

HOUSE BILL REPORT

HB 1968

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to workplace bullying.

Brief Description: Regarding workplace bullying.

Sponsors: Representatives Linville, Wood, Conway, Hankins, Kenney, McIntire, Pettigrew, McCoy, Sells, Flannigan, Lovick, Morrell, Chase and Moeller.

Brief History:

Committee Activity:

Commerce & Labor: 2/21/05, 3/2/05 [DPS].

Brief Summary of Substitute Bill

- Defines workplace bullying.
- Encourages employers to develop and implement educational programs and codes of conduct to address workplace bullying.
- Appropriates money to study workplace bullying.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins and McCoy.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; and Crouse.

Staff: Erik Van Hagen (786-5793).

Background:

Workers are protected from certain types of harassment and abusive conduct in the workplace by statute and common law. Workers are protected from status-based discrimination by federal and state law. These statutory protections prohibit discrimination in employment on the basis of age, sex, marital status, race, creed, color, national origin, or mental or physical disability.

Workers may also be protected from harmful conduct in the workplace under the common law tort of intentional infliction of emotional distress (IIED). To show IIED, the injured party must demonstrate emotional distress was inflicted negligently or recklessly, there was actual distress, and the conduct was outrageous and extreme. Liability exists only where the conduct has been so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency.

Legislation related to workplace bullying has been introduced in four other states (California, Oregon, Hawaii, Oklahoma), but not enacted. A few countries and a few provincial governments in other countries have laws regarding workplace bullying.

Summary of Substitute Bill:

Workplace bullying is defined as conduct a reasonable person would find hostile or offensive that causes physical or psychological harm to the employee and is unrelated to an employer's legitimate business interests. The bill states that a legal right or cause of action is not created by this legislation. Employers are encouraged to develop educational programs as well as codes of conduct and internal enforcement processes that specifically address workplace bullying. Forty thousand dollars is appropriated to the Employment Security Department to conduct a study of workplace bullying.

Substitute Bill Compared to Original Bill:

Substitute specifies the amount of money and the agency responsible for conducting a study of workplace bullying.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: A definition of workplace bullying is needed, as well as information from Washington about the incidence of bullying in order to better address and understand workplace bullying. This is a small step when compared to bills introduced in other legislatures. This bill will encourage voluntary activity to reduce workplace bullying and is a first step in addressing the issue of hurtful behavior in the workplace. Demonstrable harm is necessary to ensure this covers the most serious cases of bullying. We are the last industrialized county to even have a dialogue on this. Some employers are instituting policies, but more employer education is needed. Victims of workplace bullying are an unprotected class and often suffer from serious medical and psychological problems. Bullying can be used to intimidate people to not report malfeasance, fraud, or other criminal activity in

the workplace. Bullying is rife in state government and higher education and interferes with workers ability to do their job.

Testimony Against: Legislative and regulatory solutions regarding this issue are not the right approach. The best approach is through voluntary solutions to advance education in the workplace and implement policies. Given budget constraints, this may not be the best way to use money. This is a new area of law that is immature and we should first look at what employers already do. There are several technical and policy concerns in the bill, including several vague and ambiguous terms that are problematic. Employers have no reason to support behavior that is counterproductive.

Persons Testifying: (In support) Melissa Sitzenstock and Luis Moscoso, Washington Public Employees Association; Gary Namie, Workplace Bullying and Trauma Institute; Nancy McCoy, Bonnie McAllister, Janet Parker, and Jim Sizemore, private citizens.

(Opposed) Amber Carter, Association Washington Business; and Larry Stevens, Electrical and Mechanical Contractors.

Persons Signed In To Testify But Not Testifying: None.