

SEPTEMBER 15, 2023 | LEGISLATIVE & STANDARDS BOARD UPDATES

SB 553 – Workplace Violence Prevention Bill Passes California Legislature, Awaits Governor's Signature

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On September 12, 2023, the California Legislature passed SB 553—Workplace Violence Prevention. The bill is currently unopposed by business and labor and is expected to be signed by the Governor.

Although the bill has gone through several revisions since being introduced earlier this year, the final version passed this week aligns more closely with the draft Cal/OSHA WPV Standard and includes the following:

- **Operative January 1, 2024** – amends California Labor Code Section 6401.7 to include as an Injury and Illness Prevention Plan (IIPP) required element “a workplace violence prevention plan conforming to the requirements of [California Labor Code] Section 6401.9.”
- **Operative July 1, 2024** – adds California Labor Code Section 6401.9 which will require **all** California employers (unless they fall under one of the few exemptions) to establish, implement, and maintain an effective workplace violence prevention plan that includes the following (in summary):
 - Names or job titles of the persons responsible for implementing the plan.
 - Effective procedures to obtain active involvement of employees and authorized employee representatives in developing and implementing the plan.
 - Methods the employer will use to coordinate implementation of the plan with other employers.
 - Effective procedures for the employer to accept and respond to reports of workplace violence.
 - Effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan.
 - Effective procedures to communicate with employees regarding workplace violence matters.
 - Effective procedures to respond to actual or potential workplace violence emergencies.
 - Procedures to develop and provide training.
 - Procedures to identify and evaluate workplace violence hazards.

- Procedures to correct workplace violence hazards timely.
- Procedures for post incident response and investigation.
- Procedures to review the effectiveness of the plan and revise as needed.

In addition to the plan, employers will also be required to maintain a violent incident log and provide employee training.

- **Operative January 1, 2025** – allows collective bargaining representatives to seek workplace violence restraining orders on behalf of employees.

The bill would also incorporate additional changes to workplace violence restraining orders added by SB 428 (to be operative only if this bill and SB 428 are enacted and this bill is enacted last). Those changes would include allowing an employer whose employee has suffered harassment, as defined, to seek a temporary restraining order and an injunction on behalf of the employee. Currently, workplace violence restraining orders can only be utilized when an employee has suffered unlawful violence or a credible threat of violence.

The bill would also require an employer seeking such a temporary restraining order to provide the employee whose protection is sought the opportunity to decline to be named in the order, before the filing of the petition.

The bill specifically calls for the Division to propose, no later than December 31, 2025, and the Standards Board to adopt, no later than December 31, 2026, standards regarding the required plan. The standard must include, at a minimum, the requirements outline in section 6401.9 and “any additional requirements the division deems necessary and appropriate to protect the health and safety of employees.”

Further, not only will employers have to comply with this bill if it passes, but it is just the start of what employers will need to consider when developing their plan. Specifically, consideration will need to be given to the potential overlap with the following laws:

- Workers’ compensation laws, including potential exemptions to the exclusivity bar
- Privacy laws
- Fair Employment and Housing Act (FEHA), Americans with Disabilities Act (ADA), and related state laws, including potential discrimination issues
- Premises liability
- Negligent hire, supervision, retention, and vicarious liability
- Accommodation for domestic violence victims
- Privilege and confidentiality
- Temporary restraining orders (TROs) and injunctions
- Use of technology and social media policies
- Employee search policies (physical & electronic)

To learn more about this bill, its ramifications, and all other new Cal/OSHA and California employment laws, CMC

is offering a [Cal/OSHA and California Employment Law Summit](#) on October 16th and 17th. See below for more information and to register.

You can also [read more about SB 553](#) on Conn Maciel Carey's Cal/OSHA Defense Report blog.

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Cal/OSHA and California Employment Law Summit: The Latest Rulemaking, Legislative, and Enforcement Priorities

October 16, 2023 | October 17, 2023

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- How California employment laws may be impacted by various workplace safety requirements
- Key decisions from the California courts and National Labor Relations Board that will affect California employers from wage and hour issues, to handbook reviews, and more
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Registrants have the opportunity to join the program in Northern California on October 16th, or in Southern California on October 17th. Each day will consist of the program outlined in the agenda below. Continental breakfast, lunch, and program materials will be included with registration at both locations.

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