



## Client Alerts

### California Compliant: New Rules to Record and Investigate Violence in California Workplaces

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For more than 20 years, California has required employers to establish and maintain a written program for the prevention of workplace injuries. Beginning July 2024, employers also must establish and maintain a plan specifically for the prevention of *workplace violence*. Governor Newsom recently signed Senate Bill 553 (SB 553), which amends Section 6401.7 and adds Section 6401.9 to the state's Labor Code, to address threats and the use of physical force or weapons in the workplace.

#### What is "Workplace Violence"?

SB 553 defines "workplace violence" as "any act of violence or threat of violence that occurs in a place of employment." Workplace violence can include, for example: use of, or threats of, physical force against an employee; and use of, or threats of, a firearm or other "dangerous weapon." It does not include, however, "lawful acts of self-defense or defense of others."

#### Covered Employers & Employees

Under SB 553, only a few categories of employers are exempt from complying with these new rules, and even then only if they are covered by, and comply with a similar standard. Employers that may not need to conform their practices to SB 553 (assuming they meet the requirements for an exemption) include:

- employers having fewer than 10 people working at the same place at any given time and that are not open to the public;
- healthcare facilities;
- facilities operated by the Department of Corrections and Rehabilitation; and
- law enforcement agencies.

Employees who telework "from a location of the employee's choice, which is not under the control of the employer," are not subject to SB 553.

Note that SB 553 grants to Cal/OSHA the right to require otherwise "exempt" employers to meet the requirements of new Section 6401.9 or include "employees or places of employment that are exempt ... in their compliance with" the statute.

#### Establishing a Compliant Workplace Violence Prevention Plan – Basic Requirements

SB 553 requires covered employers to develop and implement a written plan to prevent and address workplace violence. The workplace violence prevention plan may be part of an employer's workplace injury prevention program, or a separate policy. The workplace violence prevention program must:

- permit employees the opportunities to identify and evaluate "workplace violence hazards," to participate in the design and implementation of training about workplace violence, and to be involved in the reporting and investigation of violence;
- provide for initial and "periodic inspections to identify unsafe conditions and work practices and employee reports and concerns";



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- contain procedures for notifying employees of, and responding to, workplace violence “emergencies” (which are “unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or” others);
- include procedures for reporting and responding to workplace violence; and
- prohibit retaliation against an employee who reports workplace violence.

Employers must make their workplace violence prevention plan accessible to employees and available to Cal/OSHA upon request. Employers also must provide employees training when the workplace violence prevention plan is implemented, and annually thereafter, including about how to report workplace violence.

### Recording and Investigating Workplace Violence

Covered employers must keep a “log” of incidents of violence. Among other things, each entry must include:

- the date, time, and location of the incident;
- classification of the type of violence as one of four defined categories, based on the identity of the perpetrator;
- “a detailed description of the incident,” including the type of attack (e.g., “attack with a weapon,” “sexual assault,” or “animal attack”); and
- the response taken.

Information recorded in the employer’s log must be “based on information solicited from the employees who experienced the workplace violence, on witness statements, and on investigation findings.” The log cannot include personal identifiers that would reveal the identity of “any person involved in a violent incident.”

### Record Retention Obligations

Employers must maintain a log of incidents of violence, and of investigations of workplace violence, for at least five years. Detailed records of employee training must be kept for at least one year. All of those records must be disclosed to employees upon request within fifteen days of the request.

### What to Watch

SB 553 charges Cal/OSHA with developing standards for compliant workplace violence prevention programs. The deadline for Cal/OSHA to propose such standards is December 31, 2025, and the deadline for standards to be adopted is December 31, 2026.

Section 6401.9 will be enforced by Cal/OSHA, which may issue notices of citation and civil penalties for violations.

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