

A Product of the Safe Leave Working Group **Safe Leave Documentation & Confidentiality Rules**

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Who We Are

The Safe Leave Working Group is made up of state, national, and tribal experts and advocates from across policy spaces. The working group bridges paid leave, workers' rights, women's rights, legal services, faith-based groups, domestic violence survivor advocacy, sexual assault survivor advocacy, disability rights, and broader violence survivor advocacy. The Center for American Progress and Futures Without Violence co-chair the working group.

Our Vision

Paid, protected leave from work is an essential tool for the safety, agency, and economic security of survivors of all types of violence, including family violence, domestic violence, sexual assault, dating violence, harassment, and stalking. Survivors and their loved ones need safe leave that meets their diverse needs, reflecting the breadth and variety of experiences based on intersecting identities. We cannot achieve this without diverse communities working together to achieve this common goal. We share a collective vision of a world where survivors and their loved ones are safe and thriving.

This Document

We intend this document to be a resource for policymakers, advocates, and stakeholders, as well as for employers seeking to improve their own policies. This document includes recommendations for when workers can be required to provide documentation for safe leave claims, and, where required, what types of documentation options should be allowed. In addition, this document provides recommendations for confidentiality practices regarding safe leave use. Recognizing that paid sick and safe leave and paid family and medical leave laws raise similar but distinct considerations, the document provides separate recommendations for each type of law.

This document encapsulates the second phase of the safe leave working group's ongoing work. It builds upon the working group's previously released product, "The Need for Paid Safe Leave & Model Legislative Language," which provided model legislative language regarding paid safe leave.¹ The two documents are complementary, addressing different aspects of optimal safe leave policies. In future documents, the working group will address important additional considerations in providing safe leave, including the need for thoughtful and targeted outreach and education, considerations around tribal sovereignty, and the particular needs of historically marginalized groups in relation to violence.

¹ Safe Leave Working Group, "The Need for Paid Safe Leave and Model Legislative Language," September 2024, available at <https://www.clasp.org/wp-content/uploads/2024/09/SafeLeaveWG8.30.pdf>.

Safe Leave Documentation & Confidentiality Rules

Introduction

A large percentage of workers are survivors of domestic violence, sexual violence, or other forms of violence. Maintaining economic independence is critical to survivors' immediate, intermediate, and long-term safety and ability to recover from trauma. However, many survivors struggle to remain connected to the workforce as they face numerous challenges in obtaining and maintaining employment as a consequence of the abuse or violence. Safe leave — or policies that allow survivors to take paid time away from work to heal, recover, and make themselves and their families safe — promises to strengthen survivors' ties to the workforce and allow them to meet critical needs in the wake of violence.

“Safe leave” refers to paid, job-guaranteed leave from work that workers may take to address the impact of domestic violence, sexual assault, dating violence, stalking, other forms of gender-based violence and harassment, or other forms of violent victimization on their lives and the lives of their family members. Survivors may use safe leave to prepare for or participate in legal proceedings, such as to obtain an *ex parte* and then a final restraining order, file for divorce, address immigration issues, or participate in a criminal trial. They may also use safe leave to seek supportive services, enroll their children in a new school, or move to a new home or to temporary lodgings for safety reasons. Further, survivors may take safe leave for needs related to their physical or mental health. In addition, people close to survivors may take safe leave to support their loved ones, providing critically needed, and often unscheduled, assistance. Safe leave allows survivors and their loved ones to take necessary steps to address and heal from violence.

While there is no safe-leave-specific data, research on related forms of paid leave has found that guaranteeing paid sick time and paid family and medical leave benefits businesses² and

² For summaries of research on business impacts of paid sick time and paid family and medical leave, see National Partnership for Women and Families, “Paid Sick Days are Good for Business” (November 2023), <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-sick-days-good-for-business-and-workers.pdf> and National Partnership for Women and Families, “Paid Family and Medical Leave is Good for Business” (October 2023), <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-good-for-business.pdf>.

the economy.³ Paid leave supports businesses and the economy by increasing morale,⁴ improving productivity,⁵ and reducing expensive staff turnover.⁶ Moreover, violence creates various barriers to successfully applying for work, keeping a job, or completing an education or training program. This leaves many qualified and hardworking survivors out of the workforce entirely. By creating pathways to remain in the workforce and adequately support survivors of violence, the American economy will reduce lost productivity and retain talented and innovative workers.

Paid Sick & Safe Time

As of March 2025, seventeen states and the District of Columbia have passed paid sick time laws that include the explicit right to paid safe time,⁷ as have several cities and counties.⁸ These laws give employees the right to earn and use time off, usually paid and typically up to 40 hours per year, that can be used for specific needs in relation to violence as well as for the health of workers and their loved ones.⁹

³ US Congress Joint Economic Committee, “The Economic Benefits of Paid Leave: Fact Sheet,” <https://www.jec.senate.gov/public/cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf> (accessed August 2024).

⁴ Sharon Lerner and Eileen Appelbaum, “Business as Usual: New Jersey Employers’ Experiences with Family Leave Insurance” 22, Center for Economic and Policy Research (June 2014), <https://www.cepr.net/documents/nj-fli-2014-06.pdf>.

⁵ Benjamin Bennet et al., “Paid Leave Pays Off: The Effects of Paid Family Leave on Firm Performance,” National Bureau of Economic Research (2021), https://www.nber.org/system/files/working_papers/w27788/w27788.pdf; Liangrong Chunyu et al., “Do Paid Sick Leave Mandates Increase Productivity?” (2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4096707.

⁶ Kate Bahn and Carmen Sanchez Cumming, “Improving U.S. Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies” 4, Washington Center for Equitable Growth (December 2020), <https://equitablegrowth.org/wp-content/uploads/2020/12/122120-turnover-costs-ib.pdf>; Hilary Wething, “Reduced Job Turnover in Small U.S. Firms is an Overlooked Benefit of Paid Sick Leave,” Washington Center for Equitable Growth (July 5, 2022), <https://equitablegrowth.org/reduced-job-turnover-in-small-u-s-firms-is-an-overlooked-benefit-of-paid-sick-leave/>.

⁷ These states are Alaska, Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington state. Nebraska recently passed a statewide paid sick time law that does not include specific safe leave protections. Molly Weston Williamson, “The State of Paid Sick Time in 2025,” Center for American Progress (Jan. 15, 2025), <https://www.americanprogress.org/article/the-state-of-paid-sick-time-in-the-u-s-in-2025/>.

⁸ For more on city and county sick time laws, see A Better Balance, “Interactive Overview of Paid Sick Time Laws in the United States,” <https://www.abetterbalance.org/paid-sick-time-laws/>.

⁹ Molly Weston Williamson, “The State of Paid Sick Time in 2025,” Center for American Progress (Jan. 15, 2025), <https://www.americanprogress.org/article/the-state-of-paid-sick-time-in-the-u-s-in-2025/>.

Under paid sick and safe time laws, employees request their paid time off directly from the employer, typically through a process determined by the employer.¹⁰ Employers can require employees to provide notice of the need for leave, in advance for foreseeable needs and as soon as practical for unforeseeable needs.¹¹ This ensures that employers know when workers are taking leave and can make appropriate arrangements, as well as address administrative needs like tracking leave usage.

When Can Documentation Be Required

The Safe Leave Working Group recommends that workers should be able to take safe leave under these laws *without* providing documentation of the need for leave. As a principle, survivors and their loved ones should be believed. For many survivors, disclosure can both be traumatic and put them at risk for physical harm. Survivors often do not come forward regarding their experiences because of fear they will not be believed or supported—a fear that is, unfortunately, often well founded. Moving toward a world where survivors are safe and thriving begins with taking them at their word, without forcing them to provide external proof of their experiences of violence before accessing the supports they need.

For survivors and their loved ones, having to document their need for safe leave can mean having to disclose—or fearing they will have to disclose—sensitive information about their circumstances in ways that may not feel or be safe for them, another significant obstacle to using needed leave. In addition, providing documentation regarding a need for safe leave creates the risks of disclosure of that information, putting survivors at risk. While robust confidentiality provisions are essential, the greatest safeguard against employer disclosure is ensuring employers do not have information or documents in the first place when not absolutely necessary.

The time and cost associated with needing to acquire documentation can be barriers to access, especially for low-income workers. Across the board, victimization places substantial administrative burdens on survivors. Seeking documentation, such as through a health care provider or law enforcement, can itself be risky to survivors, unnecessarily placing their health and their safety at risk at the hands of their harm-doer. Under those circumstances, survivors should not be required to jump through an additional hoop of acquiring and providing formal documentation to access the leave they need to pursue safety.

¹⁰ See, e.g., Ariz. Rev. Stat. § 23-373(B), available at <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/23/00373.htm>; Mo. Stat. § 290.606(2), available at <https://revisor.mo.gov/main/OneSection.aspx?section=290.606&bid=54970&hl=>.

¹¹ See, e.g., Minn. Stat. § 181.9447.2, available at <https://www.revisor.mn.gov/statutes/cite/181.9447>; Or. Rev. Stat. § 653.621(2), available at https://www.oregonlegislature.gov/bills_laws/ors/ors653.html.

Two states, California and Connecticut, generally do not allow employers to require documentation to use safe time under their state paid sick and safe time laws, regardless of the duration of the leave.¹² The Safe Leave Working Group strongly supports this approach, because it offers the greatest protection of sensitive information while removing the greatest number of barriers to accessing safe leave.

Where blanket prohibitions on requiring documentation are not politically viable, policymakers should set firm limits on the circumstances in which employers can request or require documentation for safe leave. Typically, paid sick and safe time laws prohibit employers from requiring documentation for absences of less than a certain duration, most commonly around three days.¹³ This ensures that workers do not have to provide documentation for very short absences, particularly those where obtaining supporting documentation could take longer than the needed absence itself.

What Documentation Can Be Required

Where sick and safe time laws permit employers to require documentation, workers should be given flexibility to select the appropriate type of documentation. Ideally, this should include allowing workers to self-certify their need for safe leave, as nine states currently allow.¹⁴ Self-certification should be as easy as possible, with a simple, plain language statement from the workers in the language of their choosing sufficing. Workers should have options to certify verbally by phone or in person in their preferred language, with the employer documenting their statement, as well as having the option to self-certify in writing such as by email.

In addition to self-certifying, workers should be able to use other types of documentation, providing as much flexibility for workers as possible. For example, nearly all states with paid sick and safe time laws allow workers to provide documentation from a service provider or advocate.¹⁵ While workers should be able to use court documents or police records if they

¹² California Department of Industrial Relations, “California Paid Sick Leave: Frequently Asked Questions,” available at https://www.dir.ca.gov/dlse/Paid_Sick_Leave.htm (last accessed November 2024); Conn. Gen. Stat. § 31-57t(b).

¹³ Molly Weston Williamson, “The State of Safe Leave,” Center for American Progress (May 28, 2024), <https://www.americanprogress.org/article/the-state-of-safe-leave/>.

¹⁴ Alaska Stat. § 23.10.067(c)(1); Ariz. Rev. Stat. § 23-373(G)(6); CCR 1103-7.3.5.6(C); Mass. Gen. Laws Chapter 149, § 148C(f); Mass. Gen. Laws Chapter 151A, § 1(g ½); Mo. Stat. § 290.606(1)(7)(B); N.M. Stat. § 50-17-5(B); 12 NYCRR § 196-1.3(d)(2); R.I. Gen. Laws § 28-57-6(f)(3)(i). In Washington, the paid sick leave law states that documentation requirements “may not exceed privacy or verification requirements otherwise established by law,” suggesting that the parameters in Washington’s unpaid leave law (which allows self-certification) cross-apply. Wash. Rev. Code § 49.46.210(1)(g); Wash. Rev. Code § 49.76.040(4)(d).

¹⁵ Exact rules vary by state. Alaska Stat. § 23.10.067(c)(1); Ariz. Rev. Stat. § 23-373(G)(3)-(4); CCR 1103-7.3.5.6(C); D.C. Code § 32-531.04(a)(2)(D); Mass. Gen. Laws Chapter 151A, § 1(g ½)(5); Mich. Comp. Laws § 408.964(4)(b); Mo. Stat. § 290.606(1)(7)(B); N.J. Stat. § 34:11D-3(b); N.M. Stat. § 50-17-5(B); Or. Rev. Stat. §

choose, they should never be required to do so. This reflects standard practice: nearly all state paid and safe time laws allow court or police records as an *option* for documentation while also providing other methods for workers to choose from.¹⁶ Under no circumstances should employers require workers to contact law enforcement or report violence as a condition for accessing safe leave, as such requirements could place survivors in greater danger.

In providing workers with multiple options to document their need for safe leave where required, policymakers should protect and reinforce existing confidentiality obligations and rules regarding potential providers of documentation. This includes ensuring that safe leave documentation needs do not inadvertently undermine critical confidentiality obligations owed to survivors by victim service providers, counselors, health care providers, and others from whom survivors may seek assistance.

Protecting Confidentiality

State paid sick and safe time laws should require employers to rigorously protect the confidentiality of any and all information connected with a worker's use of safe leave. This should include but not be limited to any documentation of a need for safe leave, as well as information regarding safe leave the worker shares with their employer verbally or in writing, whether formally or informally. That confidentiality should also extend to the fact that the employee took leave for safety purposes, specific dates and times of safe leave usage, as well as the identity of any loved one whom a worker took safe leave to support.

Employers should not disclose any information in connection with a worker's use of safe leave with anyone other than the worker unless compelled to by valid subpoena. This includes prohibiting disclosure to any other person within the employer who does not directly need the information. Employers must create appropriate physical and electronic security protocols to keep information regarding safe leave usage separate from other employee records and limit access to those records to the narrowest possible category of necessary employees. In addition, confidentiality provisions should prevent employers from seeking additional information regarding an employee's need for or use of safe leave that is not strictly necessary for the employer to provide the leave. Information about safe leave usage should not be shared with immigration authorities.

653.626(1)(a) (by cross-cite to Or. Rev. Stat. § 659A.280(4)(c)); R.I. Gen. Laws § 28-57-6(f)(3)(iii); Wash. Rev. Code 49.46.210(1)(g) (by connection to Wash. Rev. Code § 49.76.040(4)(c)). New York does not explicitly allow documentation from a service provider or advocate but allows broad self-certification. 12 NYCRR § 196-1.3(d).

¹⁶ Alaska Stat. § 23.10.067(c)(1); Ariz. Rev. Stat. § 23-373(G); CCR 1103-7.3.5.6(C); D.C. Code § § 32-531.04(a)(2); Mass. Gen. Laws Chapter 151A, § 1(g ½); Mich. Comp. Laws § 408.964(4); Minn. Stat. § 181.9447.3(c); Mo. Stat. § 290.606(1)(7)(B); N.J. Stat. § 34:11D-3(b); N.M. Stat. § 50-17-5(B); Or. Rev. Stat. § 653.626(1)(a) (by cross-reference to Or. Rev. Stat. § 659A.280(4)); R.I. Gen. Laws § 28-57-6(f)(3); Wash. Rev. Code § 49.46.210(1)(g) (by implied reference to Wash. Rev. Code § 49.76.040(4)).

To ensure that these confidentiality standards are upheld, enforcing agencies should offer rigorous training to employers regarding their confidentiality obligations, along with resources on how to comply with these requirements. At the same time, statutes should impose meaningful penalties on employers who violate their confidentiality obligations, paired with robust and adequately funded enforcement. These penalties should include both fines payable to the state and penalties payable to workers whose rights were violated, at levels sufficient to incentivize employer compliance.

Paid Family & Medical Leave

Six states have passed paid family and medical leave laws including specific safe leave provisions: Colorado,¹⁷ Connecticut,¹⁸ New Jersey,¹⁹ Oregon,²⁰ Maine,²¹ and Minnesota.²² Paid family and medical leave laws provide cash benefits to replace lost wages for extended absences for serious health and family needs, which can include needs in relation to violence.²³ These laws are structured as insurance systems, where workers, employers, or both contribute to a fund that pays workers benefits when they need them, rather than requiring employers to cover the costs out of pocket.²⁴ When workers need benefits, they apply to the insurance system, typically meaning applying to a state agency. Many state paid family and medical leave laws also protect workers' jobs while they are taking leave, ensuring their ability to take the time they need and then return to work.

Under these laws, workers must provide notice to their employers of the need for leave, generally in advance for foreseeable leaves and as soon as possible for unforeseeable leaves.²⁵ This notice must be sufficient to alert the employer to an upcoming leave that is for a purpose covered by a state paid family and medical leave law, but generally does not need to provide details. To access benefits, workers submit an application to their insurance system,

¹⁷ Colo. Rev. Stat. § 8-13.3-504(2)(e).

¹⁸ Conn. Gen. Stat. § 31-49g(c)(1) (via cross-cite to Conn. Gen. Stat. § 31-51ss).

¹⁹ N.J. Stat. § 43:21-27(o)(3).

²⁰ Or. Rev. Stat. § 657B.020(1)(c).

²¹ Me. Rev. Stat. § 850-B(2)(E).

²² Minn. Stat. § 268B.06.1(a)(2).

²³ Molly Weston Williamson, "The State of Paid Family and Medical Leave in 2025," Center for American Progress (Jan. 15, 2025), <https://www.americanprogress.org/article/the-state-of-paid-family-and-medical-leave-in-the-u-s-in-2025/>.

²⁴ *Id.*

²⁵ See, e.g., 26 Me. Rev. Stat. § 850-B(7), available at <https://legislature.maine.gov/statutes/26/title26sec850-B.html>; Col. Rev. Stat. § 8-13.3-505(5), available at <https://casetext.com/statute/colorado-revised-statutes/title-8-labor-and-industry/labor-i-department-of-labor-and-employment/labor-conditions/article-133-family-and-medical-leave/part-5-paid-family-and-medical-leave-insurance/section-8-133-505-duration>.

which includes a variety of information including things like dates and times of leave.²⁶ Generally, the insurance system also provides notification to employers regarding the logistical information employers need regarding a claim.

Documentation

State paid family and medical leave programs typically require workers to submit documentation in support of their need for leave for all claims, including safe leave claims. The Safe Leave Working Group strongly recommends that paid family and medical leave programs should allow workers to self-certify their need for safe leave. This model is already used in half of states that have safe leave provisions in their paid family and medical leave laws. Two states, Colorado and Maine, explicitly allow self-certification for safe leave generally.²⁷ In Oregon, workers who can show good cause for their inability to provide other approved documentation can self-certify their need for safe leave.²⁸

Paid leave programs should make self-certification as easy and accessible as possible. This should include creating a simple model self-certification form, where workers can check applicable boxes. This is similar to the model medical certification forms provided by the U.S. Department of Labor for the Family and Medical Leave Act.²⁹ The form should be written in plain language. The form should only require workers to provide the minimum details necessary to process a claim and affirm the presence of a qualifying need, rather than requiring them to disclose details or more specifically categorize the type of safe leave needed. Workers should also have the option, should they wish to, to self-certify in another format. In either approach, the self-certification should not require any unnecessarily formal or burdensome steps; for example, workers should not be required to have the self-certification notarized, for reasons of both cost and confidentiality.

Programs should also provide options for workers to self-certify their need for safe leave in a way that is accessible and meets their needs. Recognizing that different approaches will be accessible and supportive for different workers, paid leave programs should accept certifications both electronically and in hard copy. Workers should also have the option to certify the need for leave verbally to a state program, ideally with both phone and in-person options to do so. This variety of options is important not only for accessibility, but also for safety—it empowers workers experiencing violence to choose the option that is most secure for their particular circumstances.

²⁶ For one example of what this process can look like, see Paid Leave Oregon, “Applying for Safe Leave,” <https://paidleave.oregon.gov/employees/applying-for-safe-leave.html>.

²⁷ 7 Colo. Code Regs. 1107-3.6.6(G); 07-702 C.M.R., ch. 1, § VI(C), available at <https://www.maine.gov/paidleave/docs/2024/12702Chapter1%20PFML%20FinalRule2024.docx> (last accessed December 2024).

²⁸ OAR 471-070-1130(5).

²⁹ See U.S. Department of Labor, “FMLA: Forms,” <https://www.dol.gov/agencies/whd/fmla/forms>.

This process must include language access. Workers should be able to self-certify in the language of their choice and be provided tools, such as a translated self-certification form, to do so. All safe leave communications, forms, and notices should be provided in any language spoken by 5% or more of the employer's workforce or the jurisdiction's population, whichever threshold is lower. Timely interpretation and translation services should be provided at no cost to the worker. Since Native communities face such high rates of domestic and sexual violence, we encourage proactively identifying interpreters and translators fluent in indigenous languages within the state so as to be able to provide timely services.

As an alternative to self-certification, workers should have the option to provide other documentation to meet the documentation requirement. This should include, at a minimum, the option to provide documentation from a service provider or advocate. Among state paid leave programs with safe leave provisions, all six allow for self-certification, documentation from an advocate or service provider, or both.³⁰ The list of providers or other figures providing support who can certify claims should be expansive to cover all those a survivor may seek support from, including all forms of service providers, clergy, confidential advocates, physical and mental health providers and counselors, and community-based providers. As noted for paid sick and safe time, policymakers should ensure that providing documentation for paid safe leave claims does not compromise existing essential confidentiality protections for providers.

Confidentiality

Because the insurance system is responsible for processing and paying claims, this documentation is generally provided to the relevant government agency, rather than the employer. Agencies must hold any and all information provided in relation to a safe leave claim in strict confidence, to be revealed only to the claimant themselves except in the presence of a valid subpoena. To reinforce this confidentiality, statutes should make explicitly clear that claimant information is exempt from state freedom of information or open records laws.

Agencies must also protect the confidentiality of safe leave claimants within the agency, ensuring that only those individuals in the agency who need access to safe leave claimant information have access. As a best practice, safe leave claims should be handled by a separate team, trained in trauma-informed care, where only members of that team can access safe leave claims. At a minimum, agencies must rigorously secure all physical and electronic records to the greatest extent possible to ensure that only those who have a specific, claim-

³⁰ As noted above, Colorado, Maine, and Oregon allow self-certification. Connecticut, Minnesota, Oregon, and New Jersey allow documentation from an advocate or service provider. CTPL-005-CLSB(n)(2)(B); Minn. Stat. § 268B.06.3(g); OAR 471-070-1130(1)(c); New Jersey Department of Labor and Workforce Development, "Claims Related to Domestic or Sexual Violence," <https://www.nj.gov/labor/myleavebenefits/worker/resources/keepingnjSAFE.shtml>.

related need to access individual safe leave claims can do so. This should include creating systems to track any unauthorized attempts to access claims information, even where those attempts are unsuccessful.

Most state paid family and medical leave insurance programs allow employers to satisfy their legal obligations by providing paid leave through an approved private plan instead of participating in the state fund.³¹ These private plans may take the form of commercial insurance policies or, subject to certain requirements, employer self-insurance. Where private plans are allowed, these plans must follow all the same rules and requirements for confidentiality as state agencies. As part of the process of private plan review and approval, states should rigorously evaluate confidentiality practices, including but not limited to in relation to safe leave, and should make adherence to the highest confidentiality standards a necessary precondition of private plan approval.

³¹ Molly Weston Williamson, “The State of Paid Family and Medical Leave in 2025,” Center for American Progress (Jan. 15, 2025), <https://www.americanprogress.org/article/the-state-of-paid-family-and-medical-leave-in-the-u-s-in-2025/>.

Safe Leave Working Group Members

A Better Balance
Alliance for Safety and Justice
Alliance of Tribal Coalitions to End Violence
Asian Pacific Institute on Gender Based Violence
California Work & Family Coalition
Center for American Progress (Co-Chair)
Center for Law and Social Policy
Center for Reproductive Rights
Clayton Early Learning
Crime Survivors for Safety and Justice
Esperanza United
Family Values @ Work
Free From
Futures Without Violence (Co-Chair)
Jewish Women International
Just Solutions
Legal Aid at Work
Legal Momentum, The Women's Legal Defense and Education Fund
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National Alliance to End Sexual Violence
National Council of Jewish Women
National Domestic Violence Hotline
National Indigenous Women's Resource Center
National Partnership for Women & Families
National Resource Center on Domestic Violence
National Women's Law Center
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