



## **DOMESTIC VIOLENCE AND THE WORKPLACE POLICY**

### **I. Purpose**

The Maine Department of Marine Resources (hereinafter "Department") is committed to promoting the health and safety of its employees. This commitment includes the prevention and reduction of the incidence and effects of domestic violence in the workplace, and responsiveness to the needs of all employees affected by domestic violence or sexual assault.

The Department recognizes that domestic violence is a workplace issue. Victims may be especially vulnerable while they are at work, whether in State facilities or while engaged in field activities. Domestic violence can compromise the safety of both the victim and other employees, and directly interfere with the mission of the Department by decreasing morale and productivity, as well as by increased absenteeism and health costs.

For these reasons, in response to Executive Order 23 FY 11/12, and in partnership with the Maine Coalition to End Domestic Violence, the Department is establishing this domestic violence and the workplace policy. The specific purposes are to:

- Create a supportive workplace environment in which employees feel comfortable discussing domestic violence issues and seeking assistance for domestic violence situations;
- Assure employees who are victims of domestic violence that they will not be professionally disadvantaged solely as a consequence of domestic violence;
- Highlight the importance of active collaboration between supervisors and the Human Resources Manager in implementing the provisions of this policy;
- Develop responsive policies and procedures to assist employees who are affected by domestic violence;
- Take all necessary steps to maintain the safety of Department employees in the course of their duties;
- Provide immediate assistance to victims;
- Direct employees who perpetrate domestic violence when off duty to appropriate resources;
- Specify the Department's response to employees who commit acts of domestic violence or sexual assault that occur on duty or off duty with a nexus/connection to employment;
- Offer training on recognizing and responding to domestic violence.

The Department will not tolerate domestic violence in the workplace, and will take action to prevent and correct any misuse of the State's resources in connection with any act of domestic violence.<sup>1</sup> Such misuse will result in discipline up to and including discharge.

## II. Definitions

- A. **Domestic Violence** is a pattern of coercive behavior that is used by a person against family or household members to gain power and control over the other party in the relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property. Domestic violence occurs between people of all racial, economic, education, and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners, and between other family and household members.
- B. **Batterer, Perpetrator, or Abuser:** an individual who commits domestic violence or sexual assault.
- C. **Victim or Survivor:** an individual subjected to domestic violence or sexual assault. As used in this policy, refers to an employee unless otherwise specified.
- D. **Employee** refers to all regular, part-time, seasonal, or contract employees of the Department.
- E. **Supervisor:** a Department employee who exercises day-to-day oversight and is responsible for evaluating the performance of another Department employee.
- F. **Human Resources Manager (HRM):** the employee responsible for overseeing and coordinating human resources policies and procedures for the Department.
- G. **Domestic Violence Responder:** a DMR supervisor or manager who has received additional training in domestic violence response.
- H. **Workplace** means any State facility in which Department employees carry out their assigned job responsibilities; all locations within and beyond the State of Maine visited by a Department employee in carrying out assigned job responsibilities; and travel to or from such locations on State business, whether using a State-owned or leased vehicle or not.

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<sup>1</sup> See the State of Maine Harassment Policy, and the State of Maine E-mail Usage and Management Policy.

- I. Domestic Violence Workplace Plan (DVWP):** a workplace safety plan developed by an employee, their supervisor, and the HRM, detailing the Department's response to the reported domestic violence situation.
- J. Sexual Assault:** an act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure, and voyeurism.
- K. Stalking** is repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A. §210-A.

### **III. Statement of Confidentiality**

The Department recognizes and respects a victim's need for confidentiality and autonomy. Unless the substance of the employee's disclosure demands otherwise, the Department will maintain the confidentiality of a victim's disclosure. Unless necessary, information will not be shared with other employees of the Department without the victim's consent. The primary determination as to sharing of information will be made by the victim, in consultation with their supervisor or another supervisor / manager, and the Human Resources Manager (HRM).

Further disclosure may be necessary if safety planning measures are undertaken with victims or an immediate threat to the safety of any person in the workplace exists. Whenever possible, the employee will be notified if further disclosures are necessary.

Any Department employee who discloses to a supervisor, domestic violence responder, or is otherwise identified, as a perpetrator of domestic violence, is also entitled to confidentiality, within the limitations identified below in Section VII.

Information or documents pertaining to a victim's involvement in a domestic violence, sexual assault or stalking situation will be kept separately from the employee's personnel file.

### **IV. Response and Assistance**

It is the policy of the Department to respond to persons affected by domestic violence on a case-by-case basis that relies on the affected employee working with the supervisor and HRM to identify appropriate support. Employees are encouraged to speak to any supervisor or manager listed as a Domestic Violence Responder (list attached), or the HRM, in order to secure the Department's response. To the extent that a disclosure of domestic violence does not implicate issues of workplace

safety and performance, and to the extent permitted by law and this policy, the Department's response will be guided by the expressed wishes of the victim.

Any Department employee to whom a disclosure of domestic violence is made by another employee should encourage the victim to discuss the matter with their own supervisor, a supervisor or manager listed as a Domestic Violence Responder, or the HRM, in order to assure that the systems and resources outlined in this *Policy* can be made available. Any Department employee who becomes aware of a domestic violence situation with implications for the Department workplace should immediately consult with the Human Resources Officer to assure an appropriate response.

If a victim discloses domestic abuse or sexual assault to a co-worker, that co-worker should provide support as appropriate, and may wish to refer the victim to:

- Available resources including the domestic violence and sexual assault agencies and the Employee Assistance Program. Information and support services can be accessed 24 hours a day by calling the EAP at 1-800-451-1834.
- Sections of this policy that support safety planning and assistance to victims.

Where both a victim of domestic violence and the perpetrator are Department employees, the victim's needs, preferences, and safety considerations will be primary. This may require relocation of one or both until the situation is resolved, in order to assure the safety of the victim and others, as determined by the employee, supervisor, and HRM.

Where the other party in an incident of domestic violence or sexual assault involving a Department employee is an employee of another State agency, and there is reason to believe that a workplace issue may be involved, the HRM will inform that other agency to assure that appropriate responses to the situation are coordinated.

#### **A. Supervisory Responsibility**

1. Supervisors are responsible for communicating that domestic violence or sexual assault is behavior that will not be tolerated in the workplace, and that the Department will actively provide information and support to employees who are victims of such abuse.
2. Supervisors to whom a disclosure of domestic violence or sexual assault is made will immediately inform the HRM, and work with the employee to determine an agreed course of action. The HRM and supervisor together will strive to identify the particular needs of the employee, and assure access to resources.
3. The supervisor and employee, in consultation with the HRM, may agree that a short-term response involving minor changes to work responsibilities, etc., may be sufficient to meet the employee's needs.

4. The supervisor and employee, in consultation with the HRM, may create an individualized Domestic Violence Workplace Plan (DVWP). The DVWP (see Appendix 1) may include, but is not limited to:
  - Identification of referral to appropriate agencies and services, including the Employee Assistance Program, domestic violence and sexual assault hotlines, local shelters and advocates, legal services, law enforcement, medical and counseling services;
  - Assessment of a victim's or perpetrator's need to be absent from work, or receive other adjustments to their usual work requirements;
  - Identification of employment benefits, including processes for changing such benefits, requesting paid and unpaid leave, and changing pay arrangements as appropriate.
  - Identification of any specific safety arrangements or changes to work setting that may be needed to protect the affected employee and others in the workplace.
  - Identification of necessary procedures to ensure confidentiality.
5. The HRM, after consultation with the supervisor and employee, may agree that the situation does not warrant additional disclosure within the Department. However, the DV Workplace Plan shall be brought to the attention of the Commissioner or designee, and a copy filed in the Human Resources office.
6. The Human Resources Officer shall develop necessary protocols related to maintaining records of domestic violence disclosures, including copies of orders for protection from abuse. These records will be kept in a separate file from an employee's regular personnel file.
7. Any supervisor or manager to whom a report of domestic violence is made by a third party should immediately inform the HRM. The HRM will approach the apparently affected employee to offer whatever assistance is available.
8. Any supervisor who has reason to believe, based on performance issues or other evidence, that an employee may be affected by domestic violence, should consult with the HRM as to an appropriate course of action.

**V. Work Performance and Employment Security**

The Department recognizes that victims of domestic violence or sexual assault may have performance or conduct challenges, such as chronic absenteeism or an inability to concentrate, because of the abuse. In addition, a victim's usual work schedule or responsibilities may be affected by the need for altered work schedules, additional time off, etc. When an employee confides that job performance, a conduct problem, or a special need is a consequence of domestic violence, referrals and assistance shall be offered in accordance with this policy. The Department will

make every effort to keep the employee's work environment as stable and supportive as possible until the situation is resolved.

1. An employee who has identified her/him self as a victim of domestic violence to their supervisor or the HRM will be given the opportunity to correct any performance difficulties associated with their situation.
2. While the Department, through the supervisor and HRM, may arrange for a temporary change in an employee's responsibilities and work tasks to allow for special needs or workplace safety, no permanent change in responsibilities and/or tasks, or demotion, shall be made that would disadvantage the employee's salary, benefits, or promotional possibilities without consultation with the Bureau of Human Resources.
3. This policy recognizes that, in accordance with 26 M.R.S.A. § 850, *Employment Leave for Victims of Violence*, an employer must grant reasonable and necessary leave from work, with or without pay, to an employee who is a victim to prepare for and attend court proceedings; receive medical treatment; attend to the medical treatment of a child, parent, domestic partner, or spouse who is a victim; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. The necessity of leave must be based upon the employee or the employee's daughter, son, parent, domestic partner, or spouse being a victim of violence, assault, sexual assault, stalking or any act that would support an order for protection from abuse.
4. The supervisor, in collaboration with the HRM, will identify allowances for time away from work for the employee to obtain assistance regarding domestic violence. This time may be drawn from sick or vacation leave, unpaid leave, allowances under the Family Medical Leave Act, or a leave bank, as appropriate and available.
5. In the event that a victim is ultimately unable to maintain employment with the Department as a result of domestic violence, the employee will be provided with information about disability benefits; and about Title 26, M.R.S.A. §§ 1043 and 1193 which provides victims with the right to collect unemployment benefits if they leave their employment in order to preserve their own safety, or if they have been terminated because of performance issues stemming from domestic violence.
6. Nothing in this policy alters the authority of the Department to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as it deems appropriate.

## **VI. Retaliation**

Any retaliatory action resulting from an employee making a complaint or observation of domestic violence, or otherwise asserting rights or responsibilities under

this policy or relevant laws is a serious violation of this policy and will be subject to disciplinary action.

## **VII. Perpetrators of Domestic Violence and/or Sexual Assault**

The Department recognizes that it also has responsibilities toward employees who disclose that they are, or who are identified as, perpetrators of domestic violence. The Department encourages any such employee to voluntarily seek assistance from any of the resources listed at

<http://www.maine.gov/corrections/VictimServices/BatIntervent.htm>, or from the confidential Employee Assistance Program.

1. If an employee discloses that he or she is or has been a perpetrator of domestic violence or sexual assault, the supervisor should immediately refer the matter to the HRM for determination of an appropriate response.
2. If an employee is concerned that a co-worker is a perpetrator of domestic violence, the employee should notify the HRM. The HRM will discuss the issue with the reporting employee, and decide how best to address the situation.
3. Any incident of domestic violence, stalking, or sexual assault committed by an employee while on office premises or during field activities will not be tolerated, and may be grounds for corrective discipline, up to and including termination of employment. Further, the use of State resources, work time, or equipment in connection with any act of domestic violence, stalking, or sexual assault is prohibited. Employees found to have violated this policy will be subject to corrective or disciplinary action, up to and including termination. Where there is a connection between off-duty conduct of this nature and one's employment with the State, that off-duty conduct may lead to discipline, up to and including termination.
4. Since it is important that the Department be aware of conditions prohibiting or limiting contact with other employees of the Department; or conditions that may interfere with the employee's ability to perform job duties, any Department employee named as a defendant in a protective order must immediately disclose to their supervisor and to the HRM any order for protection from abuse or harassment, or any condition of bail or probation in a domestic violence case with workplace implications.
5. The Department reserves the right to disclose information related to a perpetrator's actions and/or any legal consequences of those actions to other State agencies if there is reason to believe a workplace issue exists.
6. An employee who is in law enforcement must disclose to the employee's supervisor or manager, any criminal charge and any protective order involving allegations of domestic violence, sexual assault or stalking. An employee who is in law enforcement who is named as a defendant in a protection order must disclose to their supervisor or manager any temporary or permanent order for protection from abuse or harassment with conditions that include:

Conditions prohibiting or limiting contact with other employees of the Department.

- Conditions that may interfere with the employee's ability to perform job duties such as a prohibition against carrying a firearm, or a no-contact order involving any person with whom the employee may come in contact while carrying out the duties of their employment
- Failure to disclose the above information may result in disciplinary action up to and including termination.
- An employee who is in law enforcement and carries a firearm as a condition of employment, and who is a named defendant in a temporary or permanent protection order, or who is otherwise prohibited by court order, bail conditions, criminal conviction, or probation conditions from carrying a firearm, will be subject to administrative action, which may include disciplinary action, up to and including termination. Absent a court order, only the Commissioner or designee will have the authority to require the surrendering of an employee's firearm.

### **VIII. Workplace Safety**

To the extent that the supervisor, and/or the HRM, to whom a situation of domestic violence has been disclosed has reasonable cause to believe that the safety of the affected employee, or other Department employees, is at risk in the workplace, the HRM and supervisor shall take every prudent action to protect the victim and other employees. Decisions about changes to working conditions shall be made by the supervisor in consultation with the affected employee, the HRM, and the Commissioner or Deputy Commissioner. The Department of Public Safety will be consulted as appropriate to evaluate the level of threat or risk.

Any person who is concerned about his/her safety at work should immediately speak to their supervisor, any manager, the Commissioner, or the HRM. The issuance of a legal Protection from Abuse or Harassment order shall by itself constitute a sufficient reason for the implementation of such measures. If an employee discloses that an order has been issued, the DEPARTMENT will work closely with the employee to create safety measures, especially where the order includes a provision that the perpetrator is not to have contact with the victim at the victim's place of employment.

Actions may include, but are not limited to,

- Screening telephone calls;
- Moving the intra-office workspace of the victim to increase safety;
- Assuring secure parking and/or escort service to and from the employee's vehicle, in coordination with Capitol Security;



- Limiting external access to the employee's telephone and/or computer e-mail;
- Re-assignment of duties, particularly those involving field activities;
- Assuring that the employee, if required to carry out field activities, is always accompanied by another employee;
- Providing co-workers and reception staff with a description and/or photograph of the abuser.

Depending on situation, these actions may be operative for a short, or longer, term. This will be defined in the DVWP, including the setting of a specific date on which the need for these actions will be re-evaluated.

If an employee experiences or is a witness to violence, or threats of immediate violence, in the workplace, the employee should immediately report the incident to Capitol Security and/or local law enforcement, and to a supervisor or manager. Employees in regional offices should immediately inform the Regional Office Director or Manager.

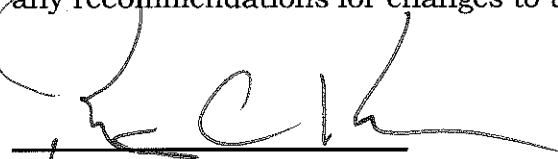
**IX. Outreach and Implementation**

It is the Department's policy that all employees be fully informed about domestic violence as it pertains to the workplace environment. To that end

1. This policy will be distributed to all current employees. New employees will receive the policy upon commencing employment.
2. All employees will watch the on-line domestic violence awareness training program.
3. Supervisors and managers identified as Domestic Violence Responders will participate in specialized training, focused on identifying and responding to issues of domestic violence in the workplace, including the implantation of procedures in this *Policy*.
4. Receptionists in all offices will receive specialized training.

**X. Assessment and Review**

The Human Resources Officer will report annually, in writing, to the Senior Management Team on the status of the workplace domestic violence program, including any recommendations for changes to the program.

  
**PATRICK C. KELIHER**  
**COMMISSIONER**

2/26/14  
**Date**

## Appendix 1: DOMESTIC VIOLENCE WORKPLACE PLAN

DATE: \_\_\_\_\_

EMPLOYEE: \_\_\_\_\_

SUPERVISOR: \_\_\_\_\_

1. Brief Description of Presenting Situation:

(b) Are other DEPARTMENT employees aware of / involved in the situation? (specify)

2. Employee *needs* requiring adjustments to work expectations or usual environment (e.g., new child care responsibilities; changed living situation; safety concerns) (list):

3. Accommodations to meet #2, as agreed by supervisor and employee<sup>2</sup> (specify, including dates for implementation):

(b) Possible employee benefits to be utilized:

(c) Steps to be taken to assure/protect confidentiality (specify):

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<sup>2</sup> Where the employee is a perpetrator, changes and accommodations may be instituted without the employee's agreement.

## Appendix 1: DOMESTIC VIOLENCE WORKPLACE PLAN

4. Special workplace safety or resource concerns that may involve other employees (if necessary):
  
5. Steps to be taken to assure workplace safety and/or inform other employees (if necessary; include dates for implementation):
  
6. Additional resources / referrals:  
EAP                      Hotline                      Shelter                      Law Enforcement                      Batterer's Program  
etc.
  
7. Is there a Protection from Abuse or Harassment order issued by a court? If yes, attach copy.

Based on the planning above, in consultation with the Human Resources Officer, we agree on the actions to be taken.

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Employee<sup>3</sup>

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Supervisor

Date on which we agree to review this Plan, and make changes as appropriate:

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<sup>3</sup> Where the employee is a perpetrator, changes and accommodations may be instituted without the employee's agreement.

## Appendix 1: DOMESTIC VIOLENCE WORKPLACE PLAN

8. I have consulted with the employee and supervisor in the establishment of this Domestic Violence Workplace Plan:

\_\_\_\_\_

HR Manager (name)	Date
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9. Commissioner or designee:

I have received a copy of this Domestic Violence Workplace Plan, and will work with the employee, supervisor, and Human Resources Officer to assure that it is carried out:

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Commissioner (or designee)	Date
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Original to be retained by Human Resources Manager  
Copies will also go to affected employee and supervisor, and Commissioner.

CONFIDENTIAL

# Appendix 1: DOMESTIC VIOLENCE WORKPLACE PLAN

## IMPLEMENTATION CHECK SHEET

(to be retained by the Human Resources Officer)

Action	Date	Initial
Received information leading to this DVWP		
Met with employee and supervisor to develop this DVWP		
Implementation items from sections 3, 5 : (specify; add additional lines as necessary):		
➤		
➤		
➤		
➤		
➤		
➤		
➤		
Referred to outside resources (specify):		
Referred to Commissioner's office		
Review / modification of DVWP		
DVWP no longer needed: file closed		

## **LIST OF DOMESTIC VIOLENCE RESPONDERS**

| \*Until a list of Domestic Violence Responders has been identified and trained, employees should contact their Human Resources Officer.