while Bill 8 represents a major step forward in the fight against domestic violence, much more remains to be done, and we encourage government to also take steps to:

- Continue working with victims, community and service organizations, unions, employers, police, researchers, citizens and other governments to address domestic violence on all fronts;
- Provide more support for shelters as safe refuges for victims of violence and their families, including facility improvements and more training and higher wages for support workers to provide quality family violence services;
- Continue promoting gender equality and fighting homophobia as a key components of violence prevention;
- Strengthen processes around protection orders, prevention orders and peace bonds for victims of stalking and domestic violence;
- Invest in specialized programming for vulnerable populations, including transgendered, Aboriginal and LGB individuals, as well as persons with disabilities;
- Ensure Legal Aid services are available for family law matters; and
- Invest in broader social issues affecting victims, such as housing, childcare and addictions services.

Lastly, we wish to recognize and commend the pioneering work of unions in Canada and elsewhere in winning collective agreements that provide for domestic violence leave. These early efforts by unions to bolster violence prevention and support victims of domestic violence reflects the strong and long-standing commitment of the labour movement to gender equality, solidarity and safe and healthy workplaces.

### **Extension of Job Protection to Align with EI Benefits:**

Bill 8 also includes two updates to the Employment Standards Code to align Manitoba leave provisions with benefits already available under the Canadian Employment Insurance (EI) system. Without these amendments, a worker could find herself in the perverse situation of qualifying for EI benefits to be away from work, but not being permitted to take leave from her job in Manitoba. Job protection is a necessary companion of job leave benefits if such benefits are to have their intended value.

Specifically, Bill 8 extends compassionate care leave from 8 to 28 weeks, and establishes leave protection for workers who are seriously injured or ill for up to 17 weeks. These are positive updates and alignments with federal law.