

# Regulatory Alert

## Regulatory Insights

March 2024

### Physical Security: New CA Workplace Law

#### **KPMG Insights:**

- **Physical Security Importance:** Increasing risk and regulatory attention on physical security as both part of a sound security risk program, as well as part of a sound ethics and compliance program.
- **Expansive Application:** Nearly all employers operating in the state of California must adopt and implement a Workplace Violence Prevention Plan. Companies should look to consider adopting standards across the company, as appropriate.
- **Prescriptive Approach:** The new law includes detailed requirements for the content of the Plan, an ongoing incident log, and reporting on hazard identification and correction.
- **Operational Impact:** New requirements will impact Legal and Compliance in areas such as Code of Conduct, Ethics Hotline, employee training, case management, and change management.

Physical security grows as a primary tenet of not only a sound security risk program, but a sound ethics and compliance program. In line with this risk and heightened regulatory and legal attention to this matter, California has codified a new law that will affect nearly all employers.

Beginning July 1, 2024, a new law will go into effect in the state of California that requires nearly all California employers to adopt and implement a Workplace Violence Prevention Plan (hereinafter, Plan) as well as conduct employee training and maintain incident logs. California Senate Bill [No. 553](#) was signed into law in September 2023 and will be enforced by the California Division of Occupational Health and Safety (Cal/OSHA) as of the July 1, 2024, effective date.

**Applicability.** The law applies to all employers, employees, places of employment, and employer-provided housing in California with certain exemptions including:

- Employers covered by Cal/OSHA's Violence Prevention in Health Care regulation (Section 3342 of Title 8 of the California Code of Regulations).

- The Department of Corrections and Rehabilitation and certain law enforcement agencies.
- Employees teleworking from a place of the employee's choice and not under the control of the employer.
- Places of employment that have fewer than 10 employees working at any given time and are not accessible to the public.

**Definition.** For purposes of the law, "Workplace Violence" is defined as any act of violence or threat of violence that occurs in a place of employment including but not limited to:

- The threat or 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.
- An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.

- Four types of workplace violence:
  - Type 1: workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches workers with the intent to commit a crime.
  - Type 2: workplace violence directed at employees by customers, clients, patients, students, inmates, or visitors.
  - Type 3: workplace violence against an employee by a present or former employee, supervisor, or manager.
  - Type 4: workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.
- Developing and providing training.
- Compliance with the Plan.
- Communicating with employees regarding workplace violence matters.
- Effecting post-incident response and investigation.
- Reviewing the effectiveness of the Plan and revising the Plan as needed.
- Maintain a workplace violence incident log for all incidents (including information as required by the law).
- Train employees, at least annually, on the Plan, including how to report workplace violence, how to seek assistance to prevent violence, and strategies to avoid physical harm.
- Maintain records of workplace violence hazard identification, evaluation, and correction.

**Requirements.** The new law focuses on providing physical protection for employees and thereby requires “covered” California employers to:

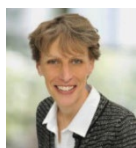
- Establish, implement, and maintain an effective workplace violence prevention plan that details specific information, including procedures for:
  - Identifying the individuals responsible for implementing and maintaining the Plan.
  - Involving employees in developing, implementing, and reviewing the Plan.
  - Coordinating implementation of the Plan with other employers, as applicable.
  - Accepting and responding to reports of workplace violence and prohibiting retaliation against employees who make reports of workplace violence.
  - Responding to actual or potential workplace violence.

Further, under provisions of this law, employers are permitted to seek a temporary restraining order on behalf of the employees that have suffered harassment, violence, or threat of violence at the workplace.

**Compliance Dates.** The law becomes effective July 1, 2024, and covered employers are required to have a Plan in place as of that date. The law further requires Cal/OSHA to propose standards regarding the workplace violence prevention plan no later than December 1, 2025, and to adopt standards regarding a Plan no later than December 31, 2026. Recently, Cal/OSHA [published](#) a model workplace violence prevention plan which entails required information necessary for “general industry” employers to comply with the requirements set forth by the new law.

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