

ARTICLE

INTIMATE PARTNER VIOLENCE WORKPLACE LEGISLATION: MINIMIZING COSTS AND MAXIMIZING BENEFITS

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ABSTRACT

Intimate Partner Violence (IPV) is a public health crisis. Approximately forty-one percent of women and twenty-six percent of men in the United States report experiencing physical violence by an intimate partner in their lifetime. Over sixty-one million women and fifty-three million men experience psychological aggression by an intimate partner. Among female victims, almost three quarters first encounter IPV before the age of twenty-five. The unchecked violence follows these young adults into the workplace, costing the U.S. more than eight billion dollars. This paper argues that protecting victims in the workplace simultaneously reduces IPV and saves companies money. Accordingly, IPV social policy goals and business interests are much better aligned than is commonly believed. The paper begins with an overview of current laws that require employers to support their IPV victim-employees. After identifying the policy objectives of these laws, the paper examines the intersection of legislative goals and the business interest of minimizing IPV costs. The paper suggests that businesses should commit to reducing the severity and incidence of IPV, not only because it is the right thing to do, but also because it will help improve their bottom line. The conclusion provides a set of recommendations for comprehensive legal reforms that will both more effectively address IPV and create financial benefits for employers.

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I. INTRODUCTION: EMPLOYER LEGAL OBLIGATIONS TO ADDRESS INTIMATE PARTNER VIOLENCE

Intimate Partner Violence (IPV)¹ affects millions of people every year. According to the United States Centers for Disease Control (CDC), it is a significant, costly, and preventable “public health issue” that “has a profound impact on lifelong health, opportunity, and well-being.”² Defined as abuse or

¹ We use the term “intimate partner violence” (IPV) interchangeably with “domestic violence.” Current literature more commonly uses the term IPV, but many of the sources we rely on, as well as the majority of statutes, use the term domestic violence. IPV is a broader term, which encompasses relationships between partners who are not living together.

² *About Intimate Partner Violence*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/intimate-partner-violence/about/?CDC_AAref_Val=https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html [https://perma.cc/3URT-5NME] (last visited Oct. 1, 2024) [hereinafter *About Intimate Partner Violence*]; see KATHLEEN C. BASILE, SHARON G. SMITH, MARCIE-JO KRESNOW, SRIJANA KHATIWADA & RUTH W. LEEMIS, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, *THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2016/2017 REPORT ON SEXUAL VIOLENCE 1* (2022).

aggression by current or former spouses or partners, IPV can include “physical violence, sexual violence, stalking, and psychological aggression.”³ The CDC reports that at least forty-one percent of women and twenty-six percent of men experience violence and/or stalking, while over sixty-one million women and fifty-three million men experience psychological aggression by an intimate partner.⁴ The cost of IPV exceeds \$8.3 billion per year in the United States, and all indications are that this cost continues to grow.⁵

Policymakers and scholars have become increasingly aware that IPV is not only a private issue but also one that needs to be addressed in the workplace.⁶ Recognizing that businesses have an important role to play in dealing with IPV, Congress authorized funding in 2000 to study IPV’s workplace effects.⁷ This study led to the creation of a Resource Center in 2005 to collect

³ The original 1994 federal Violence Against Women Act (VAWA), 34 U.S.C. § 12291(a) (12) (1994), provided a core definition of domestic violence that has been incorporated into future reauthorizations of VAWA with minor changes, reflected in the quoted text. VAWA 2022 sec. 2(a), amending VAWA 2013, sec. 3(a)(1)(q), amending VAWA 2005 (Violence Against Women and Department of Justice Reauthorization Act), sec. 3(a), amending VAWA 2000 (Victims of Trafficking and Violence Prevention Act of 2000), Division B, sec. 1002, incorporating definition from Omnibus Crime and Control Act of 1968, Title I, sec. 2003, amending VAWA 1994 (Violent Crime Control Law Enforcement Act) of 1994, Title IV. *See also* MATTHEW J. BREIDING, KATHLEEN C. BASILE, SHARON G. SMITH, MICHELE C. BLACK & RESHMA MAHENDRA, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, INTIMATE PARTNER VIOLENCE SURVEILLANCE: UNIFORM DEFINITIONS AND RECOMMENDED DATA ELEMENTS 11 (2015), <https://www.cdc.gov/intimate-partner-violence/communication-resources/intimatepartnerviolence.pdf> [<https://perma.cc/ZN9Y-E6E7>].

⁴ *About Intimate Partner Violence*, *supra* note 2.

⁵ Consol. Appropriations Act, 2022, Pub. L. No. 117-103, 2022 U.S.C.C.A.N. (136 Stat.) 889, (noting that the annual costs of IPV grew from over \$5.8 billion in 1995 to over \$8.3 billion in 2022). These include the direct costs of medical care and the indirect costs of lost productivity. *Id.*; *see generally* Wendy Max, Dorothy P. Rice, Eric Finkelstein, Robert A. Bardell & Steven Leadbetter, *The Economic Toll of Intimate Partner Violence Against Women in the United States*, 19 VIOLENCE & VICTIMS 259, 259 (2004). In its 2003 study, the CDC estimated that the annual costs of IPV exceeded \$5.8 billion. *See* U.S. CTRS. FOR DISEASE CONTROL & PREVENTION & NAT’L CTR. FOR INJURY PREVENTION & CONTROL, COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN THE UNITED STATES (2003), <https://stacks.cdc.gov/view/cdc/6543/> [<https://perma.cc/QD6C-STEAL>] [hereinafter COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN]. According to one study, the lifetime economic costs of IPV including medical care, lost productivity for victims and perpetrators, criminal justice activities, and other costs, is \$3.6 trillion. *See* Cora Peterson, Megan C. Kearns, Wendi LiKamWa McIntosh, Lianne Fuino Estefan, Christina Nicolaidis, Kathryn E. McCollister, Amy Gordon & Curtis Florence, *Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults*, 55 AM. J. PREV. MED. 433, 433 (2018).

⁶ *See, e.g.*, Avanti Adhia, Bizu Gelaye, Lauren E. Friedman, L. Y. Marlow, James A. Mercy & Michelle A. Williams, *Workplace Interventions for Intimate Partner Violence: A Systematic Review*, 34 J. WORKPLACE BEHAV. HEALTH, 1, 33 (2019) (noting that “workplaces are increasingly recognizing the considerable toll of IPV on employees and organizations”); *see generally* Beth A. Livingston, Louise Delavier & Ynaée Benaben, *Intimate Partner Violence is a Workplace Issue*, HARV. BUS. REV. (2021), <https://hbr.org/2021/02/intimate-partner-violence-is-a-workplace-issue> [<https://perma.cc/22P5-3NBA>] (highlighting the workplace effects of IPV).

⁷ VAWA of 2000, Pub. L. No. 106-386, tit. II § 1207, 114 Stat. 1464, 1507-08 (2000) (codified as amended in scattered sections at 34 U.S.C.).

and disseminate effective workplace strategies to address IPV.⁸ Current CDC recommendations for IPV prevention include a focus on the workplace. For example, the CDC encourages employers to “improve organizational polices and workplace climate” and to “strengthen household financial security.”⁹ However, despite the introduction of a number of bills over the past fifteen years, Congress has yet to pass any law that would give employers explicit federal legal responsibilities for employees who are IPV victims.¹⁰ A bill that would have provided employment leave specific to IPV victims was introduced in the House of Representatives on April 28, 2023, but it has not made it out of committee for a floor vote.¹¹ Another recent effort was a Senate bill, the Healthy Families Act, introduced on May 17, 2023. This bill “would guarantee employees the right to earn job-protected time off—in most cases paid—and use it when they or their loved ones are sick, hurt, or getting medical care, as well as for needs in connection with sexual or domestic violence.”¹² This bill also has made no progress. Indeed, none of the efforts to pass federal laws specifically regulating IPV in the workplace have succeeded so far.

State governments have embraced the idea of addressing IPV in the workplace more rapidly than the federal government.¹³ Forty-four states and the District of Columbia have enacted one or more laws that explicitly give

⁸ See Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, tit. VII § 701, 119 Stat. 2960, 3052 (2006). The Resource Center continues to receive federal grants to this day. See VAWA Reauthorization Act of 2022, Pub. L. No. 117-103, tit. VII § 702, 136 Stat. 840, 891–92 (2022). The Center was initially established in 1993. Today, it operates at Workplaces Respond to Domestic and Sexual Violence. WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE: A NATIONAL RESOURCE CENTER, <https://workplacesrespond.org> [<https://perma.cc/GDH2-GJFR>] (last visited Oct. 3, 2024).

⁹ *Preventing Intimate Partner Violence*, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/intimate-partner-violence/prevention/index.html> [<https://perma.cc/85ZH-2NLR>] (last visited Sept. 17, 2024) [hereinafter *Preventing Intimate Partner Violence*].

¹⁰ The authors use the term “victim” when referring to those who are still experiencing IPV and its effects. We acknowledge that “survivor” may be the more appropriate term in some circumstances, especially in reference to those who are no longer in a violent relationship. We also recognize that the choice of term should depend on the preference of the person involved. See *Key Terms and Phrases*, RAINN, <https://www.rainn.org/articles/key-terms-and-phrases> [<https://perma.cc/H9M8-BA5N>] (last visited Oct. 21, 2024). In its Strategy to Address Intimate Partner Violence, the Health Resources and Services Administration (HRSA) of the Department of Health and Human Services uses the terms “people who have experienced violence” and “people who use violence” instead of “survivor,” “victim,” or “perpetrator.” HEALTH RES. & SERVS. ADMIN., OFF. OF WOMEN’S HEALTH, 2023-2025 HRSA STRATEGY TO ADDRESS INTIMATE PARTNER VIOLENCE (2023); see also THE WHITE HOUSE, U.S. NATIONAL PLAN TO END GENDER-BASED VIOLENCE: STRATEGIES FOR ACTION (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/05/National-Plan-to-End-GBV.pdf> [<https://perma.cc/78RH-RFT8>] [hereinafter THE NATIONAL PLAN] (noting that the terms “victim” and “survivor” are both “important and have different implications when used in the context of advocacy and service provision”).

¹¹ See Safe Leave for Victims of Domestic Violence, Sexual Assault, and Stalking Act, H.R. 2996, 118th Cong. (2023). The bill has not made it out of committee for a floor vote.

¹² Molly W. Williamson, *Getting to Know the Healthy Families Act*, CTR. FOR AM. PROGRESS (2023), <https://www.americanprogress.org/article/getting-to-know-the-healthy-families-act/> [<https://perma.cc/FNH9-TVUG>]. This bill was reported to the Senate on July 18, 2023. See Healthy Families Act, S. 1664, 118th Cong. (2023).

¹³ See Adhia et al., *supra* note 6 at 3.

employers increased responsibility for supporting employees experiencing IPV.¹⁴ These laws are quite varied, both in type and how broadly they have been adopted.¹⁵ They include laws that provide job-protected leaves to facilitate victims taking steps to address the violence,¹⁶ laws that prohibit employment discrimination against victims,¹⁷ laws that prevent retaliation or adverse employment actions against victims who take time off due to IPV,¹⁸ laws that require employers to provide “reasonable accommodations” to IPV victims,¹⁹ and laws that make unemployment insurance benefits available to victims who must leave jobs because of domestic violence.²⁰ There are also laws that allow employers to seek civil injunctive relief against IPV perpetrators who target their victims in the workplace with threatening emails, texts, and calls, as well as surprise visits.²¹ Some state laws include legislative or executive directives for state agencies to develop and to adopt multi-faceted IPV workplace policies, while other initiatives encourage public and private employers to develop and/or adopt model workplace policies to promote best practices in employer responses to IPV.²²

There has been minimal critical analysis from a business perspective of this expansion of IPV public policy into legal standards for businesses.²³

¹⁴ This total (44) excludes the three states without any of these laws (Iowa, Kentucky, and West Virginia), as well as the three states (Alabama, Ohio, and Virginia) that have only general crime victim (versus IPV-victim-specific) leave laws. Appendix A to this article provides a chart of existing laws discussed in this paper by state.

¹⁵ See generally *State Guide on Employment Rights for Survivors of Domestic Violence, Sexual Assault, and Stalking*, LEGAL MOMENTUM (Sept. 17, 2024), <https://www.legalmomentum.org/library/state-guide-employment-rights-survivors-domestic-violence-sexual-assault-and-stalking> [<https://perma.cc/7L39-N6W4>] [hereinafter *State Guide*]. Legal Momentum, The Women’s Legal Defense and Education Fund, previously NOW’s Legal Defense Fund, tracks all state and federal legislative efforts to address the intersection of IPV and the workplace. See 50-STATE SURVEY: LABOR & EMPLOYMENT LAW – LEAVES OF ABSENCE: EMPLOYEE LEAVE FOR COURT OBLIGATIONS, LexisNexis (database updated May 2023).

¹⁶ Twenty-three states and the District of Columbia have leave statutes specific to domestic violence victims. See generally *State Guide*, *supra* note 15; see also Appendix A.

¹⁷ Seventeen states and the District of Columbia have laws that explicitly prohibit discrimination against domestic violence victims. See generally *State Guide*, *supra* note 15; see also Appendix A.

¹⁸ See generally *State Guide*, *supra* note 15; see also Appendix A.

¹⁹ Eight states and the District of Columbia have reasonable accommodation policies. See generally *State Guide*, *supra* note 15; see also Appendix A.

²⁰ Thirty-eight states and the District of Columbia provide for unemployment compensation for victims. See generally Appendix A.

²¹ Sixteen states have workplace restraining order laws. See generally *State Guide*, *supra* note 15; see also Appendix A.

²² See generally *State Guide*, *supra* note 15; see also Appendix A.

²³ See Jennifer C. D. MacGregor, Casey L. Oliver, Barbara J. MacQuarrie & C. Nadine Wathen, *Intimate Partner Violence and Work: A Scoping Review of Published Research*, 22 TRAUMA, VIOLENCE & ABUSE 717, 722 (2021) (“Very few papers examined legal or (higher level) policy-related issues related to IPV and work.”). Scholars of business ethics have also noted that research about business responses to the effects of IPV on the workplace is “in its infancy.” See, e.g., Charlotte M. Karam, Michelle Greenwood, Laura Kauzlarich, Anne O’Leary Kelly & Tracy Wilcox, *Intimate Partner Violence and Business: Exploring the Boundaries of Ethical Inquiry*, 187 J. BUS. ETHICS 645, 652 (2023). Further, advocates have stated that

The business community, which is not the intended beneficiary of these laws,²⁴ has had little voice in their creation and is often caught unaware and unprepared when IPV workplace laws are passed.²⁵ For U.S. businesses to effectively participate in efforts to prevent IPV and mitigate its impact, employers must be both aware of their legal obligations and adequately motivated to honor them. Realistically, businesses are unlikely to adhere to unenforced IPV workplace laws for altruistic reasons alone, especially if they view compliance to be in conflict with their fiduciary responsibility to their shareholders.²⁶

This paper addresses several questions whose answers are vital for maximizing the effectiveness of legislative workplace efforts. In contrast to criminal and family law approaches to curbing IPV, what are the specific goals of IPV workplace legislation? Are these goals antithetical or complimentary to business goals? Which, if any, of the current measures are effective? Are existing legal tools adequately tailored to either set of goals, or is there a need for reform?

Part II provides an overview of the variety of IPV workplace laws currently in place. Part III examines the goals of IPV workplace legislation. Part IV presents the business case for employer participation in efforts to curb IPV. Part V demonstrates that the legislative purposes of IPV workplace laws align closely with business incentives to combat IPV. Part VI suggests next steps for enhancing current laws in order to better achieve both the public policy and corporate objectives of addressing IPV in the workplace. Part VII concludes that the current paucity of federal laws and patchwork of state laws are underperforming but hold potential for broad impact. The paper asserts that a more promising approach is to enact a combination of federal laws and uniform state codes that encompass the most effective components of existing state laws. Such a set of complimentary provisions is likely to make significant inroads in decreasing both the overall incidence and business costs of IPV.

“data on domestic violence survivors and the workplace is extremely limited.” Chabeli Carrazana, *Domestic Violence Survivors Are Supposed to be Protected at Work. So Why Aren't Employers Complying?*, THE 19TH (2023), <https://19thnews.org/2023/07/domestic-violence-survivors-workplace-protections/> [<https://perma.cc/B9FX-RZ53>]. Some examples of scholarly works analyzing these issues include: Deborah A. Widiss, *Addressing the Workplace Effects of Intimate Partner Violence*, 379 VIOLENCE & ABUSE IN & AROUND THE WORKPLACE 1 (2018); Lisalyn R. Jacobs & Maya Raghu, *The Need for a Uniform Federal Response to the Workplace Impact of Interpersonal Violence*, 11 GEO. J. GENDER & L. 593 (2010); Marcy Lynn Karin, *Changing Federal Statutory Proposals to Address Domestic Violence at Work*, 74 BROOK. L. REV. 377 (2009).

²⁴ See, e.g., Safe Leave for Victims of Domestic Violence, Sexual Assault, and Stalking Act, H.R. 2996, 118th Cong. (2023) (intending to meet the needs of employees).

²⁵ See, e.g., Carrazana, *supra* note 23 (stating that “employers are still largely uninformed about their legal responsibilities to domestic violence survivors”).

²⁶ For a discussion of employer policies to address the impact of domestic violence as both linked to corporate social responsibility (CSR) and understood as “traditional value activities,” see Alice de Jonge, *Corporate Social Responsibility Through a Feminist Lens: Domestic Violence and the Workplace in the 21st Century*, 148 J. BUS. ETHICS 471, 478–84 (2018).

II. CURRENT U.S. INTIMATE PARTNER VIOLENCE WORKPLACE LEGISLATION

United States IPV workplace legislation has developed rapidly in the past three decades.²⁷ Before 1994 the United States had neither federal nor state IPV workplace laws. Today there are at least four federal statutes that indirectly relate to IPV in the workplace and nearly all states have some form of IPV workplace laws.²⁸ There are two primary reasons for this rather dramatic legislative trend. The first is the growing recognition that IPV holds women back from professional development and career advancement.²⁹ The second is the re-characterization of IPV as a public health issue.³⁰

It first became apparent in the mid-1990s that as many as fifty percent of IPV victims lose their job as a result of the violence they experience.³¹ One reason for such significant loss of employment is that IPV leads to frequent work absences. Victims miss work to hide, to treat injuries, to appear in court, to meet with police, to relocate, and to cope with mental health challenges

²⁷ VAWA of 1994 was the first tangentially relevant federal statute. 34 U.S.C. § 12291. The first state IPV workplace law was Maine's 1996 statute giving unemployment fund eligibility to workers who lose their jobs due to IPV. ME. REV. STAT. ANN. tit. 26, § 1043(23)(B)(3) (providing "misconduct" may not solely be founded on actions taken by an employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment). For a detailed overview, see generally *State Guide*, supra note 15; Appendix A; Deborah A. Widiss, *Domestic Violence and the Workplace: The Explosion of State Legislation and the Need for a Comprehensive Strategy*, 35 FLA. ST. U.L. REV. 669, 689–727 (2008).

²⁸ These laws are discussed in detail below in sections II.A and II.B.

²⁹ See Kali R. Lantrip, Paula J. Luginbuhl, Krista M. Chronister & Lauren Lindstrom, *Broken Dreams: Impact of Partner Violence on the Career Development Process for Professional Women*, 30 J. FAM. VIOLENCE 591, 596 (2015) (finding that IPV affected "career development in numerous ways, including women's job search and career planning, daily work activities, career advancement, and career identity and reputation").

³⁰ See, e.g., *About Intimate Partner Violence*, supra note 2. In May 2023, the White House released its first-ever U.S. National Plan to End Gender-Based Violence (the "National Plan"). This plan is designed to "advance[] an unprecedented and comprehensive approach to preventing and addressing sexual violence, intimate partner violence, stalking, and other forms of gender based violence." THE NATIONAL PLAN, supra note 10, at 4 (noting that "[g]ender-based violence is a public safety and public health crisis"); see WHO Addresses Violence Against Women as a Gender Equality and Health Priority, WORLD HEALTH ORG. (July 17, 2023), <https://www.who.int/news/item/17-07-2023-who-addresses-violence-against-women-as-a-gender-equality-and-health-priority> [<https://perma.cc/VK7C-KRNV>].

³¹ See Legal Momentum, *State Laws Can Help Survivors At Work – Discrimination Against Victims Of Domestic And Sexual Violence*, TARRANT CARES, <https://tarrant.tx.networkofcare.org/dv/library/article.aspx?id=1078> [<https://perma.cc/Q4XV-3AAG>] (last visited Sept. 30, 2024) (stating that "[u]p to one half of domestic violence victims report that they have lost a job due, at least in part, to the violence in their lives"). See also VAWA 2022 § 701 (1), (3), (13). Multiple studies confirm these findings. See, e.g., T.K. Logan, Lisa Shannon, Jennifer Cole & Jennifer Swanberg, *Partner Stalking and Implications for Women's Employment*, 22 J. INTERPERSONAL VIOLENCE 268 (2007); C. Nadine Wathen, Jennifer MacGregor & Barbara MacQuarrie, *The Impact of Domestic Violence in the Workplace*, 57 J. OCCUP. ENVIRON. MED. 65 (2015).

resulting from IPV.³² In addition, more and more studies have documented that IPV perpetrators interfere with victims' ability to work in a variety of ways. Perpetrators try to prevent victims from working and harass victims while they are at work to sabotage victims' work performance.³³ These behaviors are now considered a classic part of perpetrators' attempt to control victims and to prevent them from gaining the economic security needed to successfully leave the relationship.³⁴

Without consistent employment, it becomes significantly more difficult to achieve career advancement and salary increases.³⁵ Since the overwhelming number of IPV victims are female, IPV garnered the attention of government officials and activists interested in promoting women's full participation in the workforce.³⁶ One result has been a focus on protecting victims' employment.³⁷

In 1989, the U.S. Surgeon General identified domestic violence as a "public health burden."³⁸ In 1994, the U.S. Secretary of Health and Human Services described domestic violence as an "unacknowledged epidemic."³⁹ This growing recognition that IPV is a public health crisis provided the second mid-1990s trigger for state IPV workplace legislation.⁴⁰ This characterization transformed the experience of IPV victims into a type of medical condition

³² See COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN, *supra* note 5; see also BASILE ET AL., *supra* note 2; VAWA § 702.

³³ See UN Women, *Domestic Violence and Its Impact on the World of Work*, THE VIRTUAL KNOWLEDGE CTR. TO END VIOLENCE AGAINST WOMEN & GIRLS (June 5, 2020), <https://www.endvawnow.org/en/articles/1937-domestic-violence-and-its-impact-on-the-world-of-work-.html> [<https://perma.cc/223U-GQTZ>].

³⁴ See, e.g., VAWA § 702; see also Deborah M. Weissman, *In Pursuit of Economic Justice: The Political Economy of Domestic Violence Laws and Policies*, 2020 UTAH L. REV. 1, 10 (2020) (stating that patterns of IPV "include repeated practices men use to prevent women from meaningful engagement in the workforce or to keep them from engaging in education or skills-gaining programs"); Judy L. Postmus, Gretchen L. Hoge, Jan Breckenridge, Nicola Sharp-Jeffs & Donna Chung, *Economic Abuse as an Invisible Form of Domestic Violence: A Multicountry Review*, 20 TRAUMA, VIOLENCE, & ABUSE 1, 2 (2018) (social scientists studying this phenomenon have defined economic abuse "as a deliberate pattern of control in which individuals interfere with their partner's ability to acquire, use, and maintain economic resources").

³⁵ See Lantrip et al., *supra* note 29.

³⁶ See THE NATIONAL PLAN, *supra* note 10, at 18 (noting that "the rate of intimate partner violence of women was seven times the rate of men").

³⁷ Indeed, Title VII of VAWA 2022 is dedicated to dealing with the issues of "Economic Security for Victims" of IPV. See VAWA § 702, *supra* note 8; see also Layla Branicki, Senia Kalfa, Alison Pullen & Stephen Brammer, *Corporate Responses to Intimate Partner Violence*, 187 J. BUS. ETHICS 657, 659 (2023) (stating that "the most profound impacts of IPV fall upon women affected by IPV as their economic independence and social agency are threatened").

³⁸ Press Release, The American College of Obstetricians and Gynecologists, Doctors Announce Campaign to Combat Domestic Violence (Jan. 3, 1989), <https://www.nlm.nih.gov/exhibition/confrontingviolence/materials/OB10966.pdf> [<https://perma.cc/6B4C-6W7Q>] (noting that the U.S. Surgeon General declared that domestic violence is a "public health burden").

³⁹ *Shalala Says Abuse is Epidemic*, DESERET NEWS (Mar. 11, 1994, 10:00 AM), <https://www.deseret.com/1994/3/11/19096595/shalala-says-abuse-is-epidemic/> [<https://perma.cc/Y4GJ-JEQD>] (reporting that Secretary of Health and Human Services Shalala described domestic violence as an "unacknowledged epidemic").

⁴⁰ See generally Widiss, *supra* note 27, at 693–94.

and promoted the need to accommodate it in the workplace, analogous to the way we treat other serious health conditions and disabilities.⁴¹

A. Federal Laws

Against this backdrop, one might expect Congress to pass new legislation or to amend current workplace laws to protect IPV victims. Yet, many years after the recognition of IPV as a barrier to women's professional success⁴² and the characterization of IPV as a major public health problem,⁴³ federal law still provides limited employment protections for IPV victims.

1. Statutes of General Applicability

When IPV causes a qualifying medical condition, the federal Family and Medical Leave Act (FMLA)⁴⁴ and the Americans with Disabilities Act (ADA)⁴⁵ can provide some workplace support for IPV victims. However, each law contains problematic limitations. FMLA provides only for unpaid leave. Although FMLA leaves allow victims to retain their jobs, for those who cannot afford even temporarily to lose their income, leaves are not a viable option. The FMLA thus fails to adequately advance the CDC goal of “strengthening household financial security.”⁴⁶ The ADA only supports those whose disabilities render them unqualified to do the “essential functions” of their job.⁴⁷ The ADA thus fails to protect victims who manage to keep working

⁴¹ See *About Intimate Partner Violence*, *supra* note 2 (discussing many “negative health outcomes” that are “associated with [IPV,]” including “conditions affecting the heart, muscles and bones, and digestive, reproductive, and nervous systems, many of which are chronic” as well as “mental health problems such as depression and [PTSD] symptoms”).

⁴² See generally Lantrip et al., *supra* note 29.

⁴³ WORLD HEALTH ORGANIZATION, GLOBAL AND REGIONAL ESTIMATES OF VIOLENCE AGAINST WOMEN: PREVALENCE AND HEALTH EFFECTS OF INTIMATE PARTNER VIOLENCE AND NON-PARTNER SEXUAL VIOLENCE 2 (2013) http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf?ua=1 [<https://perma.cc/57W9-98PD>].

⁴⁴ Family and Medical Leave Act, 29 U.S.C. § 2612(a)–(f) (1993).

⁴⁵ Americans With Disabilities Act, 42 U.S.C. §§ 12101–213 (1990).

⁴⁶ *Preventing Intimate Partner Violence*, *supra* note 9; Widiss, *supra* note 23, at 7 (recommending that employers offer paid leave to IPV victims because unpaid leave increases economic dependence and “may further trap the employee”).

⁴⁷ 42 U.S.C. § 12111(8). Frequent absences and lowered productivity can reach a point where the employee simply cannot do their work with even minimal competence. See, e.g., MacGregor et al., *supra* note 23, at 718; see also Jennifer C.D. MacGregor, Najibullah Naeemzadah, Casey L. Oliver, Tanaz Javan, Barbara J. MacQuarrie & C. Nadine Wathen, *Women's Experiences of the Intersections of Work and Intimate Partner Violence: A Review of Qualitative Research*, 23 TRAUMA, VIOLENCE, & ABUSE 224, 225 (2022) (difficulties of IPV victims at work “include the following: missing work, being late, concentration problems, and poorer performance and productivity”). Job retention can lead to victims leaving their abusers, in turn diminishing absences and increasing productivity. See *id.* at 237 (“Work has great potential to benefit survivors of IPV—it can be a place where survivors are safe from ongoing abuse, where they receive assistance in leaving abusive relationships, and a source of support in recovery once abuse ends.”).

despite experiencing significant IPV but perform at a diminished level and fail to advance.⁴⁸

More significantly, both federal statutes only protect those with the most severe injuries. FMLA leaves are available only for “serious health conditions.”⁴⁹ The ADA covers only those workers for whom the impact of their impairment is sufficiently severe to “substantially limit[] one or more major life activities.”⁵⁰ Hence, neither law helps victims with less severe physical injuries and mental health conditions. Victims are left to wait until their situations become dire before availing themselves of these protections because there are no federal laws that address the effects of IPV at an earlier stage.

Finally, neither statute explicitly references IPV. Therefore, these laws only provide protection in the face of individual IPV-caused injuries but do not address the multi-symptom impact.⁵¹ This matters because often no single IPV health impact alone rises to the level of “serious” (FMLA) or “substantially limits” daily activities (ADA). Instead, victims typically experience multiple symptoms which likely meet these statutory definitions only when combined and characterized as one multi-faceted medical condition.⁵²

⁴⁸ Lantrip et al., *supra* note 29, at 3 (discussing the fact that “[y]ears of abuse . . . decimated [victims’] ability to maintain and advance in their careers”).

⁴⁹ 29 U.S.C. § 2612(a)(1) (emphasis added).

⁵⁰ 42 U.S.C. § 12102 (emphasis added). Even though no federal law prohibits discrimination against IPV victims, the U.S. Equal Employment Opportunity Commission (EEOC) has issued guidance on the application of Title VII and the ADA to IPV victims. See U.S. EQUAL EMP. OPPORTUNITY COMM’N, QUESTIONS AND ANSWERS: THE APPLICATION OF TITLE VII AND THE ADA TO APPLICANTS OR EMPLOYEES WHO EXPERIENCE DOMESTIC OR DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (2012) <https://www.eeoc.gov/laws/guidance/questions-and-answers-application-title-vii-and-ada-applicants-or-employees-who> [<https://perma.cc/X8CZ-VSSH>] [hereinafter QUESTIONS & ANSWERS: APPLICATION OF TITLE VII & ADA].

⁵¹ See, e.g., BASILE ET AL., *supra* note 2, at 12 (“Impacts of intimate partner violence commonly experienced by female victims were injury (74.6%), PTSD symptoms (71.3%), concern for safety (63.3%), fear (60.2%), and needing help from law enforcement (38.6%);”); Anita Stubbs & Cassandra Szoeko, *The Effect of Intimate Partner Violence on the Physical Health and Health-Related Behaviors of Women: A Systematic Review of the Literature*, 23 TRAUMA, VIOLENCE, & ABUSE 1157, 1167 (discussing the various physical health effects of IPV and demonstrating “that IPV is a health issue and its effects must inform the way medical professionals practice”).

⁵² Although this question is beyond the scope of the paper, there are noteworthy parallels between the multi-symptom effects of IPV in legislative initiatives and the criminal law’s use of “battered woman syndrome” (BWS) to support self-defense theories. Zawn Villines, *What is Intimate Partner Violence?*, MED. NEWS TODAY (Aug. 26, 2022), <https://www.medicalnewstoday.com/articles/320747> [<https://perma.cc/445P-2L4J>] (explaining that psychotherapist Lenore Walker developed the concept of BWS in the late 1970s because she wanted to describe a unique pattern of behavioral and emotional symptoms that commonly occur in those subjected to sustained domestic violence, noting that this cluster of symptoms resembles post-traumatic stress disorder (PTSD) and includes such symptoms as insomnia, panic attacks, and depression). See also, Lenore E. Walker, *Battered Women Syndrome*, PSYCHIATRIC TIMES (July 8, 2009), <https://www.psychiatristimes.com/view/battered-woman-syndrome> [<https://perma.cc/7QJ6-FFRU>] (explaining that a group of psychological symptoms form the clinical basis for diagnosing battered spouse syndrome and providing some examples in Table 1, which include high levels of anxiety, avoidance behaviors, emotional numbing, depression, body image distortion,

2. Non-Workplace IPV Statutes

The only federal statutes that explicitly address IPV are the Family Violence Prevention and Services Act (FVPSA) and the Violence Against Women Act (VAWA).⁵³ The FVPSA was first authorized in 1984 and aims to improve support for families experiencing violence and trauma. The most recent proposal to enhance the FVPSA was introduced with bipartisan support on April 13, 2023 in the U.S. House of Representatives as the Family Violence Prevention and Services Improvement Act (FVPSA Improvement). Congress has taken no further action on this bill to date.⁵⁴

VAWA is a comprehensive statute, which Congress first passed in 1994 and has reauthorized several times, most recently in 2022. The law broadly targets all forms of gender-based violence, including domestic violence, sexual assault, dating violence, and stalking. In 2005, VAWA created grants to fund the National Resource Center on Workplace Responses to help employers make their workplaces safe.⁵⁵ The 2022 reauthorization expanded funding to include grants to study barriers to survivors' economic access and increased funds for the Department of Justice's Office on Violence Against Women (OVW), which administers grants for a variety of programs across the country that support victims and seek justice for survivors.⁵⁶ However, the policies outlined in VAWA are not IPV-specific, and their adoption is recommended but not required. The statute does explicitly secure substantive legal rights for

insomnia, and sexual intimacy issues); Colin P. Holloway & Richard L. Wiener, *Abuse History and Culpability Judgments: Implications for Battered Spouse Syndrome*, 24 PSYCH., PUB. POL'Y, & LAW 3, 279–91 (2018).

⁵³ 42 U.S.C. § 10401 (1995); Consolidated Appropriations Act of 2022, Div. W, § 701, Pub. L. No. 117-103, 136 Stat. 49, 1075 (2022) [hereinafter VAWA Reauthorization Act of 2022] (codifying the Violence Against Women Act Reauthorization Act of 2022).

⁵⁴ See The National Network to End Domestic Violence, *Family Violence Prevention and Services Act*, <https://nnedv.org/content/family-violence-prevention-services-act/> [<https://perma.cc/G5CL-JG8S>] (last visited Sept. 29, 2024) (explaining FVPSA expired in 2015 and urging "Congress to fund FVPSA at \$500 million"); see also Office of Family Violence Prevention and Services, *About OFVPS*, <https://www.acf.hhs.gov/ofvps> [<https://perma.cc/77JJ-3MLU>] (last visited Sept. 30, 2024).

⁵⁵ EMILY HANSON, CONG. RES. SERV., R47570, THE 2022 VIOLENCE AGAINST WOMEN ACT (VAWA) REAUTHORIZATION 6 (2023); see also THE NATIONAL PLAN, *supra* note 10, at 44. The National Resource Center maintains a website with information about the prevention of IPV and other forms of gender-based violence in the workplace. See WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE: A NATIONAL RESOURCE CENTER, <https://www.workplacesrespond.org> [<https://perma.cc/GDH2-GJFR>] (last visited Oct. 3, 2024).

⁵⁶ 34 U.S.C. § 12501; VAWA § 704; see *Fact Sheet: Biden-Harris Administration Celebrates the Twenty-Ninth Anniversary of the Violence Against Women Act*, THE WHITE HOUSE (Sept. 13, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/13/fact-sheet-biden-harris-administration-celebrates-the-twenty-ninth-anniversary-of-the-violence-against-women-act/> [<https://perma.cc/7A3Y-XNVM>] [hereinafter *Fact Sheet: Biden-Harris Administration Celebrates VAWA*]. The 2022 reauthorization also expanded Tribal criminal jurisdiction and provided additional support to Native communities, increased funding for survivors from underserved and marginalized communities, and created programs for addressing online harassment and abuse and combating cybercrimes. *Fact Sheet: Biden-Harris Administration Celebrates VAWA*.

IPV victims in public housing situations,⁵⁷ but neither the FVPSA nor VAWA has created any *workplace* rights for IPV victims. Indeed, there is no such current federal statute.⁵⁸

3. Executive Action

In 2012, then-president Obama issued an executive order requiring “federal agencies to develop workplace policies to address the effect of domestic violence and provide assistance to employees who are experiencing domestic violence.”⁵⁹ The U.S. Office of Personnel Management (OPM) subsequently issued guidance for specific agency IPV policies.⁶⁰ While this Order created legal obligations for employers, it only applied to federal government workplaces, and it did not grant victims any particular rights.

President Biden issued a presidential memorandum in February 2023, “directing OPM to provide *recommendations* regarding safe leave, to support Federal employees’ access to leave for purposes related to seeking safety and recovering from domestic violence, dating violence, sexual assault, or stalking—including to obtain medical treatment, seek assistance from service organizations, seek relocation, and take legal action.”⁶¹ In May 2023, the Biden administration unveiled the inaugural U.S. National Plan to End Gender-Based Violence: Strategies for Action, as directed by the president’s 2021 Executive Order establishing the White House Gender Policy Council.⁶² This comprehensive plan addresses sexual violence, intimate partner violence, stalking, and other forms of gender-based violence (GBV), recognizing them as significant public safety and public health challenges across diverse communities in the U.S.⁶³ Once again, however, as acknowledged by the Plan itself, these measures create no employer requirements and are limited to federal employers: “[a]lthough the Plan is focused specifically on federal action, it is designed to be accessible and useful to public and private stakeholders across the United States for adaptation and expansion.”⁶⁴

⁵⁷ 34 U.S.C. § 12491.

⁵⁸ A recently proposed bill would amend the FMLA “to permit leave for an employee to meet their needs related to being a victim of dating violence, domestic violence, sexual assault, sex trafficking, or stalking, and for other purposes.” Safe Leave for Victims of Domestic Violence, Sexual Assault, and Stalking Act, H.R. 2996, 118th Cong. (2023).

⁵⁹ THE NATIONAL PLAN, *supra* note 10, at 44.

⁶⁰ U.S. OFF. OF PERS. MGMT., GUIDANCE FOR AGENCY-SPECIFIC DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING POLICIES (2013), <https://www.opm.gov/policy-data-oversight/worklife/reference-materials/guidance-for-agency-specific-dvsas-policies.pdf> [<https://perma.cc/QE6A-WS5G>].

⁶¹ THE NATIONAL PLAN, *supra* note 10, at 44 (emphasis added).

⁶² *Id.* at 5.

⁶³ *See id.* at 4 (stating that “[g]ender-based violence is a public safety and public health crisis, affecting urban, suburban, rural, and Tribal communities in the United States. It is experienced by individuals of all backgrounds and can occur across the life course”).

⁶⁴ *Id.* at 6.

In addition to publishing the National Plan, the Biden administration has implemented a number of recent federal initiatives to prevent GBV and address its impact on victims and the public. For example, the Office of Family Violence Prevention and Services was established in March 2023; FVPSA programs received a twenty-percent increase in funding in fiscal year 2023; the Health Resources and Human Services Act (HRSA) launched a strategic plan to increase inter-agency resources for addressing IPV; and funding for VAWA programs has been expanded.⁶⁵ As promising as these recent executive initiatives may seem, they are still only appropriating funds, not creating employer legal requirements. Equally importantly, as executive orders, they are vulnerable to revocation by a future administration.

B. State Laws

State legislatures have taken some significant steps to fill the void in federal legal workplace protections for IPV victims. Since 1996, when Maine amended its unemployment code to address IPV, states have steadily passed several types of laws that address the intersection of IPV and the workplace.⁶⁶ State IPV employment statutes take five forms. There are laws that:

1. mandate job-protected leaves;
2. prohibit discrimination and require reasonable accommodations;
3. provide unemployment benefits;
4. permit employer restraining orders; and
5. require workplace policies.

Laws in each of these categories are equally important for protecting IPV victims. Furthermore, as discussed *infra*, Section VI.C, the effectiveness of these laws increases when they are implemented together. Understanding how each type of law works provides a framework for evaluating whether the legislation fits with its purported goals, as well as the potential impact of the law on business goals and costs.

⁶⁵ *Release of the National Plan to End Gender-Based Violence: Strategies for Action*, THE WHITE HOUSE: BLOG (May 25, 2023), <https://www.whitehouse.gov/gpc/briefing-room/2023/05/25/release-of-the-national-plan-to-end-gender-based-violence-strategies-for-action/> [https://perma.cc/2ZPX-XTBM].

⁶⁶ See Widiss, *supra* note 27, at 713. Other commentators have thoroughly reviewed the history and evolution of the current state laws. This paper merely provides a high-level summary to set a context for a subsequent discussion of the business case for compliance and expansion of these laws.

1. *Job-Protected Leaves*

While most state laws provide for job-protected leaves, eleven states still do not offer any leave benefits to those experiencing IPV.⁶⁷ The laws that offer leave protections fall into two main categories. The first type of leave law is specific to IPV victims. Twenty-four states have this type of leave law.⁶⁸ The language of many state IPV-specific leave laws bears strong resemblances to that of the FMLA, which guarantees twelve weeks of unpaid leave, as well as a return to the same position after a leave ends.⁶⁹ However, several states have added enhanced protections for IPV victims by implementing paid safe leave for a wide range of activities necessitated by IPV.⁷⁰

The second type of leave law is a general crime-victim job-protection leave law that can include IPV victims.⁷¹ Thirty-two states have these laws, which usually apply to all employers, regardless of size, and provide leaves of unspecified length.⁷² However, most of them allow leave time only for court appearances or other prosecution-related meetings.⁷³ Sixteen states have both IPV-specific leaves and general crime-victim leaves.⁷⁴

2. *Discrimination and Reasonable Accommodations*

Currently, seventeen states and Washington, D.C., have anti-discrimination laws specific to IPV victims.⁷⁵ Some of these laws prohibit an employer from

⁶⁷ See generally Appendix A. See also Molly W. Williamson, *The Meaning of Leave: Understanding Workplace Leave Rights*, 22 N.Y.U. J. LEGIS. & PUB. POL'Y 197, 260 (2020) (providing a list of states that offer paid FMLA leave in Statutory Appendix, Table 2).

⁶⁸ See also *State Guide*, *supra* note 15; Appendix A, at 1.

⁶⁹ 29 U.S.C. § 2612(a)(1). See also Bipartisan Policy Center, *State Paid Family Leave Laws Across the U.S.* (Jan. 16, 2024), <https://bipartisanpolicy.org/explainer/state-paid-family-leave-laws-across-the-u-s/> [<https://perma.cc/5E3M-N9JB>] (comparing and contrasting state and federal family and medical leave laws); U.S. Dep't of Labor, *Wage and Hour Division, Federal vs. State Family and Medical Leave Laws*, <https://www.dol.gov/agencies/whd/state/fmla> [<https://perma.cc/VDM5-M9JS>] (last visited Dec. 23, 2024).

⁷⁰ For a thorough summary of state leave laws as of May 2024, including a discussion of which of them offer paid leave benefits, see Molly W. Williamson, *The State of Safe Leave*, CTR. FOR AM. PROGRESS (May 28, 2024), <https://www.americanprogress.org/article/the-state-of-safe-leave/> [<https://perma.cc/8MQM-WMUM>].

⁷¹ See generally *State Guide*, *supra* note 15; Appendix A, at 1.

⁷² See generally Appendix A and *State Guide*, *supra* note 15. New Hampshire, for example, does not have IPV-specific leaves, but it does require employers with over twenty-five employees to permit employees to miss work in order to attend court or other legal or administrative proceedings related to a criminal prosecution. N.H. Rev. Stat. Ann. § 275:62:1 (2024). Employees who take leave under this provision must provide documentation of the relevant proceedings. *Id.* § 275:62(VI).

⁷³ See generally Appendix A and *State Guide*, *supra* note 15.

⁷⁴ See generally Appendix A and *State Guide*, *supra* note 15. See also Williamson, *supra* note 67, at 202–03 (discussing general crime-victim leave and domestic-violence-victim leave laws and providing an addendum with a listing of each of the relevant statutes).

⁷⁵ See generally Appendix A and *State Guide*, *supra* note 15.

discriminating against an employee for being a victim.⁷⁶ Others only prohibit employers from discriminating against an employee for taking sick or safe days to address IPV, or any type of leave.⁷⁷

Eight states and Washington, D.C., require that employers seek to reasonably accommodate an IPV victim-employee in a way that parallels the accommodation requirement in the federal ADA.⁷⁸ The terminology of these state anti-discrimination statutes closely tracks the ADA's language that requires an employer to provide "reasonable accommodation" to those employees experiencing significant physical or mental impairments that impair their ability to perform a job.⁷⁹ Accommodations appropriate for IPV victims are sometimes explicitly listed in the statutes and can include a variety of safety measures, such as changing a victim's phone number,⁸⁰ transferring the victim to a different office location,⁸¹ and allowing the employee to modify their schedule or to work flexible hours.⁸²

3. Unemployment Benefits

The usual prerequisite for receiving unemployment compensation is an employee losing their job through no fault of their own. If instead one has quit

⁷⁶ See, e.g., *State Guide*, *supra* note 15, at 10 (explaining that "[u]nder California Law (Cal. Lab. Code § 230), employers are prohibited from discriminating or retaliating against an employee because of the employee's status as a victim of domestic violence, sexual assault, or stalking").

⁷⁷ See, e.g., *State Guide*, *supra* note 15, at 13 (stating that under Colorado law, employers with fifty or more employees cannot discriminate against employees who take time off for IPV-related matters).

⁷⁸ See generally Appendix A and *State Guide*, *supra* note 15. Under Hawai'i law, for example, "employers are required to provide reasonable accommodation to an employee who is a victim of domestic or sexual violence unless it would cause an 'undue hardship' on the employer." *Id.* at 30–31.

⁷⁹ See 42 U.S.C. §§ 12101–210 (1990). More general state workplace disability anti-discrimination laws that require "reasonable accommodation" may apply to victim-employees if they can demonstrate that they are experiencing not just IPV but also some type of covered medical condition. See, e.g., Sian Oram, Helen L. Fisher, Helen Minnis, Soraya Seedat, Sylvia Walby, Kelsey Hegarty, Khadj Rouf, Caroline Angénieux, Felicity Callard, Prabha S. Chandra, Seena Fazel, Claudia Garcia-Moreno, Marion Henderson, Emma Howarth, Harriet L. MacMillan, Laura K. Murray, Sajaratulnisah Othman, Dan Robotham, Marta B. Rondon, Angela Sweeney, Danny Taggart & Louise M. Howard, *The Lancet Psychiatry Commission on Intimate Partner Violence and Mental Health: Advancing Mental Health Services, Research, and Policy*, 9 LANCET PSYCHIATRY 487, 492 (2022), [https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(22\)00008-6/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(22)00008-6/fulltext) [<https://perma.cc/K5ED-H2AV>] (stating that "[a]nxiety, depression, substance use disorder, post-traumatic stress disorder (PTSD), personality disorders, psychosis, self-harm, and suicidality are all more common among people who have experienced IPV than those who have not").

⁸⁰ See, e.g., *State Guide*, *supra* note 15, at 56 (noting that under Missouri law, changing the phone number is considered a reasonable accommodation).

⁸¹ See, e.g., *State Guide*, *supra* note 15, at 10 (noting that under California law, job transfer is considered a reasonable accommodation).

⁸² See, e.g., *State Guide*, *supra* note 15, at 30 (noting that under Hawai'i law, a modified schedule is considered a reasonable accommodation).

or has been terminated for “good cause” or “misconduct,” one is ineligible for unemployment benefits.⁸³ IPV victims often lose their jobs when they become unable to come to work or adequately perform their job responsibilities. They also often quit their jobs because of the violence.⁸⁴ These situations can leave IPV victims ineligible for unemployment compensation.

Since 1996, thirty-eight states and D.C. have amended their unemployment benefit laws to allow IPV victims to remain eligible for unemployment compensation when their termination is a result of IPV.⁸⁵ Several of these states provide that employees are eligible for unemployment insurance if they quit their job because they are a victim of domestic violence.⁸⁶ Other states allow employees to collect unemployment insurance if they quit their job for “good cause.”⁸⁷ Under some of these statutes, experiencing IPV qualifies as good cause for unemployment benefit eligibility.⁸⁸

Unemployment insurance laws require employers to pay into their state’s unemployment insurance fund in amounts tied to that employer’s frequency of generating ex-employees eligible to access these state funds. Thus, when IPV victim ex-employees are added to this pool, employer contributions increase proportionally. Despite this additional economic burden on businesses, laws extending unemployment benefits to IPV victims are by far the most prevalent state law initiatives.

4. *Employer Restraining Orders*

Employers in sixteen states may seek civil injunctive relief through an expansion of state restraining order laws.⁸⁹ Under these laws, employers, in addition to the IPV victim-employee, may obtain an order to keep a perpetrator

⁸³ Widiss, *supra* note 27, at 712.

⁸⁴ *Id.* at 673.

⁸⁵ See generally Appendix A and *State Guide*, *supra* note 15. Some of these were adopted after the American Recovery and Reinvestment Act of 2009 provided extra funding to states that extended eligibility for unemployment insurance benefits to workers who leave their jobs for “compelling family reasons,” explicitly including IPV. See Desiree A. Kennedy, *Using the NFL as a Model? Considering Zero Tolerance in the Workplace for Batterers*, 45 U. BALT. L. REV. 293, 305 (2016) (noting that “most states offer unemployment insurance for domestic violence victims forced out of their jobs because of the violence, in part because of the American Recovery and Reinvestment Act of 2009”).

⁸⁶ See *State Guide*, *supra* note 15, at 27, 53, 94 (for example, Georgia, Minnesota, and Vermont provide such protections for victims).

⁸⁷ *Id.* at 6, 45–46, 72 (for example, Alaska, Maryland, and New York have such “good cause” provisions).

⁸⁸ *Id.* at 6 (explaining how Alaska’s “good cause” law works). However, some states place additional burdens of proof on survivors in these circumstances. For example, in California, an IPV survivor must show that they tried to keep their job but could not do so. It is unclear what such efforts to keep a job must entail. *Id.* at 12.

⁸⁹ See Widiss, *supra* note 27, at 714–15.

away from the workplace.⁹⁰ The order is issued to the employer to prevent violence, harassment, or stalking of the IPV victim-employee while at work.⁹¹

The laws vary as to whether the employee victim must agree or be consulted before an employer seeks such an order.⁹² Requiring a victim's agreement can limit an employer's ability to obtain an order if the victim withholds their consent. Therefore, absence of this requirement increases an employer's ability to protect the victim and other employees in the workplace, as well as to reduce IPV-caused economic losses.⁹³ However, one reason that some victims choose not to get restraining orders is because these orders can aggravate the situation by enraging the perpetrator. Angry perpetrators often become more dangerous, so the violence may increase when a perpetrator is served with such an order.⁹⁴ Thus, while employer restraining orders may provide workplace protection, they risk simultaneously increasing IPV outside of work.⁹⁵

5. Workplace Policies

Twenty-five states have adopted laws that either require or encourage workplace policies that address IPV.⁹⁶ Seventeen of these states require all

⁹⁰ Dennis M. Savarda & Daniel B. Kennedy, *Responding to Intimate Partner Violence in the Workplace* 26 SECURITY J. 249, 254 (2023) (discussing existing employer restraining order laws and their efficacy).

⁹¹ See, e.g., Michael D. Moberly, *The Workplace Injunction: An Emerging but Imperfect Weapon in the Fight Against Domestic Violence*, 26 AM. U. J. GENDER SOC. POL'Y & L. 831, 858–64 (2018) (discussing benefits and shortcomings of workplace restraining orders, with a focus on Arizona law as an example); Njeri Mathis Rutledge, *Employers Know Best? The Application of Workplace Restraining Orders to Domestic Violence Cases*, 48 LOY. L.A. L. REV. 175, 193 (2014); Widiss, *supra* note 27, at 714.

⁹² See *State Law Guide Workplace Restraining Orders*, LEGAL MOMENTUM, <https://www.legalmomentum.org/sites/default/files/reports/Guide%20on%20Workplace%20Restraining%20Orders%20rev%209-15.pdf> [<https://perma.cc/LG6MQTC6>] (last visited Dec. 23, 2024) (detailing state employer restraining order laws up through 2015); *Workplace Restraining Orders*, WomensLaw.org (July 20, 2023) <https://www.womenslaw.org/about-abuse/workplace/workplace-restraining-orders-filed-employers> [<https://perma.cc/D2TF-MJG4>] (information from WomensLaw.org, a project of the National Network to End Domestic Violence, Inc. whose website is funded in part through a grant from the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, about state laws permitting employer restraining orders in twelve states).

⁹³ See Rutledge, *supra* note 91.

⁹⁴ See Widiss, *supra* note 27, at 715 (stating that “the perpetrator of violence will typically understand the [workplace restraining] order as coming at the individual victim’s behest and may take his anger out on the victim outside the workplace or may respond to such an order by actually attacking the workplace”).

⁹⁵ As discussed *infra*, Sections VI–VII, these laws only work at all when an employer is aware of the IPV. Other measures, such as mandatory workplace policies, could work to increase this awareness through better manager training or employee reporting.

⁹⁶ See *State Law Guide: Domestic and Sexual Violence Workplace Policies*, LEGAL MOMENTUM, <https://www.legalmomentum.org/sites/default/files/reports/State%20Law%20Guide-Domestic%2BSexual%20Violence%20Workplace%20Policies.pdf> [<https://perma.cc/C53B-5R5E>] (last visited Oct. 22, 2024) [hereinafter *State Law Guide: Domestic and Sexual*

state agencies to adopt such policies.⁹⁷ The remaining eight states have laws which encourage policies for all employers, including private businesses.⁹⁸ No state requires private businesses to adopt such policies. Relevant policies themselves vary from education to training requirements to safety measures and zero-tolerance termination measures. Education programs typically seek to provide a better understanding of IPV and its prevalence. Training programs commonly focus on how to recognize signs of IPV and, for security personnel, how to best respond to workplace IPV incidents. Zero-tolerance measures refer to severe employer actions, most commonly the immediate termination of a perpetrator-employee.⁹⁹

The most comprehensive workplace IPV policies focus as much on prevention, mitigation, and support as they do on developing and drilling emergency response protocols for situations where a perpetrator threatens or creates violence in the workplace. For example, policies often require education for all employees on warning signs of IPV to help avoid escalation in their relationships from an unhealthy relationship to a violent one.¹⁰⁰ Almost all model policies include manager training on how best to recognize and deal with both victims and perpetrators to help ensure a safe work environment and compliance with relevant laws.¹⁰¹ Updated model policies add proactive options such as providing a system that allows coworkers and managers to make

Violence Workplace Policies]; Carrazana, *supra* note 23 (explaining that “Legal Momentum [is] currently working with the state of New York to strengthen its laws to require employer training on domestic violence survivors laws, a lesson taken from the success of sexual harassment training in the wake of the #MeToo movement”).

⁹⁷ See generally *State Law Guide: Domestic and Sexual Violence Workplace Policies*, *supra* note 96.

⁹⁸ See generally *id.*

⁹⁹ For a detailed discussion of policies adopted by various state agencies and departments, as well as examples of voluntary policies that private businesses have used, see generally Widiss, *supra* note 27; *State Law Guide: Domestic and Sexual Violence Workplace Policies*, *supra* note 97. See also Kennedy, *supra* note 86 (discussing the zero-tolerance policy at the NFL as a model for workplace policies aimed at perpetrators rather than victims).

¹⁰⁰ See *Workplaces Respond, Sample Domestic Training Content for Supervisors and Managers*, 1, 1 (2024), <https://workplacesrespond.org/wp-content/uploads/2024/03/Sample-Domestic-Training-for-Content-for-Supervisors-and-Managers.pdf> [<https://perma.cc/RLT3-4H9W>] [hereinafter *Sample Domestic Training Content*]; U.S. DEP’T OF LAB., WORKPLACE VIOLENCE PROGRAM: RECOGNIZING THE LEVELS OF VIOLENCE AND RESPONSE, <http://www.dol.gov/oasam/hrc/policies/dol-workplace-violence-program.htm#RecognizingLevelsViolenceandResponse> [<https://perma.cc/52E7-TCKD>] (noting guidelines for suggested workplace policies for prevention of IPV); U.S. CTRS. FOR DISEASE CONTROL & PREVENTION & NAT’L INST. FOR OCCUPATIONAL SAFETY & HEALTH, REPORT FROM THE CONFERENCE “PARTNERING IN WORKPLACE VIOLENCE PREVENTION: TRANSLATING RESEARCH TO PRACTICE” (2004), <http://www.cdc.gov/niosh/docs/2006-144/pdfs/2006-144.pdf> [<https://perma.cc/YBD9-6SEE>]; Cornell Law School, *Domestic Violence and the Workplace Model Policy and Tool Kit*, Cornell Law School Gender Justice Clinic (2016) <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/gender-justice-clinic/domestic-violence-and-the-workplace-model-policy-and-toolkit/>.

¹⁰¹ See generally *supra* note 100. Although data on the effectiveness of these programs is still limited, studies suggest that they lead to improved outcomes for victims. See Adhia et al., *supra* note 6, at 2, 10–11, for a review of existing studies that evaluate workplace IPV interventions.

a confidential report to the human resources department when concerned about a co-worker.¹⁰²

While no comprehensive data about the effectiveness of these policies is available yet, there is anecdotal evidence that well-designed workplace policies and trainings are beneficial. For example, one study conducted in 2020 by En avant toute(s), a Paris NGO dedicated to ending gender-based violence and to promoting equality, and Yves Saint Laurent Beauty, concluded that workplaces can have a positive impact on the lives of employees who are IPV victims.¹⁰³ Companies can contribute to these employees' well-being by establishing clear policies and implementing educational programs.¹⁰⁴ More specifically, the authors of this study propose four ways that employers can support victims at work: (1) “[e]mpower employees to support each other—formally and informally”; (2) “[m]ake telling a manager a safe thing to do”; (3) “[w]atch for changes in your employees and check your assumptions”; and (4) “[r]ole model healthy relationships.”¹⁰⁵ Each of these strategies requires that a company adopt a policy for responding to IPV, with training for employees and managers as an essential part of such a policy.¹⁰⁶ This example illustrates some concrete ways in which requiring IPV policies can help victims when violence at home affects them at work.

III. LEGISLATIVE GOALS OF IPV WORKPLACE LAWS

Intimate partner violence laws applicable outside the workplace provide a different set of tools than do IPV workplace laws. These include restraining orders, mandatory arrests, law enforcement training, laws requiring services for children of victims,¹⁰⁷ and laws permitting the use of Battered Spouse Syndrome as a defense in cases where a victim kills their batterer.¹⁰⁸ The goals of these older non-workplace laws may seem clearer than those of IPV workplace legislation. However, despite their varied approaches, all IPV laws—whether directed to outside or inside the workplace—share three overall goals: a) assisting victims and their children; b) reducing the incidence of IPV; and c) lowering the societal costs of IPV.

¹⁰² *Sample Domestic Violence Training*, *supra* note 101.

¹⁰³ *See* Livingston et al., *supra* note 6.

¹⁰⁴ *See id.*

¹⁰⁵ *Id.*

¹⁰⁶ *See id.* (noting that bystander intervention training can serve as a model for IPV workplace education).

¹⁰⁷ *See, e.g.*, THE NATIONAL PLAN, *supra* note 10, at 15 (providing an overview of the history of IPV legislation).

¹⁰⁸ Villines, *supra* note 52 (discussing the origins and current applications of the “battered woman syndrome”).

A. *Assisting Victims and Their Children*

The primary legislative focus of IPV workplace laws is assisting victims. The laws seek to do so by keeping IPV victims employed, safe, and supported. Indirectly, these efforts also address the other two goals of reducing the incidence and lowering the societal costs of IPV.

1. *Keeping Victims Employed*

The most readily apparent and immediate goal of current workplace IPV legislation is to provide direct help to IPV employee victims and their children by keeping victims employed. A victim with stable employment is more likely than an unemployed victim to leave an unsafe situation.¹⁰⁹ Sustained employment not only provides immediate financial support for victims and their children, but also allows victims to advance their careers and achieve greater financial independence. Economic independence decreases the likelihood that a victim will reunite with an abusive partner.¹¹⁰

Job-protected leaves, anti-discrimination laws, and reasonable accommodation laws directly seek to keep IPV victims employed. Leave laws allow victims to take the time they need to go to legal and medical appointments, as well as court hearings, without losing their jobs due to absenteeism. Anti-discrimination laws prevent employers from terminating a victim inappropriately or prematurely. Reasonable accommodation laws extend employment as long as possible. As a failsafe, unemployment insurance laws provide ongoing income for victims whose situations have caused unavoidable job loss, thus ensuring an uninterrupted income stream while the victim finds new employment. Bundling these four types of laws provides a complementary and multi-pronged approach, maximizing the likelihood of keeping IPV victims employed. However, only eight states have all four of these types of laws.

2. *Keeping Victims Safe*

Laws that work to keep IPV victims employed also keep victims safe by keeping victims away from their abusers during the workday. Business restraining order laws and workplace policy laws complement employment-preserving laws by ensuring that the workplace is indeed a safe haven.

Laws permitting employers to get workplace-specific restraining orders aimed at those who perpetrate IPV against their employees give businesses the

¹⁰⁹ See *Employment and Victims of Violence*, LEGAL MOMENTUM, <https://www.legalmomentum.org/employment-and-victims-violence> [perma.cc/W3VJ-ZNMK]; MacGregor et al., *supra* note 47, at 237; VAWA Reauthorization Act of 2022 § 701.

¹¹⁰ Widiss, *supra* note 23, at 2 (explaining that “perpetrators typically seek to maintain control in part by severely limiting any efforts by their partners to establish financial independence” and that economic dependence plays a role in the victims’ decision to stay in or return to an abusive relationship); VAWA Reauthorization Act of 2022 § 701.

legal ability to remove abusers from business premises. These orders also expand businesses' rights to expel trespassers from office buildings and surrounding areas because the orders can include the immediate physical perimeter of the workplace, such as the parking lot.¹¹¹ In addition, workplace restraining orders provide the means for identifying and preventing digital stalking.¹¹²

Laws encouraging workplace IPV policies and laws providing funding for model policy development also contribute to keeping IPV victim-employees safe. Policies that include employee IPV education can lead to early detection of violent partner workplace interference, allowing for employer intervention before the violence escalates further.¹¹³ When violence comes to the workplace, an established action plan and trained workplace responders facilitate effective and expedient enforcement of restraining orders, leading to prompt and safe removal of perpetrators.¹¹⁴ Of available IPV laws, employer restraining order and workplace policy laws are in place in the fewest states.¹¹⁵

3. *Providing Support*

Laws that help keep IPV victims employed and safe directly provide financial and physical support. Workplace communities can also provide the support that a victim needs to take steps to end a violent relationship.¹¹⁶ Workplace policy laws that include education requirements can strengthen this community by increasing co-worker awareness and empathy. Education can also help empower victims to end their relationships by destigmatizing IPV. Changing a culture of secrecy that separates home life from work life, IPV education programs can reduce the shame that prevents many victims from seeking help by teaching people that IPV is never the victim's fault and that IPV is widespread and knows no barriers of class, race, or age.¹¹⁷ To demonstrate and encourage action, educational sessions can also include stories of

¹¹¹ See Kennedy, *supra* note 85, at 326–27 (citing findings “that women are at an increased risk of workplace domestic violence fatalities when walking to and from work in parking lots, garages, and public buildings”).

¹¹² See *State Law Guide Workplace Restraining Orders*, LEGAL MOMENTUM, https://www.legalmomentum.org/sites/default/files/reports/Workplace.RO_06.2013Final.pdf [<https://perma.cc/W3PD-YVQ7>] (noting that in New Jersey, for example, workplace restraining orders “may restrain the defendant from making ‘any communication likely to cause annoyance or alarm’ with the victim or his or her family members, employer, or fellow workers”).

¹¹³ See Adhia et al., *supra* note 6, at 7, 10 (finding that workplace IPV interventions have multiple benefits “including increased knowledge of IPV and related policies, willingness to intervene, and provision of information and resources to IPV victims” but warning that “strong evidence of effective interventions is limited” and calling for continued research).

¹¹⁴ See *supra* note 112 at 15–16, for a more detailed discussion of workplace restraining orders.

¹¹⁵ See *State Guide*, *supra* note 15; Appendix A.

¹¹⁶ See Livingston et al., *supra* note 6 (describing research which “suggests that workplaces that are prepared can impact the wellbeing of their employees who are targets of IPV—and also the coworkers and managers who care about them”).

¹¹⁷ See Widiss, *supra* note 23, at 2 (noting that “IPV happens to people of all income levels, ethnicities, religions, and education levels”).

victims successfully ending violent relationships. When workplace policies require training on how to identify perpetrators, they can lead to more arrests and prosecutions, thus supporting victims who are unable to initiate criminal proceedings.¹¹⁸

B. Reducing the Incidence of IPV

When IPV victims leave abusive relationships, they become survivors. Workplace laws work together with non-workplace IPV laws to increase the rate at which the transformation from victim to survivor occurs because the sooner an IPV victim achieves economic independence, the sooner they are likely to leave their batterers and stay independent.¹¹⁹

Robust workplace IPV policies also reduce IPV incidence by contributing to IPV prevention. Furthermore, IPV training in the workplace can increase awareness of common IPV behavioral patterns so that perpetrators can be identified, terminated, charged, and prosecuted in appropriate circumstances.¹²⁰ IPV perpetrators often have multiple victims. Identifying them helps employers to address their abusive behavior, decreasing the chances that a new victim will suffer abuse in the future.

C. Lowering Societal Costs of IPV

Those who experience IPV are more likely than others to be unemployed, report lower personal income, and rely on welfare.¹²¹ IPV victims use emergency rooms, physicians, and prescription drugs significantly more than others.¹²² When victims are unemployed, taxpayers absorb these healthcare

¹¹⁸ Criminal justice proceedings are an important tool in addressing IPV, but they should be situated in the broader context of efforts aimed at prevention. For a critique of a criminal justice-focused approach to IPV, see Aya Gruber, *Reckoning with Carceral Feminism in the Fight to End Mass Incarceration*, EMANCIPATOR (June 27, 2023), <https://theemancipator.org/2023/06/27/topics/legal-system/reckoning-with-carceral-feminism-fight-end-mass-incarceration/> [<https://perma.cc/L3XN-36NG>] (stating that “[w]hen feminists embrace individualistic criminal punishment, they relieve the state and society of the responsibility to create the structures and provide the support that prevents gender violence in the first place”).

¹¹⁹ Emily Nix, *Why Do Women Stay with Their Abusers? Here’s One Overlooked Reason*, WASH. POST (Apr. 24, 2023) <https://www.washingtonpost.com/opinions/2023/04/24/domestic-abuse-money-women/> [<https://perma.cc/L4MJ-EK8V>] (noting that “economic empowerment could help women avoid becoming trapped in abusive relationships”).

¹²⁰ See Kennedy, *supra* note 85, at 329, 332–33 (noting that sanctions by the employer can help create “an additional layer of batterer accountability.”).

¹²¹ See, e.g., Anne Whitesell, *Who Represents the Needs of Domestic Violence Survivors in State Welfare Policy?*, 15 POLS. & GENDER 514, 514 (2019) (noting that “[a] large percentage of women receiving Temporary Assistance for Needy Families (TANF)—known colloquially as welfare—have experienced domestic violence in their lives, with studies reporting that upwards of 50% of welfare recipients have been abused at some point”).

¹²² See ASHLEY D’VERNO, SHARON SMITH, XINJIAN ZHANG & JIERU CHEN, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, *THE IMPACT OF INTIMATE PARTNER VIOLENCE (IPV): A 2015 NISVS RESEARCH-IN-BRIEF 2*, 4–5 (2019), <https://stacks.cdc.gov/view/cdc/137398> [<https://perma.cc/5CJS-5HFR>]; Natasha Kurji, Etienne E. Pracht, Barbara Langland-Orban

costs. IPV victims also often cost taxpayers money in welfare payments, food stamps, and other social services for the poor. When state IPV workplace laws keep victims working, they reduce the amount of Medicaid-funded medical care that IPV victims need and can remove IPV victims from dependence on welfare and other public assistance programs.

IV. BUSINESS CASE FOR ERADICATING INTIMATE PARTNER VIOLENCE

Business leaders are becoming increasingly aware of the workplace costs of IPV and have recognized both financial and ethical justifications for taking meaningful steps to prevent it.¹²³ The CDC estimated in 2022 that IPV annual costs were more than \$8.3 billion,¹²⁴ with consistent indications that these costs continue to rise.¹²⁵ At least three to five billion dollars' worth of these costs fall on U.S. businesses.¹²⁶ These costs arise from a number of IPV-related workplace impacts, most notably lost productivity, health care expenses, and violence in the workplace.

A. Lost Wages and Productivity

IPV causes employee victims to lose nearly eight million paid work-days each year, which amounts to an annual lost productivity cost of about \$1.8 billion.¹²⁷ These figures are likely conservative when one considers that:

& Kathleen Pracht, *Added Cost and Time Spent by Patients With History of Abuse in Florida Emergency Departments*, 35 VIOLENCE & VICTIMS 741 (2020) (reporting on a 2020 study analyzing emergency department stays among Florida residents which found a statistically significant increased visit duration for patients with a history of abuse); Amy E. Bonomi, Melissa L. Anderson, Frederick P. Rivara & Robert S. Thompson, *Health Care Utilization and Costs Associated with Physical and Nonphysical-Only Intimate Partner Violence*, 44 HEALTH SERV. RSCH. 1052, 1052 (2009) (concluding that “[p]hysical and nonphysical abuse contributed to higher health care utilization, particularly mental health services utilization”).

¹²³ Widiss, *supra* note 27, at 687 (noting that “[t]he growing number of private employers that voluntarily adopt proactive policies designed to support employees who are victims of domestic violence and reduce the likelihood of violence occurring at the workplace grant addressing domestic violence can be in a business’s interest”); see VAWA Reauthorization Act of 2022 § 701; de Jonge, *supra* note 26, at 473 (describing an emerging “understanding by the employer that there is a reciprocal relationship between work and family life, with the effects of one sphere positively or negatively influencing the other”).

¹²⁴ VAWA 2022, sec. 701 (Findings, at ¶ 6).

¹²⁵ See, e.g., *id.* (Findings, at ¶13) (noting that the annual costs of IPV grew from over \$5.8 billion in 1995 to over \$8.3 billion in 2022); COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN, *supra* note 5, at 3 (noting that “the economic costs of IPV remain largely unknown” and that “[p]revious cost estimates range from \$1.7 billion to \$10 billion annually, but they are believed to underestimate the true economic impact of this type of violence”).

¹²⁶ VAWA 2022, sec. 701 (Findings, at ¶13) (noting that the costs of lost productivity alone approach \$1.8 billion and that the costs of medical and mental health care are over \$4.1 billion).

¹²⁷ VAWA Reauthorization Act of 2022 § 701.

(1) over 81.9 million adults in the U.S. experience IPV in their lifetime;¹²⁸ (2) over eighty percent of these victims report that their abusive partners disrupt their ability to work;¹²⁹ and (3) there is strong evidence that the COVID-19 pandemic has worsened the situation.¹³⁰ Pre-COVID-19 2020 research demonstrated that workplace disruptions caused nearly fifty percent of victims to miss at least one day of work each year,¹³¹ and as many as seventy-five percent of victims reported some form of harassment from their abusers¹³² while they are at work.¹³³ Growing evidence shows that the COVID-19 pandemic made intimate partner violence more common—and often more severe.¹³⁴ In addition, the overall increase in domestic violence has created more victims who are harassed at and/or kept away from work even when employees return to in-person work.¹³⁵

¹²⁸ SHARON G. SMITH, XINJIAN ZHANG, KATHLEEN C. BASILE, MELISSA T. MERRICK, JING WANG, MARCIE-JO KRESNOW & JIERU CHEN, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2015 DATA BRIEF – UPDATED RELEASE 8-9 (2018), <https://stacks.cdc.gov/view/cdc/60893> [<https://perma.cc/UA44-948W>] (reporting that one in three women (nearly forty-four million) and one in three men (37.3 million) in the United States experience IPV in their lifetime).

¹²⁹ CYNTHIA HESS & ALONA DEL ROSARIO, INST. FOR WOMEN'S POL'Y RSCH., DREAMS DEFERRED: A SURVEY ON THE IMPACT OF INTIMATE PARTNER VIOLENCE ON SURVIVORS' EDUCATION, CAREERS, AND ECONOMIC SECURITY 9 (2018).

¹³⁰ See, e.g., Brad Boserup, Mark McKenney & Adel Elkbuli, *Alarming Trends in U.S. Domestic Violence During the COVID-19 Pandemic*, 38 AM. J. EMERGENCY MED. 2753, 2753 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7195322/> [<https://perma.cc/276N-35QL>]; see also Claire Meyer, *Domestic Abuse Reports Fueled by More Remote Workers*, SOC'Y FOR HUM. RES. MGMT. (May 28, 2020), <https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/domestic-abuse-rises-fueled-by-more-remote-workers.aspx> [<https://perma.cc/GCY5-MGD3>]; Aliya McNeil, Lydia Hicks, Busra Yalcinoz-Ucan & Dillon T. Browne, *Prevalence & Correlates of Intimate Partner Violence During COVID-19: A Rapid Review*, 38 J. OF FAM. VIOLENCE 241, 249 (2023) (concluding that “[t]he COVID-19 pandemic has increased psychosocial stress which is associated with increases in IPV”).

¹³¹ HESS & DEL ROSARIO, *supra* note 129, at 9.

¹³² The term “abuser” is used less often today than it was in the past, but this is the terminology used in the relevant study, so the authors use it here to reflect the study findings consistent with the terminology the study authors used in reporting results.

¹³³ NATIONAL EMPLOYMENT LAW PROJECT, UNEMPLOYMENT INSURANCE FOR SURVIVORS OF DOMESTIC VIOLENCE 1 (2003); see Heidi Hankwitz, *Domestic Violence Statistics and Your Workplace*, CRISIS PREVENTION INST. (Apr. 7, 2011), <https://www.crisisprevention.com/Blog/Domestic-Violence-Statistics-and-Your-Workplace> [<https://perma.cc/2NT4-ZYUD>] (noting that “[a]s many as 75% of domestic violence victims face harassment from intimate partners while they are at work”); WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE: A NATIONAL RESOURCE CENTER, <https://workplacesrespond.org> [<https://perma.cc/GDH2-GJFR>] (last visited Oct. 3, 2024) (noting that “2/3 of [] workers [who experience domestic violence] had this type of violence perpetrated in the workplace”).

¹³⁴ Boserup et al., *supra* note 130.

¹³⁵ McNeil et al., *supra* note 130 (stating that, while it can be challenging to quantify lost workdays and productivity when employees are working remotely, stay-at-home orders and increased work from home are very likely to have increased these employer costs).

IPV can also lower the productivity of the victims' co-workers.¹³⁶ According to some studies, when IPV perpetrators harass victims at work, their actions affect multiple third parties in the workplace. For example, “[p]erpetrators of domestic violence may make frequent telephone calls to not only victims, but also to workers and supervisors.”¹³⁷ These observed “spill-over effects” can also cause “rifts in teams, increase[] anxiety among those who know what is going on, and leave[] managers feeling helpless.”¹³⁸

Abusers too have lowered productivity at work, with “78 percent of offenders us[ing] workplace resources to express anger, check up on, pressure, or threaten” an IPV victim-employee.¹³⁹ In one study, as many as eighty percent of male batterers admitted that their IPV negatively affected their job performance.¹⁴⁰ Three out of four abusers surveyed had a hard time concentrating at work because of their abuse of intimate partners. Almost half of these abusers’ day was spent keeping track of their partners, and twenty-nine percent of abusers contacted their partner while at work to scare or intimidate them.¹⁴¹ The same study found that twenty percent of abusers left work or were late to work to be abusive to their partner, with thirteen percent seeking out their victim to threaten, control, or abuse them while they were on the clock.¹⁴² Similarly, in another study, forty-eight percent of male batterers reported having difficulty concentrating at work.¹⁴³ If employers can identify

¹³⁶ Helen LaVan, Yvette P. Lopez, Marsha Katz & William M. Martin, *The Impact of Domestic Violence in the Workplace*, 39 EMP. RELS. TODAY 3, 54 (2012) (stating that “employee victims, coworkers, customer bystanders, and the organization itself can all be affected by the occurrence of domestic violence. Domestic violence can have psychological, physiological, and economic effects, to varying degrees, on all organizational stakeholders”) (emphasis added); see HEALTH ADVOCATE, THE IMPACT OF DOMESTIC VIOLENCE ON THE WORKPLACE 7 (2013), http://www.healthadvocate.com/_mobile/downloads/communications-pdfs/b2b/domestic_violence_white_paper.pdf [<https://perma.cc/9BF8-U7KS>].

¹³⁷ LaVan et al., *supra* note 136, at 55 (citing a study of “employed women who had recently filed a domestic violence order,” in which “24 percent reported that their intimate partner had bothered their coworkers while they were on the job”).

¹³⁸ Livingston et al., *supra* note 6.

¹³⁹ VAWA Reauthorization Act of 2022 § 701.

¹⁴⁰ MICHELLE CRANWELL SCHMIDT & AUTUMN BARNETT, VT. COUNCIL ON DOMESTIC VIOLENCE, EFFECTS OF DOMESTIC VIOLENCE ON THE WORKPLACE: A VERMONT SURVEY OF MALE OFFENDERS ENROLLED IN BATTERER INTERVENTION PROGRAMS 1 (2011), https://www.uvm.edu/sites/default/files/media/VTDV_WorkplaceStudy2012.pdf [<https://perma.cc/PCN2-W3G9>]. As with the term “abuser,” see *supra* note 133, the use of the term “batterer” is less common in current literature, but we use it for consistency with the terminology used in the study. See Kennedy, *supra* note 85, at 300 (noting that “intimate partner violence may also impact the batterer’s workplace, resulting in missed work, lateness, and poor performance” and citing several small-scale studies).

¹⁴¹ SCHMIDT & BARNETT, *supra* note 140.

¹⁴² *Id.* at 5 (noting additional findings included nineteen percent caused or almost caused an accident at work).

¹⁴³ MAINE DEPARTMENT OF LABOR, IMPACT OF DOMESTIC OFFENDERS ON OCCUPATIONAL SAFETY & HEALTH: A PILOT STUDY 1, 8 (2004), https://www.maine.gov/labor/labor_stats/publications/dvreports/domesticoffendersreport.pdf [<https://perma.cc/5U74-7CRZ>].

perpetrators to refer them to treatment or to law enforcement as appropriate, workplace productivity would increase.¹⁴⁴

B. Healthcare Costs

IPV impacts the cost of healthcare for businesses, as well as for the public.¹⁴⁵ A 2021 report estimated that the overall national annual cost of medical and mental health care services related to acute IPV was over \$8 billion.¹⁴⁶ Physically abused women suffering ongoing abuse incur forty-two percent more health care costs than non-abused women.¹⁴⁷ When employers pay for medical insurance, these medical costs result in higher premiums for the employer to pay.

C. Workplace Violence

Yet another area of IPV economic impact on U.S. business is the cost of violent IPV incidents that occur in the workplace. According to a survey by the Society for Human Resource Management (SHRM), sixteen percent of organizations experienced such an IPV incident in the past five years.¹⁴⁸ Employers who fail to protect their employees from violence at work may be liable for the resulting injury or death. Employers can be found liable for failing to address threats, including both the failure to secure the workplace from known threats and for not intervening in known dangers.¹⁴⁹ They can also be held liable under torts for negligent hiring, retention, supervision, and termination should an employer fail to screen or remove dangerous employees or

¹⁴⁴ See discussion *infra* Section VI.D. regarding current challenges employers face in identifying and terminating perpetrators.

¹⁴⁵ See discussion *infra* Section IV.C. regarding increased reliance by IPV victims on publicly subsidized healthcare and other public benefits.

¹⁴⁶ MARTIN R. HUECKER, KEVIN C. KING, GARY A. JORDAN & WILLIAM SMOCK, NAT'L LIBR. OF MED., DOMESTIC VIOLENCE 4 (2023), <https://www.ncbi.nlm.nih.gov/books/NBK499891/> [<https://perma.cc/JA8S-EWR5>] (estimating that the overall “national annual cost of medical and mental health care services related to acute domestic violence is [] over \$8 billion”); see TANIS DAY, KATHERINE MCKENNA & AUDRA BOWLUS, UNITED NATIONS, THE ECONOMIC COSTS OF VIOLENCE AGAINST WOMEN: AN EVALUATION OF THE LITERATURE (2005), <https://www.un.org/womenwatch/daw/vaw/expert%20brief%20costs.pdf> [<https://perma.cc/9B8U-CNYB>].

¹⁴⁷ Bonomi et al., *supra* note 122, at 1052 (also reporting that those with recent abuse, remote abuse, and non-physical abuse incur 24%, 19%, and 33%, respectively, more health care costs than non-abused women, respectively); see *The Facts on Health Care and Domestic Violence*, FUTURES WITHOUT VIOLENCE: FAMILY VIOLENCE PREVENTION FUND, https://www.future-withoutviolence.org/userfiles/file/HealthCare/health_care.pdf [<https://perma.cc/5WZ3-PEPH>] (last visited Sept. 29, 2024).

¹⁴⁸ Roy Maurer, *When Domestic Violence Comes to Work*, SOC'Y FOR HUM. RES. MGMT., <https://www.shrm.org/topics-tools/news/risk-management/domestic-violence-comes-to-work> [<https://perma.cc/J4V4-B6UZ>] (last visited Sept. 29, 2024).

¹⁴⁹ Rebecca A. Speer, *Workplace Violence: A Legal Perspective*, CLINICAL OCCUPATION & ENVTL. MED. 3, 733 (2003).

situations.¹⁵⁰ Including litigation costs for successful employer defenses, the cost to American businesses from all types of workplace violence has been estimated at \$120 billion a year.¹⁵¹ When employers lose these lawsuits because they failed to take proactive, preventative measures, the average jury award is \$1.2 million per person per incident.¹⁵²

IPV lawsuits likely represent a significant percentage of employer overall costs for workplace violence litigation. Although IPV violence is a subset of all workplace violence, women receive at least 63% of workplace assaults and intentional injuries.¹⁵³ In addition, litigation expenses correlate with the severity of injury so litigant families of murdered employees are likely to win the largest verdicts or settlements.¹⁵⁴ Consider that murder is the second highest leading cause of workplace death for women,¹⁵⁵ and that IPV perpetrators commit “43 percent of workplace homicides against women.”¹⁵⁶

¹⁵⁰ *Id.*; see also *Domestic Abuse and Workplace Violence-A Liability Issue for Employers*, BRAUN CONSULTING GROUP <https://www.braunconsulting.com/bcg/workplace.html#10> [<https://perma.cc/6MZ5-CGBK>] (last visited Dec. 23, 2024).

¹⁵¹ See Kimberly Larsen, *Workplace Violence: Paranoid or Prepared?*, MEDIATE, <https://www.mediate.com/articles/larsen.cfm> (noting that in 2002 these costs were \$121 billion in total).

¹⁵² *7 Reasons Employers Should Address Domestic Violence*, FUTURES WITHOUT VIOLENCE, <https://www.futureswithoutviolence.org/seven-reasons-employers-should-address-domestic-violence/> [<https://perma.cc/5ENY-YUJ5>] (last visited Sept. 29, 2024) (noting that jury awards at that time were \$1.2 million for inadequate security); see generally AnnMarie Papa & Jeanne Venella, *Workplace Violence in Healthcare: Strategies for Advocacy*, 18 ONLINE J. OF ISSUES IN NURSING 5 (2013).

¹⁵³ *TED: The Economics Daily*, U.S. BUREAU OF LAB. STATS. (Aug. 6, 2021), <https://www.bls.gov/opub/ted/2018/there-were-500-workplace-homicides-in-the-united-states-in-2016.htm> [<https://perma.cc/3DRP-HERX>].

¹⁵⁴ See, e.g., Roselle Wissler, Allen Hart, David Evans, Michael Saks & Jason Feehan, *Injuries, Prior Beliefs, and Damage Awards*, 15 BEHAV. SCI. & L. 63, 64 (1997) (concluding that “individuals who have suffered more severe or more enduring injuries tend to receive more compensation than those who have suffered less harm”).

¹⁵⁵ Dan Keating, *Murder is the Second Most Likely Way for Women to Die at Work*, WASH. POST (Aug. 27, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/08/27/murder-is-second-most-likely-way-for-women-to-die-at-work/> [<https://perma.cc/BX68-EQL8>] (stating that workplace homicide is the second highest cause of occupational death in the United States for women, and it is growing); see NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH, *WORKPLACE VIOLENCE PREVENTION STRATEGIES AND RESEARCH NEEDS 2* (1996). Furthermore, the IPV “death toll extends to mass shootings. In more than half of mass shootings [], the shooter killed an intimate partner, and one analysis found that nearly a third of mass shooters had a history of domestic violence.” *Who Can Have a Gun: Domestic Violence & Firearms*, GIFFORDS L. CTR. <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/> [<https://perma.cc/6WM5-ZUV9>] (last visited Oct. 26, 2024).

¹⁵⁶ VAWA Reauthorization Act of 2022 § 701; see *TED: The Economics Daily*, U.S. BUREAU OF LAB. STATS. (Aug. 6, 2021), <https://www.bls.gov/opub/ted/2018/there-were-500-workplace-homicides-in-the-united-states-in-2016.htm> [<https://perma.cc/3DRP-HERX>]. The U.S. Bureau of Justice Statistics estimates that the number of females murdered by an intimate partner was five times higher than for males in 2021. See Erica L. Smith, *Female Murder Victims and Victim-Offender Relationship*, BUREAU OF JUST. STATS. (Dec. 2022), <https://bjs.ojp.gov/female-murder-victims-and-victim-offender-relationship-2021> [<https://perma.cc/SY6F-7XXX>].

V. INTERSECTION OF LEGISLATIVE AND BUSINESS GOALS

State IPV workplace laws that keep victims employed, workplaces safe, and IPV incidence low may be desirable for both victims and society, but do they benefit or burden corporate America? Businesses' central purpose is to generate profits. Hence, for public policy and business goals to be complementary, compliance with IPV workplace laws must be economically fruitful for U.S. businesses.¹⁵⁷

State IPV laws do create business costs. When an employer does not use an employee's IPV victim status as a reason not to hire or terminate them, there will likely be at least short-term costs associated with their lowered productivity, absenteeism, and/or increased medical bills. Keeping the employee at work with some accommodations can also be costly,¹⁵⁸ especially when the accommodations encompass time away from work to attend to IPV-related matters.

There is also a risk that batterers will come to the workplace and cost the company money in co-worker distraction or, worse yet, violence. An employer may be able to get a restraining order against the batterer to try to keep them away from the workplace to avoid such an incident, but this process itself has costs in legal fees and lost time. An employer can try to be prepared for a violent incident and to respond effectively to one if it occurs, but this has training costs.

One cost-reducing measure might be to grant the IPV victim-employee leave to try to extricate themselves from the relationship and press charges. However, leave, even unpaid, costs money. Workers on leave require temporary job coverage. Finally, if the IPV victim-employee can no longer do their job and must leave, the extension of unemployment compensation coverage to IPV victims increases employer contributions to the fund. Employer contributions are based on the number of a company's former employees who withdraw from the fund.¹⁵⁹

If compliance with these laws reduces net profits, the legal requirements are antithetical to businesses' primary goal. If compliance costs do nothing to decrease preexisting employer IPV costs, they only add to an employer's overall IPV-related costs. However, if compliance with state IPV workplace laws sufficiently reduce businesses' current IPV costs, then employers' net costs can decrease. Available data point towards such an offset—indeed, a dramatic one.

¹⁵⁷ *But see* de Jonge, *supra* note 26, at 478 (arguing that IPV prevention in the workplace can be viewed both in terms of traditional value generating activity and as part of a company's corporate social responsibility agenda).

¹⁵⁸ See U.S. EQUAL EMP. OPPORTUNITY COMM'N, EMPLOYER-PROVIDED LEAVE AND THE AMERICANS WITH DISABILITIES ACT (2016), <https://www.eeoc.gov/laws/guidance/employer-provided-leave-and-americans-disabilities-act> [<https://perma.cc/5K4D-6K4H>].

¹⁵⁹ See, e.g., Rebecca Rosenberg, *Everything You Need to Know When an Employee Files for Unemployment*, U.S. CHAMBER OF COMM. (Oct. 22, 2021), <https://www.uschamber.com/co/run/human-resources/employers-guide-to-unemployment-benefits> [<https://perma.cc/W7K4-68CX>].

IPV costs U.S. businesses such enormous amounts of money¹⁶⁰ that the costs of complying with state IPV workplace laws pale by comparison.¹⁶¹

A. *Employment Preservation*

There are significant costs associated with replacing experienced employees with new hires and funding their training.¹⁶² When these costs exceed the costs of retaining victim-employees, business compliance improves the bottom line. Leaves and reasonable accommodations, both designed to keep IPV victims employed, work to reduce or eliminate rehiring costs. This reduction in costs is likely substantial enough to outweigh the employer costs of leaves and accommodations such that legislative and business goals in this area are in fact complementary.¹⁶³ There is an urgent need for additional quantitative research to confirm this cost-benefit analysis because it would enable advocates to demonstrate to businesses that addressing IPV in the workplace will actually benefit their bottom line.¹⁶⁴

B. *Workplace Safety*

Workplace violence can lead to costly litigation.¹⁶⁵ Workplace policies that include effective emergency response training and concrete efforts to secure the workplace, such as keypad or swipe card entrances, can lower the likelihood of violence and provide a legal defense against a negligence claim. The costs of such training and other security measures are likely dwarfed by the cost of one losing verdict.¹⁶⁶ Again, more data is needed to support this conclusion.

Workplace safety protocols improve both actual and perceived safety. The latter can lead to improved overall employee morale and increased productivity. Decreased productivity of victims, co-workers, and perpetrators is

¹⁶⁰ A 1995 report found “nearly [\$1.8 billion] in the indirect costs of lost productivity” due to IPV. See Consol. Appropriations Act, 2022, Pub. L. No. 117-103, 2022 U.S.C.A.N. (136 Stat.) 889.

¹⁶¹ See, e.g., U.S. BUREAU OF LAB. STATS EMPLOYER COSTS FOR EMPLOYEE COMPENSATION – JUNE 2024 (Sept. 10, 2024), <https://www.bls.gov/news.release/pdf/ecec.pdf> [<https://perma.cc/6WB3-WBW2>].

¹⁶² See Tess C. Taylor, *The Costs of Training New Employees, Including Hidden Expenses*, FORBES (June 2, 2017), <https://www.forbes.com/sites/adp/2017/06/02/the-costs-of-training-new-employees-including-hidden-expenses/> [<https://perma.cc/UK8Y-FU8H>]; Heather Boushey & Sarah Jane Glynn, *There Are Significant Business Costs to Replacing Employees*, CTR. FOR AMER. PROGRESS (Nov. 16, 2012), <https://www.americanprogress.org/article/there-are-significant-business-costs-to-replacing-employees/> [<https://perma.cc/T3ET-YW6W>].

¹⁶³ See BUREAU OF LAB. STATS, *supra* note 161.

¹⁶⁴ See Carrazana, *supra* note 23; see also discussion *infra* Section VI.A (noting the importance of measuring effectiveness).

¹⁶⁵ See discussion *supra* Section IV.C.

¹⁶⁶ See Papa & Venella, *supra* note 152.

costly.¹⁶⁷ Any measure that reduces both the victims' and their co-workers' anxiety and fear of a possible workplace intrusion removes this distraction, thereby improving productivity.¹⁶⁸ Employer restraining orders are inexpensive to obtain and enforce.¹⁶⁹ They have the added benefit of protecting against the costs of destruction of company property and perpetrator digital breaches.¹⁷⁰ Data quantifying productivity and safety impacts would further encourage employers to embrace IPV workplace laws.

C. Public Image

Compliance with IPV prevention policies can improve a company's public image, especially if the company effectively broadcasts its compliance. Positioning a company as an active participant in addressing the IPV public health crisis demonstrates the organization's commitment to its employees and the broader community. This image can generate employee pride and loyalty, thereby decreasing the costs of employee turnover. It can also potentially increase sales by improving customer loyalty.¹⁷¹ Finally, a company committed to social justice also improves its hiring prospects. Repeated studies demonstrate that young Americans choose their employers as much for values, non-monetary benefits, and supportive atmospheres, as they do for compensation or a company's economic viability.¹⁷² According to a 2023 survey, "fifty-five percent of Americans say they would move jobs to work at an organization that makes a greater positive impact on society."¹⁷³ Employees aged eighteen

¹⁶⁷ See discussion *supra* Section IV.A.

¹⁶⁸ See de Jonge, *supra* note 26, at 484 (stating "[a] firm employer commitment to addressing domestic violence and its impacts can help improve and maintain staff morale").

¹⁶⁹ For example, in California, the filing fee for an employer restraining order is \$435, but the court may waive this fee if the application "is based on a credible threat of violence or stalking." SUPERIOR COURT OF CALIFORNIA, WORKPLACE VIOLENCE RESTRAINING ORDER PACKET (2023), <https://www.kings.courts.ca.gov/system/files/forms-and-filings/workplace-violence-restraining-order-packet.pdf> [<https://perma.cc/VUB5-7CRQ>].

¹⁷⁰ See Widiss, *supra* note 23 at 127, 138 (workplace restraining orders can be "an effective element of a security plan at work").

¹⁷¹ The argument that socially responsible actions—in this case a genuine commitment to preventing IPV and helping victims—will bring business benefits does not easily lend itself to a mathematical calculation of value. However, there is evidence that ethical companies benefit financially in the long term. See, e.g., Alison Taylor, *We Shouldn't Always Need a "Business Case" to Do the Right Thing*, HARV. BUS. REV. (Sept. 19, 2017), <https://hbr.org/2017/09/we-shouldnt-always-need-a-business-case-to-do-the-right-thing> [<https://perma.cc/RJ5K-42ZL>] (noting that "[a] growing body of evidence shows that ethical companies outperform financially over time, but trying to translate such a broad finding into the short-term planning metrics used by most businesses is perilous").

¹⁷² See GALLUP, INC. & BENTLEY UNIVERSITY, BENTLEY-GALLUP BUSINESS IN SOCIETY REPORT 6 (2023), https://www.bentley.edu/files/gallup/Bentley_Gallup_Business_in_Society_Report.pdf [<https://perma.cc/TX46-3WBD>].

¹⁷³ *Id.*

through twenty-nine value the positive social impact of their employers even more strongly, with seventy-one percent saying they would switch jobs for a company “that has a greater positive impact[,]” even if it means taking a ten percent pay cut.¹⁷⁴

Data has repeatedly shown that when companies take voluntary action to support social justice initiatives, it generates good will.¹⁷⁵ In the context of IPV workplace laws, companies in jurisdictions that do not yet have one or more of the types of IPV workplace statutes might well find it economically beneficial to voluntarily provide leaves, reasonable accommodations, and safety measures. Even companies in states that do have some or all of the current types of IPV workplace laws may benefit from moving beyond mere compliance to providing *paid* leaves, making use of optional employer restraining orders, and voluntarily implementing workplace policies that include not only safety measures but also support and education programs.¹⁷⁶

VI. RECOMMENDATIONS: WIN-WIN LAWS

Maximizing the effectiveness of IPV workplace laws will minimize their net corporate cost. To ensure optimal effectiveness, we must identify best practices, and then adjust current laws to align with them. In this iterative process, the first step should be to measure the effectiveness of current laws. While federal and state laws offer a variety of resources to address IPV, there is room for improvement, such as the creation of an entity to measure state IPV workplace law effectiveness. On the federal level, existing protective legislation must be expanded to explicitly include IPV victims. State laws, in turn, need greater uniformity and more holistic protections for victims. Finally, workplace programs that address perpetrators require more in-depth study and broader implementation.

A. Measure Effectiveness

Numerical evidence of the positive impacts of IPV workplace laws will provide a powerful tool in motivating both employer compliance and

¹⁷⁴ *Id.*

¹⁷⁵ See, e.g., LAURA E. DURSO, CAITLIN ROONEY, SHARITA GRUBERG, SEJAL SINGH, SHABAB AHMED MIRZA, FRANK J. BEWKES, AARON RIDINGS & DANIEL CLARK, *ADVANCING LGBTQ EQUALITY THROUGH LOCAL EXECUTIVE ACTION 6* (2017), <https://www.americanprogress.org/wp-content/uploads/sites/2/2017/08/2LGBTExecAction-report.pdf> [<https://perma.cc/GPF7-4G53>] (stating that “the benefits of LGBTQ-inclusive workplace policies include lower health insurance costs, increased productivity, and higher job satisfaction among employees”).

¹⁷⁶ Some studies have suggested that addressing IPV as part of a company’s broader commitment to corporate social responsibility brings financial benefits while fulfilling ethical obligations. See, e.g., Branicki et al., *supra* note 37, at 670 (arguing that it is important for businesses to address IPV both “because doing so is in corporations’ self-interest, and because of a normative concern for employees experiencing IPV”).

legislative action. The language of business is numbers. Quantitative data can provide an economic incentive for businesses to comply with IPV workplace laws. First, business leaders must become more aware of IPV costs. Only 55% of senior executives say IPV has a harmful effect on their company's productivity, even though 70% saw that domestic violence negatively affected attendance and 78% of human resource professionals considered IPV a workplace issue.¹⁷⁷ According to a 2007 survey of Fortune 1500 companies, only forty-three percent of CEOs perceived that IPV had a negative impact on their companies' bottom line.¹⁷⁸ Raising awareness of the costs of IPV among CEOs and other business leaders would likely increase interest in addressing these issues.

Second, quantifying IPV business losses will be useful in changing the perception that IPV is just a social problem, not a business one. There appears to be some progress on this. In the 2007 survey mentioned above, only thirteen percent of corporate leaders surveyed thought that corporations should play a major role in addressing IPV and instead believed that IPV prevention is the responsibility of families, social service organizations, and the police.¹⁷⁹ By contrast, in a 2012 Society for Human Resource Management survey, approximately three fourths of respondent organizations indicated that all employees should be trained on the impact of domestic violence, sexual violence, and stalking in the workplace.¹⁸⁰ Nonetheless, only 65% of U.S. companies have domestic violence policies mandating such training.¹⁸¹ Documentation of IPV business costs can be a persuasive tool in convincing corporate leadership to be proactive, rather than continuing to rely only on criminal and family laws to address IPV.

Documenting specific successes and shortcomings of current laws will also help policymakers tailor current and future laws to yield optimal results. Tools must be developed to measure effectiveness of current state IPV laws, both separately and as groups. For example, do states with anti-discrimination policies have fewer unemployed victims? Is the severity of injury lower and the duration of the violent relationship shorter for employed victims? Are

¹⁷⁷ VAWA 2022 Title VII sec. 701 (7).

¹⁷⁸ Notably, the same survey found that ninety-one percent of employees believed that IPV affects the bottom line. See Widiss, *supra* note 27, at 685 nn. 45, 47 (citing the Corporate Leaders and America's Workforce on Domestic Violence, CEO and Employee Survey 2007 and explaining that the 2007 survey "was the third benchmarking study tracking views of CEOs regarding domestic violence; all three were commissioned by Liz Claiborne, Inc., which has made raising awareness of the issue (and supporting its own employees who are dealing with domestic violence) a priority"). Note that the Corporate Alliance to End Partner Violence, the non-profit that conducted the survey, has been shut down. See Carrazana, *supra* note 23.

¹⁷⁹ See Kennedy, *supra* note 85, at 314 (discussing the results of the Corporate Leaders and America's Workforce on Domestic Violence, CEO and Employee Survey 2007).

¹⁸⁰ Adhia, *supra* note 6 at 3. Whether this shift results from an increased awareness of IPV costs, an increased willingness to participate in IPV prevention and mitigation, or other factors is unknown.

¹⁸¹ Maurer, *supra* note 148.

victims who work in states with leave policies more likely to press charges and to testify against their assailants? Do states with multiple types of IPV workplace laws fare better in any of these measurements than do states with fewer types of these laws? Finally, we need to quantify the business costs of compliance with current IPV workplace laws, as well as the corporate savings generated by these laws. State and federal governments should appropriate funds to develop and implement data measurement tools.

Once corporate America sees that the practices that IPV workplace laws require are economically beneficial, companies are more likely to comply with statutory requirements and may be encouraged to go beyond their state's current statutes in supporting IPV victims. Indeed, such voluntary protection measures will be important while we wait for the same data to impact public opinion and, in turn, legislators.¹⁸²

Effectiveness data can be instrumental in motivating legislators who are often hesitant to embrace controversial social issues. Elected officials need proof that passing or amending laws is worth their effort and/or has sufficient support from their constituents. This data can also be useful for activist communities looking to encourage legislative action and to motivate constituents to lobby their representatives to act. Delays in passage of more comprehensive IPV workplace laws do not appear to be the result of lack of awareness of the problem among the public more broadly. Most Americans seem aware of the nation's IPV problem—according to a 2018 study, sixty-two percent of Americans “rank domestic violence as an extremely serious problem in the United States.”¹⁸³ However, in conflict with these data, thirty-four percent of Americans believe that IPV is a taboo subject.¹⁸⁴ Concrete numerical data can demonstrate both the widespread effects of IPV on the workplace and the consequent need to discuss and address it. Communicating such data to workers, in conjunction with effectiveness data for IPV workplace laws, could lead more U.S. workers to push legislators to pass additional laws.

¹⁸² One example of evidence-based recommendations grounded in effectiveness data is the CDC's technical package on IPV prevention. PHYLLIS HOLDITCH NIOLON, MEGAN KEARNS, JENNY DILLS, KIRSTEN RAMBO, SHALON IRVING, THERESA L. ARMSTEAD & LEAH GILBERT, U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, PREVENTING INTIMATE PARTNER VIOLENCE ACROSS THE LIFESPAN: A TECHNICAL PACKAGE OF PROGRAMS, POLICIES, AND PRACTICES 31 (2017), <https://stacks.cdc.gov/view/cdc/45820> [<https://perma.cc/N7UQ-695T>] (showing that “IPV and the Workplace Training” increased information sharing by the employer and led organizations to be more likely to adopt IPV policies and seek additional IPV resources).

¹⁸³ Allstate Foundation Purple Purse, *New Research Finds Americans Less Likely to Discuss Domestic Violence Today Than Four Years Ago, Despite Momentum of Women's Movement*, PR NEWswire (Apr. 16, 2018, 8:30 AM), <https://www.prnewswire.com/news-releases/new-research-finds-americans-less-likely-to-discuss-domestic-violence-today-than-four-years-ago-despite-momentum-of-womens-movement-300629712.html> [<https://perma.cc/2AHX-NL2Z>] (discussing a national survey from Allstate Foundation Purple Purse).

¹⁸⁴ *Id.*

B. Strengthen Existing Federal Laws

The most thorough way to improve federal IPV laws would be to pass a new statute that incorporates all of the useful provisions of current state IPV workplace laws. However, the current political reality is that the chances of passing such a comprehensive federal law in the near future are slim. Therefore, as a first but significant step, Congress should amend the FMLA and the ADA to add specific protections for IPV victims. In addition, federal lawmakers should amend VAWA to impose the same requirements on businesses that most states already do.

The FMLA should explicitly acknowledge the cluster of IPV symptoms as a “serious medical condition.” It is not uncommon for an IPV victim to experience both mental and physical medical conditions, no single one of which might be considered “serious.” Taken together, though, the group of issues is medically recognized as “serious” and should therefore trigger a right to a leave. FMLA leaves should be paid. If paid, these leaves would mitigate the economic dependence many victims experience.¹⁸⁵

Similarly, the ADA should characterize the multi-symptom effects of IPV on victims as one aggregate “impairment.” By doing so, Congress would open the door for the EEOC to issue guidelines specific to IPV, as it does for other types of impairments.¹⁸⁶ Such guidelines could assist in determinations of whether an IPV impairment is having a “significant” impact on a victim’s daily life and their “major life activities” even though, taken alone, no single component “impairment” would rise to this level. Since such an impact is common, this small statutory change would extend ADA protection to many IPV victims. This is particularly important because all those protected by the ADA are entitled to “reasonable accommodations.”

Future VAWA reauthorizations should also incorporate workplace rights specific to IPV victims. VAWA needs teeth. While the 2022 VAWA reauthorization and the creation of the National Plan to End GBV are important steps, the Act must go further. The Act should give IPV victims substantive legal rights in the workplace parallel to the rights it currently gives victims in immigration and public housing settings.¹⁸⁷ Moreover, the VAWA should require

¹⁸⁵ A proposal to amend the FMLA to offer IPV-specific leave is currently pending before Congress, but it does not mandate employers to offer paid leave to IPV victims. Rather, it allows employees to substitute paid vacation, personal, or sick leave for absences necessitated by IPV. See Safe Leave for Victims of Domestic Violence, Sexual Assault, and Stalking Act, H.R. 2996, 118th Congress (2023).

¹⁸⁶ See, e.g., EQUAL EMP. OPPORTUNITY COMM’N, DEPRESSION, PTSD, & OTHER MENTAL HEALTH CONDITIONS IN THE WORKPLACE: YOUR LEGAL RIGHTS (2016), <https://www.eeoc.gov/laws/guidance/depression-ptsd-other-mental-health-conditions-workplace-your-legal-rights> [<https://perma.cc/RD8W-5L2G>]. IPV-specific guidance has so far been limited in scope and has not provided examples of the multi-symptom effects of IPV. See QUESTIONS & ANSWERS: APPLICATION OF TITLE VII & ADA, *supra* note 50.

¹⁸⁷ See Housing Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking, 34 U.S.C. § 12491 (2022); U.S. CITIZENSHIP & IMMIGR. SERVS., ABUSED

that all federal workplaces have a workplace violence prevention policy and that these policies contain provisions specific to IPV. Such a requirement currently only exists as an Executive Order and should be made permanent by inclusion in the federal statute. The VAWA must also build on that executive order by defining a minimally compliant policy. To do so, the VAWA can incorporate by reference a model policy drafted by an appropriate federal agency or by the National Resource Center.¹⁸⁸

C. Enhance Scope of State Laws

State laws can be improved by borrowing from each other's best practices. These can be identified through effectiveness measurement metrics, but, in the interim, there are some steps we can identify through a common-sense-based approach. For example, IPV workplace laws are designed to work in a complementary fashion. Therefore, they are each more likely to be effective if implemented in tandem. To illustrate, an unemployment insurance guarantee without an anti-discrimination law may be contradictory and more expensive for taxpayers. These laws should work together to create a balance between keeping victims employed (by utilizing anti-discrimination laws to prohibit employers from firing those who are experiencing domestic violence) and ensuring that victims who cannot continue working can maintain financial independence and rebuild their lives without returning to their abuser. Yet, twenty-four states have this statutory scheme.¹⁸⁹ Similarly, an anti-discrimination law without a leave law would be difficult to enforce since missing work would quite likely be a legitimate non-discriminatory reason to fire a victim, yet this situation exists in a number of states. Additionally, at least ten states with non-discrimination statutes do not require reasonable accommodations; without such accommodations, IPV victims may be unable to continue to produce adequate work.¹⁹⁰

To avoid these self-evident limitations, it is desirable to ensure that each state is implementing all existing effective types of current IPV laws. However, while forty-four states and D.C. have at least one IPV law, a number of

SPOUSES, CHILDREN AND PARENTS (2024), <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents> [<https://perma.cc/CAG3-HRW3>] (discussing the VAWA provisions allowing “noncitizens who have been abused by their U.S. citizen or lawful permanent resident relative the ability to independently petition for themselves (self-petition) for immigrant classification without the abuser’s knowledge, consent, or participation in the immigration process” and noting that “[t]his allows victims to seek both safety and independence from their abusers”).

¹⁸⁸ The CDC issued one such model policy in 2017. See NIOLON ET AL., *supra* note 182; WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE: A NATIONAL RESOURCE CENTER, <https://workplacesrespond.org> [<https://perma.cc/GDH2-GJFR>] (last visited Oct. 3, 2024).

¹⁸⁹ See generally Appendix A.

¹⁹⁰ *Id.*

states have more than one type of law, six states have no IPV laws, and only two states have the full template of current IPV workplace laws.¹⁹¹

In the absence of a comprehensive federal statute, passing each type of IPV workplace law separately in each state is daunting. One approach to addressing the patchwork of state laws would be to draft a uniform model law that encompasses all current types of IPV workplace laws. Just as states have done with the Uniform Commercial Code and other uniform and model acts, states would then merely need to pass one already-drafted statute.¹⁹²

In the interim, individual state laws can be added. To achieve one piece of this, Congress should provide economic incentives to the states to add IPV victims to their state unemployment compensation programs, as it did in American Recovery and Reinvestment Act of 2009.¹⁹³ Each state should also pass statutes providing injunctive relief to employers who seek restraining orders to ensure workplace safety by keeping IPV perpetrators out of their companies and cyberspaces.

In addition, while we wait for “best practices” data, existing state laws can be strengthened based on self-evident needs. For example, job-protected leave laws should be IPV-specific. Whether separate or explicitly part of a general crime victim job-protective leave law, these leaves should be available for a wide range of activities that crime victims often need to undertake, not only for court appearances and other prosecution-related meetings. The leave requirements should apply to all public and private employers, regardless of size, and be of a specified minimum, though not a maximum, length.

Similarly, all states should adopt IPV anti-discrimination laws which include reasonable accommodation provisions. These laws should explicitly list the most common types of accommodations that IPV victims require. State agencies equivalent to the federal EEOC can provide specific guidance on the requirements that such laws should incorporate.¹⁹⁴

States should also require (not merely encourage) all employers (not merely public ones) to implement workplace IPV policies. These statutes should include both model policies and specific minimum provisions that

¹⁹¹ *Id.*

¹⁹² Jacobs & Raghu, *supra* note 23, at 616 (arguing that the challenge of IPV should be met “more uniformly and comprehensively” by federal legislation). Where consensus on federal legislation is unlikely, a uniform code may help bring more uniformity to varied state laws. See UNIFORM LAW COMMISSION, <https://www.uniformlaws.org/home> [<https://perma.cc/688M-423Y>] (last visited Sept. 29, 2024).

¹⁹³ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, 440–41 (2009).

¹⁹⁴ The EEOC has issued guidance and regulations for ADA compliance in 2002 and updated them after the passage of the ADA Amendments Act of 2008, but the EEOC did not provide any IPV-specific guidance. See EQUAL EMP. OPPORTUNITY COMM’N, ENFORCEMENT GUIDANCE ON REASONABLE ACCOMMODATION AND UNDUE HARDSHIP UNDER THE ADA (2002), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada> [<https://perma.cc/V5G9-96TU>]; Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act, 29 C.F.R. § 1630 (2011).

each policy must contain. The required provisions should include educational programs,¹⁹⁵ a confidential internal reporting system,¹⁹⁶ and an emergency response action plan.

D. Develop Workplace Policies to Address Perpetrators

Very little legislation addresses workplace involvement in efforts to reduce the number of IPV perpetrators, whether through early detection or increased prosecution. Some IPV workplace laws may indirectly achieve part of this goal. For example, leaves—especially paid leaves—promote economic independence, which in turn increases the chances that the victim will leave the abusive relationship.¹⁹⁷ This independence may allow victims to press charges in order to hold perpetrators accountable. However, leaves do not lead to convictions of the leave-granting employer's own employee perpetrators. No current IPV workplace law directly addresses the corporate costs associated with employing perpetrators. These include distraction to others, risk of violence in the workplace, potential for lawsuits for inadequate security, and perpetrators' own reduced productivity.

It is in businesses' best interests to avoid employing individuals who pose a danger to others or are unproductive because they are engaging in harassment and abuse. We should create a toolbox of laws that support identification of employee perpetrators and enable employers to prevent future violence by addressing their behavior. As some scholars have argued, "employer sanctions can increase batterer accountability and increase safety."¹⁹⁸ Laws and policies addressing perpetrators may range in responses from "referrals to resources,

¹⁹⁵ Many middle schools, high schools, and colleges offer "warning signs" and ally education sessions. See Daphne King, *10 Warning Signs of Teen Dating Violence*, GEORGE MASON UNIV. PUB. HEALTH (Jan. 25, 2024), <https://publichealth.gmu.edu/news/2024-01/10-warning-signs-teen-dating-violence> [<https://perma.cc/PWB6-7DVM>] (emphasizing the importance of knowing the warning signs and "check[ing] in with anyone you know experiencing any of the signs" in the context of teen dating violence). With the rich resources available today, this is a low-cost initiative that should be expanded to include all working adults. See *Sample Domestic Violence Training for Supervisors and Managers*, WORKPLACES RESPOND TO DOMESTIC & SEXUAL VIOLENCE: A NATIONAL RESOURCE CENTER, <https://workplacesrespond.org/resources/sample-domestic-violence-training-content-for-supervisors-and-managers/> [<https://perma.cc/HKT4-RX54>] (Sept. 29, 2024).

¹⁹⁶ Such reporting systems already exist in many universities. For example, Bentley University uses a reporting system where members of the community can raise concerns about a student's well-being in a confidential way. Although the person making a report signs their name to allow for questions, the student does not generally know who filed a care report about them. See *Bentley Care Referral FAQs*, BENTLEY UNIV., <https://www.bentley.edu/offices/student-affairs/care-faqs> [<https://perma.cc/C96P-CZ9A>] (last visited Sept. 29, 2024). These can readily be adapted to the workplace.

¹⁹⁷ See Abi Adams, Kristiina Huttunen, Emily Nix & Nina Zhang, *The Dynamics of Abusive Relationships*, 139 Q.J. ECON. 1, 6 (2024); Nix, *supra* note 119 (noting that "economic empowerment could help women avoid becoming trapped in abusive relationships").

¹⁹⁸ See Kennedy, *supra* note 85, at 294.

discipline, or both.”¹⁹⁹ However, the majority of states do not yet have a framework for employers to refer perpetrators to counseling or training, or to discipline or even terminate them. In an indirect way, employers can discipline or terminate such workers for poor performance or criminal activity.²⁰⁰ However, for those perpetrators who manage to maintain their work performance and avoid arrest, employers risk a wrongful discharge lawsuit for termination or even disciplinary action. Employer hesitation to risk such actions is borne out by studies demonstrating that IPV perpetrated during worktime is widespread and largely unaddressed.²⁰¹

Laws that help to identify perpetrators must also shield employers from liability for requiring perpetrators to seek help. One study from 2019 reports that “some men convicted of IPV report that workplace supports might have been beneficial to help them address their use of violence.”²⁰² This outcome can help reduce the number of perpetrators while also saving businesses money and keeping workplaces safe. However, to encourage employers to offer this support, we must create legal safeguards to insure against employer liability, as well as the damage of false allegations to the “identified” employee.

Current model workplace policies and statutes focus predominantly on protecting and assisting victim-employees. Making the identification of perpetrators a higher priority and a less risky move would send a strong message to all managers. As a first step, even a few relevant provisions could help deter perpetrators. Companies can adopt and make it widely known that they have a “zero-tolerance” policy for perpetrators.²⁰³ Such a policy should clearly state that employee perpetrators will be subject to disciplinary action up to and including termination, even if their unlawful actions occur outside the workplace.²⁰⁴ Including this provision in an employee handbook enables employers to take action with reduced concern for wrongful termination liability.

Model IPV workplace policies should also create a confidential process for reporting IPV.²⁰⁵ Strong privacy protocols help victims and survivors who

¹⁹⁹ *Id.* at 316 & n.144 (collecting data on state policies and executive orders that give employers the ability to respond to violent crimes committed by employees, without necessarily involving the criminal justice system).

²⁰⁰ *Id.* at 316 (noting that “Massachusetts provides that acts of violence, regardless of where they occur, can result in discipline: convictions for domestic violence, sexual assault, or stalking up to five years old may be used as a factor in hiring”).

²⁰¹ See SCHMIDT & BARNETT, *supra* note 140; Ellen Ridley, John Rioux, Kim Lim, DesiRae Mason, Kate Faragher Houghton, Faye Luppi & Tracey Melody, *Domestic Violence Survivors At Work: How Perpetrators Impact Employment*, ME. DEP’T OF LAB. 1, 10 (2005), https://www.l.maine.gov/labor/labor_stats/publications/dvreports/survivorstudy.pdf [<https://perma.cc/XW5W-D4LG>].

²⁰² MacGregor et al., *supra* note 23, at 723.

²⁰³ See generally Kennedy, *supra* note 85 (discussing the NFL zero-tolerance policy as a potential model).

²⁰⁴ See, e.g., *id.* at 316.

²⁰⁵ *Confidentiality Guidelines*, WORKPLACES RESPOND TO DOMESTIC AND SEXUAL VIOLENCE, <https://workplacesrespond.org/resources/confidentiality-guidelines/> [<https://perma.cc/C39J-9UDD>] (last visited Oct. 29, 2024) (stating that “survivors of domestic and sexual violence

report IPV feel safe. Encouraging confidential reporting allows employees who witness violence or suspect that a co-worker is either a victim or a perpetrator to report these observations safely and with confidence that neither victim nor perpetrator will know about their report. This can be a vital information-collection device for employers, who can use the information to investigate an employee who may be a perpetrator, to document the basis for any subsequent disciplinary actions, or to take appropriate steps to protect a victim. To ensure proper handling of these reports, companies need to invest in training managers and employees on the proper ways to respond. In addition to having a process for verifying the accuracy of IPV reports, employers should know that at times a non-punitive response would potentially be most productive. The call for better identification is not necessarily a call for more punishment. Rather, it is a precondition for treatment referrals and other ways that perpetrators can receive help and potentially abstain from additional violence.²⁰⁶ Engaging a professional consultant to help managers discern appropriate responses would be a useful and legally protective step.

In cases where sanctions or termination are unavoidable, employers need to have model policies in place that include statements prohibiting the use of work resources or work time to threaten or abuse others.²⁰⁷ This would make it a violation of company policy to use company software or computer or phone resources to harass or threaten someone. Such a violation helps provide a legal “cause” for termination and would permit employers to search work e-mail and phone accounts of suspected perpetrators for evidence if they receive a credible report that an employee is engaging in IPV while at work.²⁰⁸ These measures can be powerful tools in assisting local law enforcement in identifying perpetrators and in securing their successful prosecution when criminal justice involvement is necessary to ensure safety and provide accountability. If used sparingly and responsibly, these provisions can contribute to IPV

and stalking are much more likely to report incidents and seek assistance if they know that their privacy will be respected”).

²⁰⁶ Tristan C. Fretwell, *Is “Zero Tolerance” the Solution? Using Non-Punitive Policies in the Workplace to Reduce Domestic Violence*, 6 *IND. J. L. & SOC. EQUAL.* 283, 297 (2018) (arguing that IPV workplace education “should also include specific training for supervisors in how to address the issue directly, providing support and encouragement for the employee who needs treatment while at the same time addressing and condemning domestic violence behaviors”).

²⁰⁷ See *Domestic Violence and the Model Workplace Policy and Toolkit*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/academics/experiential-learning/clinical-program/gender-justice-clinic/domestic-violence-and-the-workplace-model-policy-and-toolkit/> [<https://perma.cc/36R9-KL8Q>] (last visited Oct. 11, 2024) (explaining how a workplace policy can “[e]nsure that assistance and/or disciplinary action is available in relation to employees who have perpetrated domestic violence at the workplace or using employer resources”).

²⁰⁸ Lisa Frye, *Reviewing Employee E-Mails: When You Should, When You Shouldn’t*, *SOC’Y FOR HUM. RES. MGMT.* (May 15, 2017), <https://www.shrm.org/topics-tools/news/employee-relations/reviewing-employee-e-mails-shouldnt#:~:text=Courts%20have%20ruled%20that%20if,business%20purpose%20for%20doing%20so> [<https://perma.cc/Z67M-AVSN>] (noting that “[t]he federal Electronic Communications Privacy Act makes clear that workplace e-mail [is] the property of the employer, and employees should not expect privacy when sending, receiving, downloading, uploading, printing or otherwise transmitting electronic messages”).

prevention efforts by increasing arrests, prosecutions, and convictions of perpetrators before they can become serial perpetrators.

VII. CONCLUSION: WORKPLACE IPV LAWS BENEFIT EMPLOYERS

IPV costs U.S. businesses money when they employ victims and perpetrators. To make matters worse, preliminary data gathered about the impact of the COVID-19 pandemic on IPV indicate that quarantine regimes and increased work from home caused a rise in the number of IPV incidents.²⁰⁹ These developments are likely to increase employer IPV costs, both from some new victims returning to the workplace and others continuing to work remotely where they cannot be reached as effectively by the employer's prevention and education programs. In this context, it is not surprising that most business leaders see themselves as ancillary victims of IPV, rather than socially responsible actors who need to be part of the eradication effort.²¹⁰

Using the workplace as a tool to combat IPV is potentially a very effective addition to the arsenal of laws that seek to reduce and mitigate it and would simultaneously help lower the costs of IPV on U.S. businesses. However, in order to gain widespread corporate support of these laws, quantitative evidence must be collected to demonstrate that these measures will help the employer as well as the employee. The collected data will optimize efforts both to minimize the costs of businesses' statutory compliance and to maximize the societal and business benefits of the statutes.

Enacted strategically and implemented properly, IPV workplace laws can help victims stay safely employed, lessen the severity and shorten the duration of their violent relationships, maintain their income stream, and lower the overall incidence and public costs of IPV by encouraging prosecution of perpetrators. At the same time, these measures can work to reduce and ultimately remove the high business costs of productivity loss, increased sick time and absenteeism, increased medical expenses, and employer exposure to litigation costs for violence inflicted at the workplace. Increasing identification of IPV perpetrators can additionally decrease the overall prevalence of IPV because most perpetrators have multiple victims. For all of these reasons, it makes economic sense for companies to support employee victims and to stand behind comprehensive federal and state legislation aimed at protecting IPV victims across the United States.

²⁰⁹ Deborah M. Weissman, *Who Needs the State?: We Do (Maybe)*, 101 N.C. L. REV. 1261, 1267 (2023) (noting that “[s]ocial and economic calamities associated with the pandemic have exacerbated IPV”); see Boserup et al., *supra* note 130.

²¹⁰ Kennedy, *supra* note 85, at 314 (citing a survey by the Corporate Alliance to End Partner Violence, which found that only thirteen percent of business leaders thought corporations should play a role in addressing IPV).

Appendix A:

TABLE OF IPV LAWS BY STATE

State	IPV Leaves (24)	Victim Leaves (32)	Anti-Disc (18)	Reas Acc (9)	Unemp Comp (39)	Employer Restraining Orders (16)
Alabama		✓				
Alaska		✓			✓	
Arizona	✓	✓			✓	✓
Arkansas		✓			✓	✓
California	✓	✓	✓	✓	✓	✓
Colorado	✓	✓	✓		✓	✓
Connecticut	✓	✓	✓		✓	
Delaware		✓	✓	✓	✓	
D.C.	✓		✓	✓	✓	
Florida	✓	✓			✓	
Georgia		✓			✓	✓
Hawaii	✓	✓	✓	✓	✓	
Idaho					✓	
Illinois	✓	✓	✓	✓	✓	✓
Indiana					✓	✓
Iowa						
Kansas	✓		✓		✓	
Kentucky						
Louisiana		✓			✓	
Maine	✓				✓	✓
Maryland	✓	✓			✓	✓
Massachusetts	✓	✓	✓		✓	
Michigan	✓	✓				
Minnesota	✓	✓	✓		✓	
Mississippi		✓			✓	
Missouri	✓	✓		✓		
Montana		✓			✓	
Nebraska					✓	

State	IPV Leaves (24)	Victim Leaves (32)	Anti-Disc (18)	Reas Acc (9)	Unemp Comp (39)	Employer Restraining Orders (16)
Nevada	✓		✓	✓	✓	✓
NH		✓	✓		✓	
New Jersey	✓				✓	
New Mexico	✓				✓	✓
New York	✓	✓	✓		✓	
N Carolina	✓		✓		✓	✓
North Dakota					✓	
Ohio		✓				
Oklahoma					✓	✓
Oregon	✓	✓	✓	✓	✓	
Pennsylvania		✓				
Rhode Island	✓	✓	✓		✓	✓
S Carolina		✓			✓	
South Dakota					✓	
Tennessee						✓
Texas					✓	
Utah		✓				✓
Vermont	✓	✓	✓		✓	
Virginia		✓				
Washington	✓		✓	✓	✓	
West Virginia						
Wisconsin		✓			✓	
Wyoming		✓			✓	