



**Rhode Island Society for Human Resource Management State Chapter**

Statement of

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On behalf of the Rhode Island Society for Human Resource Management State Chapter

Submitted to the House Committee on Labor

**S0090 – The Healthy Workplace Act of 2019**

May 22, 2019

To Chairperson Williams and the Honorable Members of the House Committee on Labor:

My name is Gregory Tumolo and I currently serve as the Co-Director of Legislative Affairs for the Rhode Island Society for Human Resource Management State Chapter (“RI SHRM”). RI SHRM is an affiliate of the Society for Human Resource Management (“SHRM”), the world’s largest HR professional society representing more than 300,000 members in more than 165 countries around the world. I am grateful for the opportunity to provide the House Committee on Labor with this written testimony regarding **S0090 – The Healthy Workplace Act of 2019**.

RI SHRM is a volunteer organization representing more than 800 human resource professionals throughout the State of Rhode Island. Our members are a true cross-section of the Rhode Island economy, coming from such diverse sectors as education, government, healthcare, hospitality, manufacturing, non-profit, professional services, small business, and technology.

Many of our members play a central role in creating a culture of civility and mutual respect at their workplaces. As part of their day-to-day job responsibilities, RI SHRM members:

1. Conduct climate surveys to learn about interpersonal problems in their workplace;
2. Implement written anti-bullying policies;
3. Foster an organizational culture that prioritizes inclusion and demonstrates commitment to anti-bullying policies;
4. Conduct bystander intervention training to empower employees to intervene when they witness bullying;

5. Conduct workplace civility training to reduce the likelihood that bullying will occur;
6. Conduct investigations of workplace bullying incidents; and
7. Impose discipline for acts of workplace bullying, up to and including termination of employment.

Based on their involvement with all aspects of workplace bullying prevention, HR professionals know what it takes to address this serious problem. They know what works to create a positive environment in which all employees thrive. It is this deep understanding of best practices for dealing with workplace bullies that leads RI SHRM to oppose S0090.

### **I. S0090 Will Encourage Frivolous Litigation**

Without a doubt, S0090 will encourage frivolous lawsuits by transforming every disgruntled employee into a potential plaintiff. Even with affirmative defenses made available under certain circumstances, S0090 will still force Rhode Island employers and HR professionals to defend scores of meritless claims by employees who subjectively perceive any constructive criticism or discipline by a manager or supervisor as “abusive conduct.”

In an effort to fend off litigation, managers and HR professionals will need to police social interactions in the workplace for the merest hint that an employee feels threatened, intimidated, or humiliated due to “verbal abuse” from a manager or supervisor in the form of a performance management or progressive discipline discussion. This is not the role of HR and is not a productive use of the time of HR professionals.

### **II. S0090 Is Duplicative of Existing Legal Remedies for Workplace Bullying**

S0090 is a solution in search of a problem. In an attempt to impose a civility code on Rhode Island workplaces, S0090 ignores the fact that most employers already have workplace conduct policies that prohibit bullying behavior that does not rise to the level of unlawful harassment.

If employers believe that having a workplace free from bullying is an important and worthwhile objective, they should model appropriate behavior at the highest levels of the organization, implement comprehensive bystander intervention and workplace civility policies (if they have not already done so), and consistently enforce their policies through prompt investigations of alleged violations and regular education and training. Rhode Island employers already have all of the tools that they need to address this serious problem without a new legislative mandate.

In addition, workplace bullying is already actionable under state and federal law when the basis for said bullying is tied to a protected class status. For example, the Rhode Island Fair Employment Practices Act already prohibits abusive behavior on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, and country of national origin. Protected class status is often at the root of bullying behavior.

In addition, workplace bullying may also be actionable under existing civil or criminal law. For example, an act of bullying may be actionable as a tort (e.g. intentional infliction of emotional distress) or as a criminal act (e.g. an assault and battery).

### **III. S0090 Will Make Rhode Island an Outlier**

Since 2003, approximately half of the states have introduced some form of legislation to create a private cause of action for employees to sue employers for workplace bullying. None of this legislation has become law. If S0090 is signed into law, Rhode Island will become an outlier. Instead of joining a growing national trend, Rhode Island will join the ranks of England, Sweden, and Australia—countries with employment laws far more burdensome to navigate. This is not conducive to fostering a business climate favorable to employers and HR professionals.

RI SHRM believes that Tennessee has found a better approach to dealing with the problem of workplace bullying. Tennessee’s Healthy Workplace Act incentivizes employers to adopt anti-bullying and respectful workplace policies by granting immunity from lawsuits alleging intentional or negligent infliction of emotional distress if the employer adopts such policies. In fact, Tennessee even provides employers with a Model Abusive Conduct Prevention Policy.

### **Conclusion**

For all of the foregoing reasons, RI SHRM opposes S0090 as a misguided attempt to legislate civility in the workplace.

Respectfully submitted by:

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