

AFL-CIO

LEGISLATIVE ALERT

February 26, 2020

Dear Representative:

On behalf of the AFL-CIO, I urge you to co-sponsor the Bringing an End to Harassment by Enhancing Accountability and Rejecting Discrimination (“BE HEARD”) in the Workplace Act, H.R. 2148.

No one should be forced to risk their safety or dignity to put food on the table, but the recent explosion of the #metoo movement underscores how many workers, particularly women workers, are subjected to workplace discrimination and abuse. Becoming a co-sponsor of the BE HEARD Act means standing up for respect and equality on the job. It is a first step towards combating the epidemic of gender-based violence and harassment in the world of work.

Legal protections against harassment and other forms of discrimination have not kept pace with changes in our nation’s workplaces or our cultural norms and expectations about what constitutes a respectful work environment. The BE HEARD Act will update current law to ensure all workers are covered, remove barriers to seeking justice, and increase transparency and accountability.

Currently, many working people have no recourse against workplace discrimination and harassment. The BE HEARD Act extends legal protection to independent contractors and other forms of non-standard employment, including unpaid interns, fellows, volunteers and trainees. These insecure forms of work often feature lower wages and unclear accountability structures, which can put workers at greater risk of experiencing harassment on the job. The bill covers individuals working for employers with fewer than 15 employees, including domestic workers who face particularly high rates of workplace violence and harassment. The bill also clarifies that unlawful sex discrimination at work includes discrimination based on sexual orientation and gender identity.

The BE HEARD Act removes barriers to justice by extending the time limit for pursuing claims, updating legal standards to conform with current understandings of harassment at work, and enabling workers to be made whole for the harm they have suffered. It also increases access to legal representation and advice for low-wage workers who often lack the resources to challenge unacceptable conduct.

Although Congress intended for anti-discrimination laws to reach a broad range of conduct that harms workers’ ability to do their job, a number of court decisions have interpreted the hostile work environment standard extremely narrowly, leaving workers who experience outrageous abuse with no recourse. For example, courts have found the following conduct is not “severe” or “pervasive” harassment: a male co-worker forcing his hand under a female co-worker’s sweater and fondling her breast; a worker repeatedly making sexual comments towards

another worker and suggesting she be spanked; and a supervisor calling a subordinate the N-word on two separate occasions. No worker should be expected to put up with this kind of egregious treatment in the workplace. The BE HEARD Act will restore the original intent of Congress and ensure perpetrators are held to account.

The legislation also contains important provisions to increase transparency and oversight. Too often, employers prevent workers from discussing harassment, and many workers are afraid to report violations because they fear jeopardizing their financial security and career prospects. The bill would end the use of confidentially agreements in employment contracts and settlements and prohibit forced arbitration for discrimination claims. Collectively, these measures will help end the culture of secrecy that protects serial harassers.

Discrimination and harassment are a pernicious barrier to women, people of color and other marginalized groups achieving equality in the workplace, not only in the United States, but also around the world. In June 2019, the International Labor Organization adopted Convention 190 on Ending Violence and Harassment in the World of Work, which calls on countries to adopt “an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work.” As March 8, International Women’s Day, approaches, I urge you to join the global movement for fairness and equality in the workplace by becoming a co-sponsor of the BE HEARD Act.

Sincerely,



William Samuel
Director, Government Affairs

American Federation of Labor and Congress of Industrial Organizations

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