

LEGAL UPDATE



IMPORTANT DATES

Sept. 30, 2023

California adopted SB 553.

July 1, 2024

Effective date for recording workplace violence incidents in an incident log and deadline for initial employee WVPP training.

Jan. 1, 2025

Effective date for the provision that allows collective bargaining employee representatives to request temporary restraining orders and orders after hearing on behalf of employees affected by workplace violence.

California Will Require Employers to Develop Workplace Violence Prevention Programs

On Sept. 30, 2023, California adopted [Senate Bill 553](#) (SB 553), a bill that requires employers to establish a workplace violence prevention plan (WVPP), document incidents of workplace violence and train employees on how to identify workplace violence hazards by July 1, 2024.

Affected Employers

SB 553 applies to California employers. State law defines “employer” as any person engaged in any business or enterprise in California if they employ at least one person under any appointment, contract of hire or apprenticeship. Employment agreements may be express or implied, oral or written, regardless of whether the person is the owner of the business or is operating on a concessionaire or other basis.

Under SB 533, “employer” specifically includes federal agencies, the state, state agencies, cities, counties or districts, and private, public or quasi-public corporations.

Protected Employees

SB 553 protects employees from workplace violence. “Employee” includes the members of boards of directors of private, public and quasi-public corporations and elected and appointed public officers. For purposes of this section only, “employee” also includes volunteers or independent contractors who perform services for the employer at the employer’s worksite.

Prohibited Conduct

SB 553 protects employees against actual unlawful violence and credible threats of violence in the workplace. The law defines “unlawful violence” as any assault, battery or stalking as prohibited in Section 646.9 of the Penal Code. Unlawful violence does not include lawful acts of self-defense or defense of others.

Similarly, a “credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for their safety or the safety of their immediate family and that serves no legitimate purpose.

Finally, “course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including but not limited to the use of the public or private mail, interoffice mail, facsimile or computer email.



Temporary Restraining Orders

Current law allows employers to seek a “temporary restraining order” and a subsequent “order after a hearing” to protect their employees when they experience unlawful violence or a credible threat of violence at the workplace.

Starting Jan. 1, 2025, SB 553 will allow bargaining employee representatives the authority to file petitions for temporary restraining orders or orders after hearing. However, these representatives must provide affected employees with an opportunity to decline to be named in the order before a petition is filed. “Temporary restraining order” and “order after hearing” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

- An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of, the employee; or
- An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described above.

Injury Prevention Programs

The California Occupational Safety and Health Act (the Act) requires employers to establish, implement and maintain effective injury prevention programs (IPPs). The Act also criminalizes certain safety violations.

Starting July 1, 2024, SB 553 expands the scope of IPPs by requiring employers to establish, implement and maintain effective WVPPs in all work areas as part of their IPPs. SB 553 also specifies the information that employers must include in their WVPPs. In addition, SB 553 specifically requires employers to:

- Record information on workplace violence incidents in a violent incident log;
- Provide effective WVPP training for employees; and
- Provide ongoing training when new or previously unrecognized workplace violence hazards are identified or when changes to WVPP take place.

Enforcement

State law authorizes Cal/OSHA to enforce compliance with the Act. SB 553 extends this authority by granting Cal/OSHA access to workplace violence incident logs and employer WVPP. The new law also authorizes the agency to issue citations and impose sanctions on noncompliant employers.

Employer Next Steps

Employers should review the new law to understand how to update their policies and procedures to comply with SB 553 requirements by July 1, 2024. This includes establishing a WVPP, integrating an injury and illness prevention program, providing employee training, documenting incidents of violence and maintaining adequate records.