

Submitter: Falzoi Debra

On Behalf Of:

Committee: Senate Committee On Labor and Business

Measure: SB851

I am a founder of End Workplace Abuse and I'm testifying in support of SB851 with amendments.

For a decade, I've researched abuse at work and connected with hundreds of targets. We need stronger employee protections to close loopholes and truly prevent abuse at work. I hear a major concern from targets: employers robbed us of all we've worked for with no consequences. But discrimination law is NOT enough to help us, even though there's a discriminatory impact with this epidemic.

"A disengaged style of leadership creates an environment where underrepresented people do not have the social handshakes that their mostly male, mostly white counterparts have," said a former female Pinterest higher-up. More than 50 years after Title VII of the Civil Rights Act of 1964, white men still occupy the VAST majority of power positions in the US workforce because the courts moved from requiring proof of impact to intent, a near impossible threshold, in the 1980s. This move renders discrimination law ineffective at dismantling the social hierarchies it was aimed to dismantle.

It's a huge gap in the law that enables employers to do as they please. When we report abuse, most employers either retaliate to avoid liability or do nothing because they don't have to regardless of having policies or running trainings. They're committed to the status quo that favors them. Knowing there's a huge asymmetry of power, only 3% of workers sue with ILLEGAL discrimination according to Rights on Trial, landmark research on how employment discrimination law perpetuates inequality.

Clearly we need stronger protections so we can change the system that's keeping the glass ceiling sturdily in place. We deserve adequate protections from stereotypes that manifest in abuse of power.

Without accountability, our employers continue to abuse to keep the status quo. Our courts do the same. That leaves only the legislature with the power to make change to prevent damage to our health, careers, and bank accounts. Please move this bill forward with the following amendments:

Section 1(4 and 5). Targets should not have to wait for severe — or any — psychological or physical harm to have a legal claim. As the EEOC reiterated, we want to stop harassing behaviors as soon as possible. We need a law that says the

toxic environment itself is damage, just as the EEOC has already recognized a hostile environment caused by harassment based on protected status is harmful. As written, this bill is regressive. The issue of employee harm opens up employees for scrutiny and re-trauma; employers often use their own physicians to attribute the harm's origin to a different cause other than their mistreatment. In addition, the Supreme Court has already decided that a hostile work environment is actionable and that psychological injury need not be proven in the 1986 Meritor Savings Bank v. Vinson and 1993: Harris v. Forklift Systems cases.

Section 1(6). The law should outline a comprehensive list of the specific behaviors deemed unlawful.

Section 2(1). To prevent and eliminate damaging behavior, we can not require targeted employees to prove the abuse is intentional, deliberate, extreme, or outrageous. As written, this bill will create a legal loophole protecting the bully rather than the victim of abuse because the threshold for proof is too high/nearly impossible to reach, a point is backed by extensive research.

Section 5(2a). Reasonable care is not defined.

Section 5(2b). Employees should not be limited to an employer's ineffective protocol.

Section 5(3a and 3b). Bullies and employers often create and maintain false narratives through performance evaluations.

Low-wage workers who can't afford the pay-to-play legal system need an option for addressing their cases.

This issue is only an individual one. It is also a systemic one and should be treated as one with employers reporting data on markers of worker well-being.

Workers shouldn't have to choose between their health and a paycheck.