There is a current gap in Massachusetts Legislation that leaves employees without recourse when faced with abusive workplace environments and disincentives proactive actions that employers can take to prevent these situations. Without being addressed, workplace abuse and bullying can lead to physical, mental and financial harm to employees and can negatively affect productivity and morale in the workplace. The Healthy Workplace Bill will protect the more than 1 million workers in Massachusetts who experience workplace bullying during their working lives and prevent future abusive workplace environments from forming.

- The Bill

S.1072: An Act addressing workplace bullying, mobbing and harassment, without regard to protected class status

- Elevator Speech

Hello, my name is Noaem Shurin, and my name is Madeline Bisgyer, and we are students at Brandeis University who are soon going to be entering the workforce here in Massachusetts. It is important that workplaces here give us and all workers opportunities to succeed and take our careers further.

Currently however, 1 in 4 Massachusetts workers experiences bullying on the job. Bullying and harassment by managers, coworkers, and clients leads to lasting mental and physical harm. It can jeopardize employment and the possibility of promotion and it makes for a workplace lacking in productivity and morale.

The Healthy Workplace Bill (S.1072) would give all workers recourse if bullied on the job, regardless of protected class status, filling a hole in current Massachusetts law. Additionally, it would encourage employers to implement preventative measures and improve workplace environments, ultimately increasing performance and efficiency.

The author of this bill, Dr. Yamada, has dedicated his life to studying workplace bullying and has crafted sound legislation that has already passed through the Labor and Workplace Development Committee in previous sessions. We are asking that you please hold a hearing on the Healthy Workplace Bill immediately and that you vote it out favorably, so that it can continue through the process, be put to a vote, and improve the lives of thousands of Massachusetts residents who are bullied at work.
Thank you for taking the time to speak with us. Do you have any questions?

**Excerpts from Storybook**

“My husband got hired as a contractor specialist. His first week, several new co-workers told him that he had a target on his back from the young woman that was the assistant at the desk. During training, she would give him the wrong information, pull items out of orders, sabotage his paperwork and lie to management. When HR would not help him by investigating, he quit. Many employees either quit or were fired because of that woman, and somehow she was never punished. Even for situations that aren’t as blatant, passive-aggressive treatment and being overlooked for promotions, there are so many ways that people suffer at work, and what choice do we have?” – Marie, advocate and community organizer

“I experienced bullying when I was young, never did I think I could experience it as an adult. I was HR Manager at a small manufacturing company. I came back from lunch one day and was asked to come to a conference room. Two attorneys were at the table and they attacked with questions and accusations. The scheme was to intimidate us into leaving. Access to my work computer was blocked, rumors were started and the atmosphere was heavy and ripe from confrontation. I was right back to that 9th grade girl, panicking and fearful. I went to my doctor and applied for family medical leave. I was out of work, suffering with PTSD and panic. I didn’t leave the house for months. I had no legal recourse. They weren’t attacking me because I was a woman, they did this to me because they could. I still live with PTSD symptoms and panic. I always will. This bill is so important to me because it is me. I want to continue raising my voice so not one more person has to be a target. It’s way passed time.” – Kim, senior sales support

**Op-Ed**

**Madeline**

**Workplace Bullying: Harassment You Didn’t Hear About During #MeToo**

We are fed up with harassment. The women of #MeToo have made that clear. But the story doesn’t end there. The Massachusetts Healthy Workplace Bill is carrying on the momentum of #MeToo to show that harassment, whether sexual or not, is not acceptable within any workplace setting.

Harassment in the workplace goes far beyond sexual harassment, or harassment due to discrimination. Many people expect their jobs to be degrading, authoritative struggles. Yet, in healthy workplaces bosses aren’t the bad guys and coworkers look out for each other. All it takes is a few brave voices speaking out to help people realize they no longer need to put up with bullying and harassment on the job.

Until recently, many women put up with uncomfortable situations, inappropriate relationships, and harassment. They were told by mentors, family, and colleagues that it is “just part of the job”. In order to succeed as a woman in film, politics, the office, you have to shut your mouth and do your best to survive. The same is true of folks in HR, homecare, and food service.

The Healthy Workplace Bill which has been proposed in thirty states including Massachusetts would change what is acceptable in the workplace. It would reach beyond the famous and the rich, giving everyday workers a voice. Workers would have recourse other than seeking intoxicants or mental health services when things got tough.

Workplace bullying, which can include verbal abuse, threats, intimidation, humiliation, or work interference, is experienced by 1 in 4 Massachusetts workers over their lifetime. Bullying is degrading to workers identities and self-confidence, as well as their physical health. Far too often, it leads people to suffer from depression, post-traumatic stress disorder, or suicidal thoughts.

Employers are not doing enough to prevent this type of behavior. The Healthy Workplace bill would give workers recourse if bullied on the job, regardless of protected class status, filling a hole in current Massachusetts law. And ultimately, it would encourage employers to implement preventative measures and improve workplace environments before problems occur.

This would not only benefit workers, but employers too. The bill provides provisions that protect employers from frivolous lawsuits and recognizes the value in a productive, efficient workplace. Work environments with bullying and harassment lead to high absenteeism, turnover, and attrition. All of these things cost businesses. With the passage of this bill, employers would have an opportunity to address these inefficiencies.

An inefficiency can be as simple as decreased productivity due to a disruptive colleague, or in more severe cases illegal actions being kept quiet due to fear and intimidation. Marcy*, a Walmart employee, was asked to falsify temperature logs for department refrigerators. When she declined, her manager went out of his way to make her uncomfortable and humiliate her in front of other employees. She was bullied. Marcy lost 25 pounds in six months and experienced severe mental health problems. [*Name has been changed.]

Under current Massachusetts law there is nothing she can do to address this problem besides quit her job and take the consequences. But if people speak up we can change that. Call your legislators and ask them to support the Healthy
Workplace Bill. This is their chance and our chance to be on the right side of history because #MeToo is nowhere near over.

**Noaem**

“**Healthy Workplace Bill: Taking us Back to the Basics**”

We’ve all heard the phrases, “if you don’t have something nice to say don’t say it at all”, “always say ‘please’ and “thank you”, and “treat others the way you want to be treated”. From kindergarten to grade school we’ve learned that treating each other with respect, assuming each other’s best intentions, and in disagreements, engaging with the best forms of each other’s arguments.

Instances of workplace bullying and harassment are on the rise. You read that correctly. Grown adults are currently bullying other grown adults in their very adult workplaces, so much so, that one in every four workers in Massachusetts will experience some form of workplace bullying. When I first heard that statistic, I was shocked. It is deeply concerning that adults have forgotten the basic principles of interaction any kindergartener could instinctively recite if asked. Then I took a step back, and realized adults haven’t forgotten these norms, they’ve been retaught other more harmful ones.

Recently, there’s been a shift in discourse. Politicians, the people who we trust to shape the laws and norms of our society, have forgotten the crucial knowledge we learned in kindergarten. Specifically, the name calling and slandering we’ve been seeing during the current election cycle. People are becoming more concerned with how politicians are dressed than with what their policies are.

Congress, the Supreme Court, and the Executive office are all workplaces. The way we talk about politicians, the ways they talk about each other and their policies, are the government equivalent of workplace interactions. I would never expect to be shamed for dancing in college or wearing makeup in a workplace setting. My private life is of no concern to my employer because it has no impact on the way I do my job. This happens in Congress all the time. What’s worse is that in a normal workplace I would have an HR department to settle bullying disputes, but when part of the expectations of your job are public harassment and humiliation, there’s no way to challenge things when they go too far. By condoning, and even praising this sort of behavior, we normalize it and can’t be surprised when we see it in our workforce.

This is why bills like the Healthy Workplace Bill, that target the work environment, are so crucial. The Healthy Workplace Bill would expand worker’s rights by providing a clear definition of workplace bullying and expanding legal protections for both employees and employers. Employees would be able to sue for instances of workplace bullying that aren’t on the basis of protected class (ie race, gender, religious creed). This is necessary because there’s a lexical gap in our legal system that allows people to bully others because of their socioeconomic status, their region of origin, their style choices, or any other number of silly reasons to berate another human being. Simultaneously, it assuages fears of wrongful accusations by allowing employers to defend their actions if they provide evidence they were necessary to running the company. So, firing someone because they were negligent would not be considered an instance of workplace bullying.

Most importantly though, it creates “vicarious liability” which means that an employer can be held liable for harm to an employee even if the harm was not directly caused by the employer. For example, if the employer creates a culture where bullying is acceptable, they can be held liable for negligence. This is crucial because the way to reshape the work environment is to reshape employer incentives. If this bill passes, employers would be incentivized to take preventative measures in order to curtail workplace bullying. This could look like making boardroom meetings more inclusive to employees, rebuking bullying immediately when it becomes apparent, and expanding their HR departments by making people do more comprehensive, government regulated, discrimination training.

It is very difficult to change the work environment on the federal level, but putting laws in place that change it on the individual level would discourage people from emulating the behavior they see normalized at the federal level. The Healthy Workplace Bill is a way to directly target the norms seeping into the workplace as a result of these harmful trends. Not addressing these issues now would mean knowingly letting another year of graduating seniors like myself will have to enter the workforce without the legal protections they need. If you want to be a part of changing the work environment for the better call your legislators and tell them to vote S. 1072 out favorably. If we all take the time to support the bill (and maybe email a few of our kindergarten teachers to get a refresher course) future graduating classes could enter the workforce at ease.

**House Ways & Means Script:**

The Ways and Means committee which values fiscal responsibility, understandably, spends taxpayer money if and only if the outcomes benefit those taxpayers or society as a whole. Workplace bullying will affect one in every four workers, and causes absenteeism, stress related health risks, and could increase unemployment. Passing the Healthy Workplace Bill, would not only achieve the ends of reducing overall instances of workplace bullying, but will do so at a relatively low cost to the commonwealth and will reduce instances of financial waste in both the public and private sector.
S.1072 establishes two legal precedents: vicarious liability and affirmative defense. Vicarious liability establishes that an employer can be held liable for harm to an employee even if the harm causing act or acts was not directly perpetuated by the employer. This links the action of the bully to the employer who allowed them to commit those actions in the first place. This creates an incentive for employers to hold people who are committing bullying accountable. At the same time, this empowers employees who face workplace bullying to come forward. Vicarious liability allows employers to target workplace bullying more quickly and efficiently, reducing overall instances in the long term.

Affirmative defense would protect employers by giving them the opportunity to present evidence that the actions they took were necessary to workplace operation or that they were not aware that any bullying occurred. Ending bullying starts with employers. They hold the power to change behavior in ways that employees on equal levels do not. This part of the bill means that employers can target instances of workplace bullying without fear of being accused of unfair treatment themselves. When employers have incentives to end workplace bullying, plus protection through being able to defend themselves, incentives to protect bullies in these instances are eliminated.

The current problem is that there are few incentives to report workplace bullying and the terminology around bullying is vague. It is difficult for employees to sue in the status quo because workplace bullying is difficult to define, so employers can find ways of saying the workplace bullying was just company procedure. S.1072 would give a more concrete definition for what workplace bullying is, making it easier to target because both employees and employers would more easily be able to identify it. Even when instances of workplace bullying can be identified, there are few incentives to pursue legal actions as employers want to maintain the company’s reputation and employees may fear losing their jobs. Legal precedent, such as vicarious liability would mean employers could be held liable for not directly targeting workplace bullying, and would incentivize employers to take actions towards preventing it in the first place.

Reducing instances of workplace bullying reduces financial waste in four ways. First, Bullying is associated with higher healthcare costs. People facing workplace bullying tend to rely more heavily on mental and physical health resources such as therapy or specialized medical visits, which come at a cost to the employer. Secondly, lawsuits based on preventable stress in the workplace put employers who protect bullies in legal jeopardy. Drawn out legal cases present a significant cost to institutions in MA, and if the suits occur within the local government, could present a cost to the taxpayers as well. Thirdly, there’s higher turnover as employers need to replace the workers that either quit because they have no other option, or because they cannot be present at work due to the severity of the bullying. Interviewing, vetting and rehiring people takes time and money unnecessarily from businesses and reduces efficiency. Lastly, and most importantly, workplace bullying stifles work ethic and creativity. Problem solving, product creation and innovation all slow down as a result. Even one of these costs should be significant to the committee because when the MA private sector does poorly, it impacts tax revenue that could be used to fund other government endeavors.

The committee should pursue this bill because the cost is small, compared to the potential benefits. Massachusetts would see some costs associated with the passage of the Healthy Workplace Bill. The state would have to create an office to receive and process reports of workplace bullying. The office would most likely have 1-2 staffers and would use similar structures and procedures as current state offices that process discrimination and sexual harassment cases. Relying on models of similar offices, this new office would be established easily and with relatively little cost. Another cost of this bill is the investment in preemptive and preventive programs to improve work environments for state workers. Private employers are encouraged by the bill to implement policies and programs to create good work environments. The state, as an employer, would have to do the same. There are a number of affordable private companies and consultants that the commonwealth could hire to do this. Lastly, if harassment and bullying cases are filed against the commonwealth, state funds would need to be paid in settlement fees. The minor cost of this preventative measure is far outweighed by the costs associated with not passing this measure, and letting the issue of workplace bullying fester.

Given the cost to businesses and the subsequent cost to the state, we urge the committee to hold a vote a move forward favorably S.1072.

**Letter to the Legislator**

Dear Senator Michael J Barrett,

My name is Madeline Bisgyer. My friend Noaem Shurin and I live in Waltham and we have been very happy to see that you support both Bills S.1042: An Act regulating the use of credit reports by employers, and S.986: An Act protecting the long-term unemployed from discrimination. We value your decision to support legislation that gives workers the opportunities that they need to succeed and find jobs.

However, currently 27% of Massachusetts workers will experience workplace bullying during their working lives. The stress workers experience as a result of this bullying makes deep and lasting impacts. Workplace harassment by managers, coworkers, and clients leads to depression, hypertension, and posttraumatic stress disorder. It can
jeopardize employment and the possibility of promotion and it makes for a workplace lacking in productivity and morale.

The Healthy Workplace Bill (S.1072) would give workers recourse if bullied on the job. Currently workers are protected from bullying based on protected class status (race, gender, age, etc.), but there is a gap in current Massachusetts law for bullying not based on protected class status. S.1072 would close that gap. Additionally, it would encourage employers to implement preventative measures and improve workplace environments, ultimately increasing performance and efficiency.

We are writing to ask you to co-sponsor S.1072: An Act addressing workplace bullying, mobbing and harassment, without regard to protected class status. This bill is the logical next step in supporting workers who benefit from the Equal Credit Opportunity Act and other bills that address employment discrimination. These bills, that you support, are only successful if they help Massachusetts residents enter safe and healthy workplaces.

Noaem and I are young people preparing for our first jobs out of college. We hope to stay in Massachusetts, however, we are concerned about our wellbeing. Many of our friends have already experienced bullying and harassment in introductory and internship positions. Please co-sponsor the Healthy Workplace Bill and demonstrate to us that you value our futures and what we bring to the community here in Waltham and in Massachusetts.

Please reach out with any further questions.

Thank you,

Madeline Bisgyer and Noaem Shurin

■ Excerpts from Campaign Journals

Madeline

Meeting with Rep. Paul Brodeur’s staffer, Patrick

Representative Paul Brodeur is chair of the House Committee on Labor and Workforce Development. ... Noaem and I scheduled a meeting with Patrick one of the Representative’s staffers. This visit stood out to me for a few reasons. Firstly, Patrick was very good at his job. He listened to what we had to say and quickly responded with questions. One of the biggest takeaways for me from this class has been how much legislators rely on everyday people and organizations for information. This staffer told us exactly what information he wanted us to find for him and asked some questions that we had not yet considered. Looking back, I would have challenged his ideas more than I did, however I still learned a lot from the experience.

The second thing that happened was unexpected and really eye opening. Patrick asked Noaem and me if we would like to stay in the room while some of the people lobbying against the Roe Act and the Sex Education Bill came to speak with him. We were able to see how he used the same strategies he used speaking with us, on a group of people who he didn’t agree with. At some points he even had the women reconsidering their stances on the bill. This was a great opportunity to see how lobbying works from both sides.

Noaem

On meeting with Professor Carol Osler

All the way at the beginning of the semester I had a meeting with Professor Carol Osler who works in the economics department at Brandeis. She put out an extensive research paper on workplace bullying and its economic effects. I actually cited her work in the research paper we had to submit earlier in the year. We met in her office after class, it was a one-on-one meeting where the plan was just to discuss her paper. I love Professor Osler, so I welcome any chance to talk to her about anything. We ended up talking for around an hour about her personal thoughts on workplace bullying, the culture... [at] Brandeis ... and her thoughts on the bill itself. What surprised me was that she didn’t want to put her name on the bill because in her opinion it didn’t go far enough. She thought the bill didn’t penalize employers heavily enough and created loopholes that most people would easily be able to get around. Hearing her say this made me feel relieved as I had felt this way about the bill in all of her opinion. We then had a conversation about whether just getting something out would be better than letting the problem sit. She thinks people will become complacent and we’ll be right back where we started if we just agree to pass anything. I disagree, and it was nice to get that perspective, so I would be forced to defend my position. She also shared with me her work on intent, and why including intent to bully as part of anti-bullying legislation is ultimately harmful. Her willingness to share and help me get a more well-rounded understanding of the problem was both helpful and kind.

■ Update

As of 7/12: A Joint Hearing was held on June 25th, there was a lack of reporting by Massachusetts media.

For more information

View the bill (MA legislature website):
S.1072: https://malegislature.gov/Bills/191/S1072

Organization or Coalition support:
http://www.mahealthyworkplace.com/index.html