

The purpose of this fact sheet is to provide an overview of some legal remedies available to victims of family violence. A number of different laws, both federal and provincial, provide protection for employers and their employees when family violence spills over into the workplace. These laws present opportunities for employers to address family violence that comes into the workplace, while posing some potential challenges for employers in the form of liability.

You should know where to direct victimized employees for law information and services. Unfortunately, many people still believe that physical violence in the home is a private family matter. Misinformation and lack of access to accurate information act as barriers to addressing family violence. You can play a direct and active role in educating your workforce and facilitating employees' access to information, services and resources that answer basic questions about the law and legal process. *(Note: Remember, an employee requiring specific advice on his or her particular situation should see a lawyer. Legal advice and representation are clearly in the realm of legal professionals.)*

Here is an overview of some laws impacting on family violence and some remedies.

Criminal Law Remedies

The *Criminal Code of Canada* sets out the offences that may apply to situations of family violence.

The criminal law is used to convict the offender of a criminal offence. It may also impose a fine, a jail sentence, or a probationary period that restricts specific conduct. This can help protect the victim, and other employees from further abuse in the workplace. In addition to crimes such as murder, attempted murder, manslaughter and criminal negligence, family violence victims may experience offences such as:

Assault:

An assault happens when a person intentionally uses force against another person without his or her consent. Threats to harm somebody may also be an assault when the victim believes the person can carry out the threat. The law does not distinguish between assault on spouses, common law partners or strangers. There are four categories of assault including *common assault*, *assault with a weapon* or *causing bodily harm*, *aggravated assault* and *unlawfully causing bodily harm*. Each category represents a more serious assault.

Sexual Assault:

Sexual contact without consent, *including by a spouse or partner*, is a crime. This includes participation in sexual activity because of threats or fear of refusing. The *Criminal Code* also includes *sexual assault with a weapon*, or *sexual assault involving threats to a third party* or *causing bodily harm and aggravated sexual assault*.

Most forms of abuse are against the law. In fact, physical abuse, sexual abuse, threats of violence and stalking are all offences under the Criminal Code of Canada.

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Criminal harassment:

Sometimes called “stalking”, this addition to the **Criminal Code** prohibits anyone from repeatedly following a person, repeatedly communicating, watching, or threatening the person or any family member in a way that causes the person to fear for her/his safety or the safety of someone else.

Uttering threats:

It is illegal to threaten a person, directly or indirectly, with death or bodily harm; or with damage to or destruction of property, or with injury to an animal that is on the person’s property.

Intimidation:

If a person tries to intimidate another person by using violence or threats of violence against her/him, their spouse or children, damaging their property or persistently following the person around or watching their home or work, the actions may be defined as intimidation.

Failing to provide the necessities of life:

Parents have an obligation to provide their children with food, clothing and shelter. Spouses have the same obligation to each other. It is a criminal offence, for example, to underfeed dependents to the point of starvation, or to purposefully deprive them of shelter.

Abduction:

Kidnapping children away from a parent with a custody order, or taking children away from the parent who had the everyday care of them, even where there is no custody order, are crimes of abduction in the Criminal Code.

Services for Victims

Victim Services Offices around the province can:

- Provide information on the criminal justice process
- Refer you to counselling/services
- Help you with Court preparation and support
- Assist you in preparing a Victim Impact Statement if the accused is convicted
- Provide information on the offender’s sentence
- Tell you about possible financial benefits and remedies

For more information, call the nearest Victim Services Office:

Bathurst.....	547-2924
Bouctouche	743-7251
Burton	357-4035
Campbellton	789-2388
Edmundston.....	735-2543
Fredericton	453-2768
Grand Falls	473-7706
Miramichi.....	627-4065
Moncton	856-2875
Richibucto	523-7150
Saint John.....	658-3742
Shediac.....	533-9100
St. Stephen.....	466-7414
Tracadie-Sheila.....	394-3690
Woodstock	325-4422

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It is important to note that employers who do not meet their obligations as set out in legislation, may find themselves being sued in civil court.

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Other Remedies

Here are some other remedies that may be available to victims of family violence:

- In New Brunswick, the provincial **Human Rights Act** prohibits any action in the workplace that is degrading, offensive or threatening.
- The New Brunswick **Occupational Health and Safety Act** encourages both employees and employers to assess specific workplace hazards. It says, "Any employee who believes that an act is likely to endanger his or any other employee's health or safety shall immediately report his concern to his supervisor who shall promptly investigate the situation in the presence of the employee."

- **Peace bonds** are often suggested in situations where someone fears for their safety from their spouse, partner or family members. A "peace bond" or "recognizance" is an agreement that a person makes with the Court, promising to "keep the peace and be of good behaviour". Peace bonds are NOT appropriate in situations where a crime has already been committed. A peace bond is a way to try to prevent assault. Anyone who is afraid that another person is likely to harm them, their spouse or child or their property may seek a peace bond order from the Court. The peace bond could include provisions for the aggressor to stay away from the person's workplace.

- **Civil law solutions** may also be important for victims of family violence. They include court orders that the abuser pay the victim money to compensate for losses from injuries; restraining orders; and orders to keep the abuser out of the family home. Civil remedies include family law matters. Employees who end the relationship with the abuser may have to deal with the division of any property, custody of the children, support, and divorce. New Brunswick has a "free" parenting after separation course to help parents deal with the legal and emotional issues of separation, especially in high conflict situations. **The toll-free number is 1- 888-236-2444.** Victims of spousal abuse are eligible for assistance from the Domestic Legal Aid program in their area.
- Many employers, through their collective agreements, policies and procedures, can promote safe and respectful work environments.

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The Public Legal Education and Information Service of New Brunswick (PLEIS-NB) has many free publications on family violence and criminal law. PLEIS-NB also has family law pamphlets explaining the rights of victims of spousal abuse to domestic legal aid, civil remedies and much more. These materials can be ordered and accessed on the Web Site:

www.legal-info-legale.nb.ca

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Notes

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