

# HEALTHY WORKPLACE BILL: Myths vs. Realities

Senate Docket Number 1355

## **MYTH: EXISTING LAWS ARE SUFFICIENT TO PROTECT BULLYING TARGETS.**

Reality: Harassment law protects only those individuals who can prove that the mistreatment is due to their protected class membership, such as sex, race, or age. Existing tort (personal injury) law is also insufficient to protect bullying targets. Research shows that most targets of severe workplace bullying are unable to recover (or even to get to trial). The Healthy Workplace Bill protects all employees from abusive mistreatment on an equal opportunity basis, filling a huge gap in the law.

## **MYTH: THE HEALTHY WORKPLACE BILL WILL OPEN FLOODGATES OF LITIGATION.**

Reality: After an initial surge of litigation, the number of claims will moderate considerably once lawyers, their clients, and the courts recognize the high threshold for recovery (including intent to cause distress and resulting physical and/or psychological harm). The bill has three primary goals: (1) preventing bullying; (2) encouraging prompt and fair employer responses to reports of bullying; and (3) providing compensation to targets of severe, health-harming bullying. Good employers can minimize their liability and, as a result, have a healthier, more loyal, more productive workforce.

## **MYTH: THE HEALTHY WORKPLACE BILL WILL HURT SMALL BUSINESSES.**

Reality: Small businesses suffer devastating productivity and morale losses when bullying occurs. In fact, with fewer people on the payroll, small businesses experiencing workplace bullying have less flexibility than larger ones to move around employees and make personnel changes. The bill will incentivize preventive efforts for small businesses.

## **MYTH: WE SHOULD GIVE EMPLOYERS A CHANCE TO ADDRESS BULLYING VOLUNTARILY FIRST.**

Reality: Workplace bullying is not new to the American workplace, even if the label is relatively recent. Employers have had decades to address the psychological abuse of employees, and all too often they ignore the complaints or side with the aggressors. It is clear that the law should enter the picture to encourage them to stop this form of abuse.

## **MYTH: THE LANGUAGE OF THE HEALTHY WORKPLACE BILL IS TOO VAGUE.**

Reality: Not if you consider the bill in its entirety. The bill draws its definition of an abusive work environment from the U.S. Supreme Court's definition of a hostile work environment for sexual harassment. It also requires the plaintiff to show (1) that behavior was intended to cause distress or harm and (2) that the behavior did cause physical and/or psychological harm.

## **MYTH: THE BILL TAKES AWAY THE ABILITY OF EMPLOYERS TO MANAGE THEIR WORKFORCE.**

Reality: The bill enters the picture only when the bullying behaviors have become severe and harmful. It provides legal incentives for employers to sharply minimize their liability exposure by acting preventively and responsively toward bullying, and it reserves the right of employers to conduct evaluations and provide feedback and direction to their employees.

## **SUPPORT THE BILL AND PROTECT WORKERS FROM UNNECESSARY ABUSE.**

Help pass the bill into law — it's the right thing to do.  
To find out how to support  
the Healthy Workplace Bill,  
visit [www.MAHealthyWorkplace.com](http://www.MAHealthyWorkplace.com).

**END**  
**WORKPLACE**  
**BULLYING**  
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