

I'm writing to ask you to move the Workplace Psychological Safety Act (WPSA, <http://www.WPSAct.org>), H8044, forward to give employees the right to a psychologically safe work environment.

H8044 has been introduced in Rhode Island. Every employee deserves a psychologically safe work environment. This right is recognized in many other countries around the world. Why not in the United States? Why not in Rhode Island?

What makes WPSA a groundbreaking piece of legislation is that it is based on four decades of scientific research that exposes the institutional complicity at the heart of the phenomenon. Employers control the work environment. Laws control the employer. Read the revised Workplace Psychological Safety Act.

The WPSA is consistent with sexual harassment law:

The WPSA sets the baseline for a legal claim as a toxic work environment, consistent with the U.S. Supreme Court decision *Meritor Savings Bank v. Vinson* that deemed a hostile work environment was the baseline for a legal claim of sexual harassment law, not proof of intent. The WPSA places responsibility on the employer to provide a safe working environment, not the targeted or victimized employee having to prove the intent of their perpetrator.

The WPSA seeks to get in front of the health harm before injury can occur, consistent with the Supreme Court decision *Harris v. Forklift Systems* that deemed that psychological injury was not required for a legal claim of sexual harassment.

The WPSA seeks to require outside accountability with human rights commissions. Low-wage workers, most likely to be abused at work, need options in our pay-to-play legal system.

Employers are not liable for psychological safety – nor do they want to be. They turn a willful blind eye and deaf ear to reports of psychologically abusive behavior to avoid threats of liability. They turn the tables on the reporting employee, now considered a threat of liability — workplace practices that researchers refer to as processes of dehumanization.

Workplace bullying and mobbing are forms of psychological abuse perpetrated through interpersonal abuse that violate an employee's inherent basic human right to dignity. Behaviors are directed in a targeted and/or systematic manner enough to create a toxic work environment that a reasonable person would find unsuitable to perform regular duties and tasks. A single severe incident of this behavior may also constitute psychological abuse.

The abuser playbook

Workplace bullying typically begins when one employee, who is generally insecure and/or jealous, is threatened by the competence or demeanor of another employee. The bully targets an unsuspecting employee to minimize and/or eliminate the perceived threat the employee poses to them. Bullies use persistent psychological abuse to control the narrative. They try to convince the employee they are incompetent. They try to convince others the employee is incompetent.

In toxic work environments, when employees report psychologically abusive behavior to the proper workplace authorities, those authorities willfully ignore the complaints. Employers are not liable for psychologically abusive behavior, nor do they want to be. The employer misleads the unsuspecting employee to believe they have a legitimate complaint process to remedy the problem.

The employer fails to alter the employee's work environment. The employer doesn't remove the stressor. The emboldened bully continues to harass and abuse the target without consequence or deterrent. The complaint process is unnecessarily prolonged.

The unsuspecting employee voluntarily leaves, dies, or is fired, succumbing to the silent killer stress of the work environment. There is significant physical, mental, and emotional injury as well as severe economic harm. Game over. The bully wins. Their perceived competition is gone. The employer wins. Their perceived threat of liability is gone. The unsuspecting employee had done nothing to provoke either.

Trauma upon trauma. When the employee realizes the institutional tampering with their health and livelihood, forcing them off the payroll to avoid liability, trauma upon trauma occurs.

Upon trauma. The employee further realizes there is no legal recourse for any of it.

There is no current law that protects workers from workplace psychological abuse. Unless you're a member of a protected class (sex, race, age, etc.) under Title VII of the Civil Rights Act — and can prove the abuse is from your protected class membership — you don't have rights to psychological safety at work under law. Intentional Infliction of Emotional Distress (IIED) law requires victims to not only prove the abuser's intent but also to show severe emotional distress.

There are three outcomes highly affiliated with these workplace practices:

The employee voluntarily leaves.

The employee is fired.

The employee dies.

What is the price tag on a human life? Who's picking up the tab for the long-term health care of thousands of unemployed citizens and basic needs costs? The MA taxpayer. And we have been for decades. The cost to fix the problem is far less. When employers ignore employee well-being

internally to avoid liability, the unemployment and uninsured health care costs are externalized on to the taxpayer. Prevention is both less expensive and more effective than remediation.

It will not put a financial burden on employers. Workplace psychological abuse is employee exploitation. At its root cause is avoidance of employer liability. The status quo, employers are negatively incentivized to address the issue. Employers choose to avoid a perceived threat of liability over human well-being. There are six figure representative employees who are not doing what's right. Certainly, that money can be put to better use.

It will not open the floodgate to litigation. WPSA provides a cause of action for employees who suffer from workplace psychological abuse. When OSHA was enacted, it did not open the floodgates of litigation (as was feared at the time). Instead, employer's complied — to avoid the threat of liability. Employers were incentivized to do what's right. WPSA incentives employers to do what's right. Employers need accountability. They always have and always will.

What the Workplace Psychological Safety Act will do

It requires employers to acknowledge, monitor, detect, prevent, discourage, and adequately address incidences of psychological abuse: adopt and implement policies and training and conduct an annual anonymous workplace climate survey to monitor the prevalence of abuse in their workplaces.

It gives targeted employees legal recourse for employers creating a toxic work environment with a focus on specific, common behaviors that a reasonable person would deem toxic. Targeted employees will be able to:

File a restraining order against the employee who violates the Act.

Use an outside human rights agency.

Sue the employer and/or individual(s) in violation of the Act directly for economic, compensatory, and/or punitive damages and attorney's fees. Employees can also sue criminally and choose to anonymously publicly disclose the case outcome, removing employers' ability to silence them with non-disclosure agreements.

Workplace bullying and mobbing cost businesses

It's not easy to put a price tag on the costs of workplace abuse to businesses, though researchers calculate estimates can be three times as much as the employee's original salary or more.

Workplace abuse affects turnover, absenteeism, presenteeism, opportunity lost, work team morale, productivity, commitment to the organization, retention of skilled employees, employer reputation, workplace violence, performance decline, 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, where bullying and mobbing is allowed and utilized to avoid institutional liability, employers are ill-advised legally and consequently fail to take into account these other factors. One study shows “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).

Researcher Christine Porath said “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.

Workplace psychological abuse has become the cultural norm. Workers deserve psychologically safe work environments.

Please move the Workplace Psychological Safety Act forward.

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