



Northern Ireland  
Assembly

## Research and Information Service Briefing Note

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# Domestic Abuse Leave Arrangements in other Jurisdictions

## 1. Introduction

This briefing note has been prepared following the Committee for the Economy's briefing by Raise on the Domestic Abuse (Safe Leave) Bill on 15 December 2021. The Committee asked for a comparative table analysis of the incidence of domestic abuse in jurisdictions with a safe leave policy, set against the take up of the leave and the required evidential threshold to take the leave.

Due to the availability of information it has not been possible to identify all aspects of the request in respect of each jurisdiction

## 2. Table 1 - Comparative Analysis of Arrangements

Jurisdiction	Eligibility	Evidential Requirement	Uptake	Prevalence of Domestic Abuse
<p><b>New Zealand</b></p> <p>In April 2019, New Zealand became the second country in the world to introduce statutory paid domestic violence leave, after the Philippines. The Domestic Violence – Victims’ Protection Act 2018<sup>1</sup> allows those affected by domestic violence up to 10 days paid domestic violence leave per year.</p> <p>The Act also gives employees affected by domestic violence, the right to:</p> <ul style="list-style-type: none"> <li>ask for short-term flexible working arrangements. This can be for up to 2 months.</li> <li>not be treated adversely in the workplace because they might have experienced domestic violence.</li> </ul>	<p>Employees who have been affected by domestic violence can take up to 10 days paid domestic violence leave if:</p> <ol style="list-style-type: none"> <li>they have six months’ current continuous employment with the same employer, or</li> <li>they have worked for the employer for six months for: <ol style="list-style-type: none"> <li>an average of 10 hours per week, and</li> <li>at least one hour in every week or 40 hours in every month.</li> </ol> </li> </ol>	<p>The law does not specify what kind of proof an employer can request. Employers can accept any type of proof that an employee is affected by family violence. Examples of proof include:</p> <ul style="list-style-type: none"> <li>letter or email about the situation and how it affects the employee from either a: <ol style="list-style-type: none"> <li>Support organisation – for example, a family violence support service.</li> <li>Support person.</li> </ol> </li> <li>report from a doctor or nurse.</li> <li>report from a school.</li> <li>a declaration – a letter of evidence witnessed by an authorised person like a justice of the peace.</li> <li>any court or police documents about the family violence.<sup>2</sup></li> </ul> <p>The employer does not need to pay the employee until they get this proof, unless the employee has a ‘reasonable excuse’. An example of a ‘reasonable excuse’ could be that the employee had to move home quickly and has not had time to get proof.<sup>3</sup></p>	<p>Press reports suggest that there is a low uptake of the leave due to a stigma around domestic abuse.<sup>4</sup></p>	<p>Between 2009-2015, 194 people were killed as a result of family violence and over half a million are directly affected by family violence each year.<sup>5</sup></p>

<sup>1</sup> <http://www.legislation.govt.nz/act/public/2018/0021/latest/DLM7054315.html>

<sup>2</sup> <https://www.employment.govt.nz/leave-and-holidays/family-violence-leave/proof-family-violence/>

<sup>3</sup> <https://www.employment.govt.nz/leave-and-holidays/family-violence-leave/rights-and-responsibilities/>

<sup>4</sup> <https://www.pressreader.com/new-zealand/otago-daily-times/20210406/281599538303098>

<sup>5</sup> <https://www.justice.govt.nz/assets/Documents/Publications/a-modern-and-victim-focussed-act.pdf>

<p><b>Australia</b> On 12 December 2018, the Fair Work Amendment (Family and Domestic Violence Leave) Act 2018 came into force.<sup>6</sup> It provides entitlement for employees covered by the Fair Work Act to receive 5 days of unpaid family and domestic violence leave in a 12 month period.</p>	<p>All employees (including part-time and casual employees) are entitled to 5 days unpaid family and domestic violence leave each year. The entitlement to unpaid family and domestic violence leave comes from the National Employment Standards.</p>	<p>An employer can ask their employee for evidence that shows the employee took the leave to deal with family and domestic violence. If the employee does not provide the requested evidence, they may not get family and domestic violence leave.</p> <p>The evidence has to convince a reasonable person that the employee took the leave to deal with the impact of family and domestic violence.</p> <p>Types of evidence can include: documents issued by the police service documents issued by a court family violence support service documents, or a statutory declaration.</p> <p>Employers can ask employees to provide evidence for as little as 1 day or less off work.<sup>7</sup></p>	<p>Research has identified that a third of enterprise agreements approved by the Fair Work Commission included paid family and domestic violence leave (FDV) for employees. Of the almost 1.2 million employees with access to paid FDV leave under their enterprise agreements, about 660,000 were granted at least 10 days of paid leave.</p> <p>The private sector has taken the lead, accounting for 95% of those agreements which included paid FDV leave, with small businesses (under 15 employees) making up 40% of that group.<sup>8</sup></p>	<p>One in 6 Australian women and 1 in 16 men have been subjected, since the age of 15, to physical and/or sexual violence by a current or previous cohabiting partner.<sup>9</sup></p>
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<sup>6</sup> <https://www.legislation.gov.au/Details/C2018A00169>

<sup>7</sup> <https://www.fairwork.gov.au/leave/family-and-domestic-violence-leave/notice-and-evidence-for-family-and-domestic-violence-leave>

<sup>8</sup> <https://www.theguardian.com/australia-news/2021/nov/11/australian-businesses-lead-way-in-paid-family-and-domestic-violence-leave> and <https://www.fwc.gov.au/documents/sites/family-domestic-violence-leave/correspondence/am202155-report-literature-review-031121.pdf>

<sup>9</sup> <https://www.aihw.gov.au/getmedia/d1a8d479-a39a-48c1-bbe2-4b27c7a321e0/aihw-fdv-02.pdf.aspx?inline=true>

<p><b>Philippines</b> Under Section 43 of the Anti-Violence Against Women and Their Children Act of 2004, workers are entitled up to 10 days paid leave.<sup>10</sup></p>	<p>Although the first country in the world to introduce such leave, it is gender specific as it is only applicable to women victims. The CEDAW Committee in its 2016 Conclusions on the Philippines report stated that it was concerned about ‘the limited scope of the [Anti VAWC Act], which is focused mainly on domestic violence by intimate partners’. It also noted ‘the high prevalence of gender-based violence against women and girls and the low reporting of incidents of violence, in particular domestic violence and sexual violence, due to stigmatization of and discrimination against victims’.<sup>11</sup></p>	<p>In order to be entitled to the leave benefit, the employee must present her employer with certification that an action relative to the matter is pending.</p>	<p>The 2015 ITUC-AP/Philippine affiliates’ survey found respondents’ awareness of the domestic violence leave was low at 39%, and take up of the leave was even lower, at only 23% of affected workers.<sup>12</sup></p>	<p>A Philippine National Demographic and Health survey in 2017 found that one in four Filipino women aged 15-49 has experienced physical, emotional or sexual abuse by their partner or husband.<sup>13</sup></p>
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<sup>10</sup> <https://www.officialgazette.gov.ph/2004/03/08/republic-act-no-9262-s-2004/>

<sup>11</sup> <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhss1YTn0qfX85YJz37paIqUDDEORoO%2bFufiE0IAaW15o4x6ODFDtYEeObySRVS0ldVIU7Z6blw1k3Ud%2b0FV7g7u6lASdaSqEEFngDtWdzJ39z>

<sup>12</sup> <https://16dayscampaign.org/wp-content/uploads/2018/11/Philippines-Domestic-Violence-at-Home-Affects-Work-and-Workplace-ITUC-.pdf>

<sup>13</sup> [https://psa.gov.ph/sites/default/files/PHILIPPINE%20NATIONAL%20DEMOGRAPHIC%20AND%20HEALTH%20SURVEY%202017\\_new.pdf](https://psa.gov.ph/sites/default/files/PHILIPPINE%20NATIONAL%20DEMOGRAPHIC%20AND%20HEALTH%20SURVEY%202017_new.pdf)

<p><b>Canada - Manitoba</b>                  Employees experiencing domestic violence are entitled to five paid days of leave and a further five days of unpaid leave.<sup>14</sup></p>	<p>An employee that has worked for the same employer for at least 90 days is entitled to the leave.<sup>15</sup></p>	<p>Employees must provide reasonable verification of the need for the leave when taking paid days. Employers may also require an employee to provide verification for unpaid days of leave. Reasonable verification is different from case to case. The intent is to confirm the employee is taking the leave to deal with a specified purpose related to the domestic violence.</p>	<p>N/A</p>	<p>N/A</p>
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<sup>14</sup> <https://web2.gov.mb.ca/bills/40-5/b008e.php>

<sup>15</sup> [https://www.gov.mb.ca/labour/standards/doc.domestic\\_violence\\_leave\\_factsheet.pdf](https://www.gov.mb.ca/labour/standards/doc.domestic_violence_leave_factsheet.pdf)

<p><b>Canada - Ontario</b>                  Employees are entitled up to 10 days of domestic or sexual violence leave every calendar year, whether they are employed on a full or part-time basis. The first five days are paid.<sup>16</sup></p>	<p>If an employee has worked for an employer for at least 13 consecutive weeks, they have the right to take domestic or sexual violence leave.</p>	<p>An employer can request evidence of the need for domestic or sexual violence leave. However, they can only request proof that is “reasonable in the circumstances”.                  What is reasonable depends on the situation, for example:</p> <ul style="list-style-type: none"> <li>• why an employee needs the leave;</li> <li>• how long the leave will be;</li> <li>• any past leaves an employee has had or periods away from work;</li> <li>• whether an employee can obtain proof of why they need the leave; and</li> <li>• how much it would cost to get proof.<sup>17</sup></li> </ul>	<p>N/A</p>	<p>Ontario has the lowest rate of police recorded family violence and intimate partner violence in Canada.<sup>18</sup></p>
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<sup>16</sup> <https://www.ola.org/en/legislative-business/bills/parliament-41/session-1/bill-177>

<sup>17</sup> <https://www.ontario.ca/document/your-guide-employment-standards-act-0/domestic-or-sexual-violence-leave#section-1>

<sup>18</sup> <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2021001/article/00001-eng.pdf?st=3eHSzXnC>

<p><b>Canada -British Columbia</b>                  In 2020, British Columbia passed legislative amendments that provide up to five days of paid leave, and five more days of unpaid leave, for people after facing domestic or sexual violence. This builds on the unpaid, job-protected leave introduced in spring 2019.<sup>19</sup> If necessary, an employee can take up to 15 weeks of additional unpaid leave.<sup>20</sup></p>	<p>The right to leave is available to all eligible employees regardless of how long they have been employed.</p>	<p>Employers have the right to be satisfied of the entitlement to the leave to better support the employee, as well as to ensure the leave is administered properly. If the employer asks for information, the employee must provide it as soon as practicable.<sup>21</sup></p>	<p>N/A</p>	<p>N/A</p>
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<sup>19</sup> <https://engage.gov.bc.ca/govtogetherbc/impact/paid-leave-for-domestic-or-sexual-violence-results/#:~:text=In%20summer%202020%2C%20government%20passed%20legislative%20amendments%20that,visit%20the%20Gov%20BC%20leaves%20of%20absence%20page>

<sup>20</sup> <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/time-off/leaves-of-absence#dsvl>

<sup>21</sup> <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/forms-resources/igm/esa-part-6-section-52-5>

<p><b>Canada – Alberta</b>                  Employees eligible for domestic violence leave may take up to 10 days unpaid leave each calendar year.<sup>22</sup> Part 2, Division 7.6 of the Employment Standards Code sets out the rules for domestic violence leave.<sup>23</sup></p>	<p>Employees are eligible for domestic violence leave if they have been employed at least 90 days with the same employer. Employees with less than 90 days of employment may still be granted leave.<sup>24</sup> However, their employers are not required under employment standards legislation to grant them leave.</p>	<p>Before taking a leave under this section, the employee must give the employer as much notice as is reasonable and practicable in the circumstances.</p>	<p>N/A</p>	<p>N/A</p>
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<sup>22</sup> <https://www.alberta.ca/domestic-violence-leave.aspx>

<sup>23</sup> [http://www.qp.alberta.ca/570.cfm?frm\\_isbn=9780779828258&search\\_by=link](http://www.qp.alberta.ca/570.cfm?frm_isbn=9780779828258&search_by=link)

<sup>24</sup> [https://www.qp.alberta.ca/1266.cfm?page=e09.cfm&leg\\_type=Acts&isbncln=9780779828258](https://www.qp.alberta.ca/1266.cfm?page=e09.cfm&leg_type=Acts&isbncln=9780779828258)



<p><b>Canada - Saskatchewan</b>                  In 2019, the Government increased the ‘Interpersonal Violence Leave’ entitlement from 10 unpaid days to five paid and five unpaid days.</p>	<p>Employees need to have worked a minimum of 13 weeks qualifying period with their employer.<sup>25</sup></p>	<p>The employee may also be required to provide some form of verification that the leave is being used for the proper purpose. This could be written confirmation from:</p> <ul style="list-style-type: none"> <li>• a social worker;</li> <li>• a member of the College of Psychologists;</li> <li>• a duly qualified medical practitioner;</li> <li>• a practicing member of the Saskatchewan Registered Nurses Association or the Registered Psychiatric Nurses Association of Saskatchewan;</li> <li>• a member of the Royal Canadian Mounted Police or another police service;</li> <li>• or another person approved by the employer who is employed by an agency or organization that provides emergency or transitional shelter or support for victims of interpersonal violence.</li> </ul> <p>Employers are required to ensure personal information about employees accessing the leave is kept confidential.</p>	<p>N/A</p>	<p>Saskatchewan has both the highest rate of police recorded family violence and intimate partner violence in Canada.<sup>26</sup></p>
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<sup>25</sup> <https://www.saskatchewan.ca/business/employment-standards/job-protected-leaves/interpersonal-violence-leave>

<sup>26</sup> <https://www150.statcan.gc.ca/n1/daily-quotidien/210302/dq210302d-eng.htm#:~:text=There%20were%20approximately%20400%2C000%20victims%20of%20police-reported%20violent,sibling%20or%20extended%20family%20member%20perpetrated%20the%20violence.>