

SENATE BILL REPORT

SB 5423

As of June 27, 2017

Title: An act relating to addressing workplace bullying by making it an unfair practice to subject an employee to an abusive work environment.

Brief Description: Addressing workplace bullying by making it an unfair practice to subject an employee to an abusive work environment.

Sponsors: Senators Chase, Hasegawa, Hunt, Kuderer and Saldaña.

Brief History:

Committee Activity: Commerce, Labor & Sports: 6/28/17.

Brief Summary of Bill

- Creates an unfair practice under the Washington State Law Against Discrimination to subject an employee to an abusive work environment.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Jarrett Sacks (786-7448)

Background: Under the Washington State Law Against Discrimination (WLAD), a person has the right to be free from discrimination related to a protected status, such as race, national origin, sex, veteran or military status, sexual orientation, and disability. The WLAD applies to employers that employ eight or more employees, but does not apply to any religious or sectarian organization not organized for private profit. The Human Rights Commission (HRC) enforces the WLAD.

Taking certain actions because of a protected status are considered unfair practices. The HRC investigates complaints alleging unfair practices. If there is reasonable cause to believe an unfair practice is, or has been, occurring, the HRC must act to eliminate the unfair practice through conference, conciliation, and persuasion. If no agreement is reached, HRC requests the appointment of an administrative law judge (ALJ). An ALJ is empowered to award damages, require the wrongful act cease and desist, and to order any other affirmative action to effectuate the purposes of the law.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: It is an unfair practice under the WLAD to subject an employee to an abusive work environment, where the employee is subject to abusive conduct that is so severe that it causes physical or psychological harm to the employee. "Abusive conduct" is conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. "Malice" is the desire to see another person suffer psychological, physical, or economic harm, without legitimate cause or justification.

It is an affirmative defense to an action for an abusive work environment if:

- the employer exercised reasonable care to prevent and promptly correct the abusive conduct and the employee unreasonably failed to take advantage of the appropriate preventive or corrective opportunities. This is not an affirmative defense if the abusive conduct culminated in a negative employment decision; or
- the complaint is grounded primarily upon a negative employment decision made consistent with the employer's legitimate business interests.

Appropriation: None.

Fiscal Note: Requested on June 27, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.