

Submitter: Seth Window

On Behalf Of:

Committee: Senate Committee On Labor and Business

Measure: SB851

I am writing in support of SB 851 with amendments to protect workers from psychological abuse.

Workplace abuse affects turnover, absenteeism, presenteeism, opportunity lost, and legal defense. The American Psychological Association estimates that workplace stress costs the U.S. economy \$500 billion a year. Some 550 billion workdays are lost each year due to stress on the job, 60 to 80 percent of workplace accidents occur because of stress, and more than 80 percent of doctor visits are stress-related.

In toxic work environments, employers are ill-advised legally and fail to take into account these other factors. One study shows that “companies who focus on effective internal functioning and communication enjoy a 57 percent higher total return, are more than 4.5 times more likely to have highly engaged employees, and are 20 percent more likely to report reduced turnover when compared to competitors who demonstrate ineffective communication practices” (Civility Partners LLC, 2009).

Committing to a tunnel vision to avoid liability at all costs has a hefty price tag. It’s not easy to put a price tag on the following, though researchers calculate estimations can be three times as much as the employee’s original salary or more:

Work team morale and productivity

Commitment to the organization

Retention of skilled employees

Employer reputation

Absenteeism

Workplace violence

Performance decline

Researcher Christine Porath said that “time wasted at work or spent searching for another job could cost companies up to \$300 billion a year (more than the total net profit of the Fortune 500 companies).” In a poll of 800 managers, Porath and

Researcher Christine Pearson found that among targets of abuse at work:

48 percent intentionally decreased their work effort

47 percent intentionally decreased time spent at work. (The American Institute of Stress estimates that one million workers are absent each workday due to stress.)

38 percent intentionally decreased the quality of their work

80 percent lost work time worrying about the incident

63 percent lost work time avoiding the offender

66 percent said their performance declined

78 percent said that commitment to the organization declined
12 percent said they left their job because of the mistreatment
25 percent admitted to taking their frustrations out on customers

Left unchecked, workplace psychological abuse becomes the workplace cultural norm.

I request the following crucial changes to the amendment language:

Health harm in Section 1(4 and 5). The focus on health harm requires a high threshold from workers that sexual harassment law doesn't even require. If workers will be required to prove health harm, they will 1) need to wait until their health is harmed for a legal claim and 2) be subjected to employer-controlled examinations that for decades employers have used to discredit employees and attribute harm to another aspect of the employees' lives.

Intent by use of the word "deliberately" in Section 2(1). Research shows anti-discrimination law doesn't adequately protect employees nor has it proved to disrupt social hierarchies at work — all because discriminatory intent is too high of a threshold to prove even when it's there. The courts moved from a focus on impact in the early years of Title VII of the Civil Rights Act of 1964 to a focus on intent during the 1980s. This pushback from the courts has left those suffering from harmful behavior with a discriminatory impact — and their colleagues suffering from similar behaviors without obvious discriminatory impact — without legal recourse.

To fix this loophole, we need to focus on behavior. We already legislate discriminatory forms of workplace bullying, but members of protected classes still suffer due to lack of adequate protections. General abuse at work has a disproportionate impact on members of protected classes, especially women and non-white workers, and anti-discrimination law is insufficient to protect employees.