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Non-Health Care California Employers Will Soon Need to Comply with Workplace Violence Prevention Requirements

On Sept. 30, 2023, Governor Gavin Newsom signed [Senate Bill 553](#), which requires California employers to have a written Workplace Violence Prevention Plan (WVPP) by July 1, 2024.

Nearly all private California employers are subject to the law's requirements except (1) employers who are already covered by the Division of Occupational Safety and Health (Cal/OSHA)'s Workplace Violence Prevention in Healthcare standard (8 CCR 3342); (2) employees who telework (such as from their homes or a location not under the employer's control); and (3) places of employment that are not accessible to the public and have less than 10 employees working at any given time.

Workplace Violence Defined

Under the law, workplace violence is broadly defined and means "any active violence or threat of violence that occurs in a place of employment." It includes the "threat of use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury." Workplace violence also includes an incident involving the threat or use of a firearm or other dangerous weapons and credible threats of violence and actual violence committed by employees as well as individuals who have no legitimate business at the worksite and those who approach the workplace or employees with the intent to commit a crime, e.g., active shooters.

Employer Obligations

The law requires employers to establish, implement, and maintain a WVPP with specific elements, including, among others:

- Effective procedures allowing for active involvement of employees and authorized employee representatives in developing and implementing the WVPP;
- Methods the employer will use to coordinate implementation of the WVPP with other employees;
- Procedures to accept and respond to reports of workplace violence, and to prohibit retaliation for an employee who makes such a report;
- Procedures to communicate with employees regarding workplace violence, including how to report a violent incident or other workplace concern;
- Procedures to identify and evaluate workplace violence hazards, including scheduled periodic inspections, and to correct any identified hazards; and
- Procedures for post-incident response and investigation.

The law also requires employers to provide training to employees when the plan is first established and annually thereafter.

The law's broad definition of "workplace violence" theoretically requires an employer to investigate a wide range of conduct, including perceived threats of physical force against employees that could, in the employee's subjective opinion, cause stress or trauma.

Employers must keep records related to workplace violence, including (1) records of workplace violence hazard identification, evaluation, and correction; (2) training records; (3) a violent incident log for every workplace violence incident; and (4) records of workplace violence incident investigations.

The law may not be the final say on the issue of workplace violence. The law directs Cal/OSHA to implement a regulation that includes at least the requirements above by Dec. 31, 2026. However, Cal/OSHA's workplace violence standard may also include additional requirements.

Takeaway

With the July 1, 2024, implementation deadline only about nine months away, and given the increase in gun violence – and violence generally – in public places like grocery stores, places of worship, and movie theaters, employers should establish and implement a WVPP sooner rather than later. To this end, employers should immediately begin the process of evaluating potential workplace violence hazards at their worksites (if any), identifying ways to correct or mitigate those hazards, establishing workplace violence reporting and investigation procedures, and drafting and implementing a WVPP. Employers should also consider developing employee training consistent with the law's requirements to familiarize employees with the law's requirements in advance of July 1, 2024.

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