
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Dave Cortese, Chair
2023 - 2024 Regular

Bill No: SB 553 **Hearing Date:** April 12, 2023
Author: Cortese
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Consultant: Alma Perez-Schwab

SUBJECT: Occupational safety: workplace violence: restraining orders and workplace violence prevention plan

KEY ISSUES

Should the Legislature require employers to establish, implement and maintain a workplace violence prevention plan as part of their injury and illness prevention program already required under existing law?

Should this workplace violence prevention plan include record keeping, hazard evaluation and corrections, annual trainings requirements and protections for employees seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs?

Should the Legislature authorize a collective bargaining representative of an employee who has suffered unlawful violence from any individual, to seek a temporary restraining order (TRO) and an order after hearing on behalf of the employee(s) at the workplace?

ANALYSIS

Existing law:

- 1) The California Occupational Safety and Health Act, assures safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)
- 2) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. (Labor Code §6300 et seq.)
- 3) Establishes the Occupational Safety and Health Standards Board, within DIR, to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for workers. (Labor Code §140-147.6)
- 4) Requires employers to establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP) that must include, among other things, a system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices and the employer's methods and procedures for correcting those unsafe or unhealthy conditions and work practices in a

timely manner. The IIPP must also include the employer's system for communicating with employees on occupational health and safety matters. (Labor Code §6401.7):

- 5) Requires every employer to file a complete report with Cal/OSHA of every occupational injury or occupational illness to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid. A report must be filed within five days after the employer obtains knowledge of the injury or illness. In addition to this report, in every case involving a serious injury or illness, or death, the employer is required to make an immediate report to Cal/OSHA by telephone or email. (Labor Code §6409.1)
- 6) Prohibits a person from discharging or in any manner discriminating against any employee because the employee, among other things, reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records, or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.), as specified. (Labor Code §6310)
- 7) Entitles any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by their employer because of their exercise of their rights under (5) above to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. (Labor Code §6310(b))
- 8) Prohibits an employee from being laid off or discharged for refusing to perform work in violation of prescribed safety standards, where the violation would create a real and apparent hazard to the employee or his or her fellow employees. Any employee who is laid off or discharged in violation of this right shall have a right of action for lost wages for the time the employee is without work as a result of the layoff or discharge. (Labor Code §6311)
- 9) Establishes the Workplace Violence Prevention in Health Care standard, as part of its injury and illness prevention plan, requiring specified health care employers to maintain an effective workplace violence prevention plan, maintain a violent incident log, and provide effective training to employees to protect health care workers and other facility personnel from aggressive and violent behavior. (Labor Code §6401.8)
- 10) Defines "workplace violence" to include, but is not limited to, both of the following:
 - a. The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
 - b. An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.(Labor Code §6401.8)
- 11) Authorizes an employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a temporary restraining order and an order after hearing on behalf of the employee and, at the discretion of the court, any

number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer. (Code of Civil Procedure §527.8)

This bill:

Temporary Restraining Orders

- 1) Authorizes a collective bargaining representative (in addition to the employer under existing law) of an employee who has suffered unlawful violence or a credible threat of violence from any individual, to seek a temporary restraining order (TRO) and an order after hearing on behalf of the employee or any number of other employees at the workplace. Specifies that the collective bargaining representative shall also be the collective bargaining representative of those other employees.

Workplace Violence Prevention Plan

- 2) Requires every employer, as part of the IIPP required under existing law, to additionally establish, implement, and maintain, at all times in all of the employer's facilities, a workplace violence prevention plan (plan) for purposes of protecting employees and other personnel from aggressive and violent behavior at the workplace.
- 3) Specifies that the workplace violence prevention plan may be incorporated into the IIPP or maintained as a separate document, and shall include, among other things, the following elements:
 - a. Names or job titles of persons responsible for implementing and maintaining the plan.
 - b. Effective procedures to obtain the active involvement of employees and their collective bargaining representatives, if any, in developing, implementing, and reviewing the plan, including their participation in identifying, evaluating, and correcting workplace violence hazards, designing and implementing training, and reporting and investigating workplace violence incidents.
 - c. Effective procedures for obtaining assistance from appropriate law enforcement agencies during all work shifts, as specified, and including a policy protecting employees who seek assistance and intervention from local emergency services or law enforcement when incidents occur.
 - d. Effective procedures for the employer to accept and respond to reports of workplace violence and to prohibit retaliation against an employee who makes such a report.
 - e. Employee communication procedures regarding violence, including methods of communication between shifts and departments, how to report violent incidents, threats or other violence without reprisal and how they will be investigated.
 - f. Procedures to develop, with input from employees and collective bargaining representatives, and provide specified training.
 - g. Assessment procedures to identify and evaluate environmental risk factors, including community-based risk factors, for each facility, department, or operation, as specified. Environmental risk factors shall include, but are not limited to:
 - i. Employees working in isolated locations, as specified.
 - ii. Poor illumination or blocked visibility of areas.
 - iii. Lack of physical barriers between employees and risks of violence.
 - iv. Lack of effective escape routes.
 - v. Obstacles and impediments to accessing alarm systems.

- vi. Locations within the facility where alarm systems are not operational.
- vii. Entryways where unauthorized entrance may occur, as specified.
- viii. Storage of high-value items or currency.
- h. Procedures to correct workplace violence hazards in a timely manner and for hazards posing a realistic possibility of death or serious physical harm, within seven days of the discovery, as specified. Corrective measures include, among other things, ensuring sufficient staff is trained and available and installing the use of an alarm system by which employees can summon security, as well as establishing an effective response plan. *Employees designated to respond to emergencies must not have other assignments that would prevent them from responding immediately to an alarm.*
- i. Procedures for postincident response and investigation, including, among other things, making trauma counseling available and referring affected employees to worker wellness centers, as specified, and evaluating the effectiveness of the plan.
- j. Provisions prohibiting the employer from maintaining policies that require employees to confront active shooters or suspected shoplifters.

Definitions

- 4) Defines “employer” as either of the following, but exempts existing healthcare employers that are already required to have a workplace violence plan:
 - a. A person who *employs one or more persons* to perform services for a wage or salary.
 - b. The state and any political or civil subdivision of the state, including, but not limited to, cities and counties.
- 5) Defines various other terms, including “engineering controls,” “environmental risk factors,” “threat of violence,” “workplace practice controls,” and “workplace violence.”
- 6) Defines “workplace violence” as any act of violence or threat of violence that occurs at the workplace, excluding acts of self-defense or defense of others, including:
 - a. The threat or use of physical force against an employee that results in, or has potential to, result in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
 - b. Conduct that seriously alarms, annoys, or harasses an employee, that serves no legitimate purpose, and that has a high likelihood of resulting in psychological trauma or stress, regardless of whether the employee sustains an injury, including, but not limited to, verbal harassment, as specified.
 - c. An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

Violent Incident Logs

- 7) Requires the employer to record information, confidentially as specified, in a violent incident log about every incident, postincident response, and workplace violence injury investigation performed in accordance with these provisions. The violent incident log shall be reviewed during the annual review of the workplace violence prevention plan. The information recorded in the violent incident log shall include, but is not limited to:
 - a. A detailed description of the incident, including the type of attack, whether physical or verbal, and weapons used, as specified.
 - b. A classification of who committed the violence, including whether the perpetrator was a client or customer, family or friend of a client or customer, stranger with

- criminal intent, coworker, supervisor or manager, partner or spouse, parent or relative, or other perpetrator.
- c. Consequences of the incident, including, among other things, whether medical treatment was provided, whether law enforcement was contacted and actions taken to protect employees from a continuing threat.

Reviews and Updates to Plan

- 8) Requires the employer to establish and implement a system to annually review, in conjunction with employees and their bargaining representatives, if any, the effectiveness of the workplace violence prevention plan, as specified. Problems found during the review shall be corrected, as specified. The review shall evaluate the following:
 - a. Staffing and patterns that contribute to, or insufficiently address, violence risks.
 - b. Sufficiency of security systems, including alarms, emergency response, and security personnel availability.
 - c. Job design, equipment, and facilities.
 - d. Security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility, such as employee parking areas and other outdoor areas.
- 9) Requires the plan to be updated based on this review and as specified. Updates shall include the following:
 - a. New or modified tasks and procedures which may affect how the plan is implemented, as specified.
 - b. Newly recognized workplace violence hazards.
 - c. A review and evaluation of violence incidents resulting in serious injury or fatality.
 - d. A review and response to information indicating that the plan is deficient in any area.

Training Requirements

- 10) Requires the employer to develop, with input from employees and their bargaining representatives, if any, and provide effective training to employees, as specified, that addresses the workplace violence risks that employees may reasonably anticipate to encounter in their jobs. Training material must be appropriate in content and vocabulary to the educational level, literacy, and language of employees shall be used.
- 11) Specifies that all employees of the employer shall have all trainings required in person, during work time, at the workplace, and in an atmosphere designed to provide an opportunity for interactive questions and answers with a knowledgeable person.
- 12) Requires that all employees working in the facility, unit, service, or operation be provided all of the following trainings:
 - a. Initial training when the plan is first established and when an employee is newly hired or newly assigned to duties for which the training was not previously provided. The training must address workplace violence hazards identified and the corrective measures the employer has implemented, as specified.
 - b. Additional training when new equipment or work practices are introduced or when a new or previously unrecognized workplace violence hazard has been identified.
 - c. Training, per (a) above, at least annually thereafter.

Maintaining Records

- 13) Requires records of workplace violence hazard identification, evaluation, and correction to be created and maintained, as specified, for a minimum of one year and include training dates, contents or summary training sessions, names and qualifications of trainers, and names and job titles of all persons attending the trainings, as specified.
- 14) Records of violent incidents, as specified, shall be maintained for a minimum of five years or pursuant to other law, whichever is greater.
- 15) All records required shall be made available to employees and their collective bargaining representatives, if any, on request, for examination and copying.

Anti-Retaliation

- 16) An employer shall not prohibit an employee from, and shall not take punitive or retaliatory action against for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

COMMENTS**1. Background: Workplace Violence Prevention in Health Care Standard**

As a result of SB 1299 (Padilla) from, the Division of Occupational Safety and Health (Cal/OSHA) proposed and the Standards Board adopted a health care industry specific workplace violence prevention standard. Employers covered by this standard must establish, implement, and maintain an effective workplace violence prevention plan, maintain a violent incident log, and provide effective training to employees. Certain employers must also report violent incidents to Cal/OSHA.

The standard consists of eight subsections:

- Scope and Application
- Definitions
- Workplace Violence Prevention Plan
 - Identifying risk factors for workplace violence
 - Correcting workplace violence hazards
 - Preparing for workplace violence emergencies
 - Responding to workplace violence incidents
 - Workplace violence prevention plans involving multiple employers
- Violent Incident Log Requirements
- Annual Review of the Workplace Violence Prevention Plan
- Training of Employees: Initial training, additional when new equipment or work practices are introduced, and annual refresher training.
- Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals
- Recordkeeping: Employees and their representatives access to complete violent logs.

Implementation of most of these elements were captured as part of the IIPP requirements under existing law, with new incident logs and reporting requirements not previously required.

2. Workplace Violence Data and Workplace Violence Prevention in General Industry:

According to the Department of Industrial Relations, “Workplace violence includes threats or acts of physical violence at work and is a serious concern for employers and workers. The latest data shows in 2021, 57 working people died from acts of workplace violence in California. In the U.S., an average of 1.3 million nonfatal violent crimes in the workplace occurred annually from 2015 to 2019.”¹

Cal/OSHA is currently developing a new regulation on Workplace Violence Prevention that will apply to most workplaces in California. What began as a July 2014 petition to the Occupational Safety and Health Standards Board for amendments to Title 8, with regards to workplace safety standards to reduce injuries in the educational setting by 2018 had turned into a proposal to address workplace violence in all industries. In May 2022, Cal/OSHA was seeking input on a second draft of the general industry workplace violence prevention standard. The regulation is currently being drafted based on input from two public meetings and two rounds of written comments. The newest draft will be discussed at another meeting in 2023 (not yet scheduled as of 4/9/23).

3. Steps to Develop and Adopt an Occupational Safety and Health Standard:

Existing law regulates and prescribes the process for adoption of a standard. Below is a timeline of the rulemaking steps for regular (not emergency) rulemaking for an occupational health standard to be proposed, adopted and approved:

1. Cal/OSHA conducts preliminary work to prepare proposed text for a new or updated standard or, if appropriate, terminates the process without a proposal.
2. Cal/OSHA and Director's Office staff (Department of Industrial Relations, or DIR) prepare and submit a pre-rulemaking package to Standards Board that includes the following: (1) proposed text; (2) initial statement of reasons, or ISOR; (3) economic and fiscal impact statement, or form 399; and (4) notice of proposed rulemaking.
 - If the proposed standard is not a major regulation, Cal/OSHA and Director's Office prepare an economic impact assessment and include the assessment in the ISOR.
 - If the proposed standard is a major regulation, Cal/OSHA and Director's Office prepare a standardized regulatory impact analysis (SRIA) and submit the SRIA to the Department of Finance (DOF) at least 60 or 90 days prior to Step 8. DOF comments on the SRIA within 30 days. Cal/OSHA and Director's Office staff include the SRIA and a summary and analysis of DOF's comments in the ISOR.
3. Standards Board staff reviews and finalizes the package for conformance with Administrative Procedure Act requirements.
4. Standards Board staff prepares a Secretary's Office Action Request (SAR) and routes the completed package to Director's Office staff.

¹ <https://www.dir.ca.gov/dosh/doshreg/Workplace-Violence-in-General-Industry/>

5. Director's Office sends the package to Labor and Workforce Development Agency (Labor Agency) staff, allowing 45 days for approval.
6. Labor Agency approves and returns the package to Standards Board.
7. The form 399, signed by the fiscal officer of DIR and the Secretary of the Labor Agency, is sent to DIR Budget Office staff, who sends the form to DOF.
8. Standards Board submits the package to the Office of Administrative Law (OAL).
9. OAL publishes the notice of proposed rulemaking in the California Regulatory Notice Register. Standards Board staff posts the notice and other documents and notifies interested parties.
10. Standards Board staff holds a public hearing with advance public notice of at least 45 days. Cal/OSHA representative briefs the Standards Board on the proposal.
11. Cal/OSHA staff responds to public comments. If necessary, Cal/OSHA staff modifies the proposed text accordingly, in collaboration with Standards Board staff.
12. If Cal/OSHA staff makes substantial changes that are sufficiently related to the public comments, Standards Board staff makes the changes available for public comment for at least 15 days.
13. Director's Office staff obtains DOF approval of the Fiscal Impact Statement on the form 399, allowing approximately three months for approval. If the fiscal cost estimates on the original form 399 change, Cal/OSHA staff prepares an updated form 399 for DOF review and approval. The form 399 must be approved by DOF before OAL will approve the rulemaking action (in Step 19).
14. In collaboration with Cal/OSHA, Standards Board staff prepares and posts a notice of any additional documents relied on and notifies interested parties at least 15 days before the proposed standard is adopted.
15. Cal/OSHA staff prepares a rulemaking package that includes the following: (1) final text; (2) final statement of reasons, or FSOR; (3) amended form 399 if necessary; and (4) updated informative digest.
16. Standards Board reviews the package for consideration by the Standards Board.
17. Standards Board adopts the standard at a monthly public meeting.
18. Standards Board staff submits the package to OAL within one year after publication in the California Regulatory Notice Register.
19. Within 30 working days, OAL reviews and approves the rulemaking action and transmits the standard to the Secretary of State for filing. If OAL disapproves the proposed standard, the Standards Board may:
 1. Rewrite and resubmit the standard within 120 days;
 2. Initiate review by the Governor's office.
20. The standard goes into effect on one of the following dates, unless otherwise specified:
 1. January 1, if OAL approves the standard by November 30
 2. April 1, if OAL approves the standard by February 29
 3. July 1, if OAL approves the standard by May 31
 4. October 1, if OAL approves the standard by August 31

4. Need for this bill?

According to the author, "Workplace violence incidents are becoming more prevalent across all different types of workplaces in California. The Occupational Safety and Health Administration (OSHA) has identified workplace violence as the second leading cause of fatal occupational injury at the workplace and estimates that nearly two million workers are

affected by workplace violence each year.² On average, 1.3 million nonfatal violent crimes occur in the workplace annually, with female workers having higher rates than male workers of nonfatal injuries due to workplace violence resulting in days away from work.³ Over ten percent of the more than five thousand workplace fatalities that occurred in 2019 were caused by intentional violence.⁴

On January 12, 2017, in an effort to adopt workplace violence prevention protections for all non-healthcare workplaces, Cal/OSHA released a proposed draft of the General Industry Workplace Violence Standard. Six years, and numerous workplace deaths, injuries, and incidents later, California workers are still waiting for Cal/OSHA to pass a workplace violence standard to protect them. On May 17, 2022, Cal/OSHA circulated yet another General Industry Workplace Violence discussion draft, but one that is significantly weaker than the Healthcare Workplace Violence Standard. There is no reason or logic as to why non-healthcare workers should enjoy less protections, or no protections, from being violently assaulted on the job than healthcare workers. Unfortunately, there has not been any progress since then on this standard. Workers, who fear for their lives going to work every single day, do not have years to wait for Cal/OSHA to act and adopt a General Industry Workplace Violence Standard.”

5. Proponent Arguments:

The sponsors of the measure, the United Food and Commercial Workers Western States Council, argue that, “Assaults at stores have been increasing at a faster pace than the national average. From 2018 to 2020, assaults reported to the F.B.I. by law enforcement agencies overall rose 42%. There was a 63% increase in grocery stores and 75% in convenience stores. According to the Bureau of Labor Statistics, 20,870 workers in the private industry experienced trauma from nonfatal workplace violence in 2019 and of these victims nearly 70% were women. Last year, the F.B.I. said more than half of active shooter attacks occurred in places of commerce, including stores. Hate crimes in grocery stores quadrupled since 2010. There were 160 known hate crimes recorded at grocery stores in 2020 alone and 22 of these hate crimes involved murder, three times as many as 2010. From 2020 to 2021, Stop AAPI Hate cataloged more than 10,000 hate incidents and found that one in 10 hate incidents occurred in grocery stores. This is a worker health and safety emergency and needs to be addressed as such.”

According to proponents, “It is now sadly true that most of our members have been the victim of at least one incident of threatened or actual workplace violence and many intolerably experience workplace violence on a regular basis. Our members have been robbed at gunpoint; they’ve been attacked physically, some to the point of needing to be hospitalized; they’ve been spat upon by people infected with COVID-19; they are routinely threatened with violence; and at some stores, they deal with homeless individuals, some with severe mental health challenges daily. A few members have even been murdered while performing their jobs.”

Furthermore, regarding the pending standard at Cal/OSHA, they argue, “no progress on this standard has been made since its introduction, and many steps remain before it could take

² https://www.dir.ca.gov/dosh/dosh_publications/worksecurity.html

³ <https://bjs.ojp.gov/press-release/federal-agencies-release-joint-study-workplace-violence>

⁴ <https://www.osha.gov/workplace-violence>.

effect. Additional advisory committee meetings will likely take place prior to a final draft, and at some point, a Standardized Regulatory Impact Assessment (SRIA) will almost certainly have to be prepared. SRIAs typically take 1-2 years or more. And, once a final version is submitted to the Occupational Safety and Health Standards Board, about a year is necessary before final passage. The remaining steps are highly likely to consume several additional years or more. Workers, who fear for their lives going to work every single day, do not have years to wait for Cal/OSHA to act and adopt a General Industry Workplace Violence Standard.

SB 553 will urgently and swiftly move the needle forward by establishing a floor of protections for all non-health care workers experiencing workplace violence by requiring employers to implement certain extremely urgent safeguards. We cannot continue to let workers suffer serious harm and face death as a result of California's relentless inaction on this issue; stronger protections are needed immediately."

6. Opponent Arguments:

A coalition of employers, including the California Chamber of Commerce, are opposed writing, "After the completion of the Healthcare WV Standard, Cal/OSHA began work on a broad, multi-industry workplace violence regulation ("Draft Multi-Industry Standard"), and convened meetings with stakeholders to discuss the difficult task of how to apply similar obligations to employers across all industries and settings. This process was paused when Cal/OSHA urgently focused on an emergency wildfire smoke regulation in 2018/2019, and again while Cal/OSHA was drafting/revising the state's COVID-19 regulation from 2020-2022. With these interruptions out of the way, Cal/OSHA has re-commenced its process on its Draft Multi-Industry Standard and will be meeting with stakeholders in the summer of 2023 with a new draft version of its text."

They argue that, "SB 553 purports to be an attempt to accelerate the multi-industry regulatory process – but it does not build on the language from the most recent Cal/OSHA draft of the Draft Multi-Industry Standard. Instead, SB 553 copies the provisions of the Healthcare WV Standard, which was designed for a relatively small group of well-resourced, technologically advanced employers." They argue that this "choice is bizarre, as the entire reason for Cal/OSHA's regulatory process was a recognition that hospitals are not the same as the majority of businesses in California." In short, they argue, "hospitals simply are not the average employer in California – which is why Cal/OSHA has been working through a regulatory process to modify the standard to make sense for all workplaces in the state – rather than impose a one-size-fits all standard as SB 553 does."

Additionally, they argue, "SB 553 even goes beyond the Healthcare WV Standard in what it considers "workplace violence" and reaches into the domain of labor law and the Civil Rights Department (CRD)...These regulations define workplace violence as actual violence, a threat of violence, or an incident involving a dangerous weapon. SB 553 does not follow that definition. Instead, SB 553 adds a new category:

"Conduct that alarms, annoys, or harasses an employee ... and has a high likelihood of resulting in psychological trauma or stress ... including verbal harassment based ... on [a protected characteristic]."⁵

⁵ See proposed Section 6401.9(a)(7)(B).

It appears this definition was taken from labor law regarding “harassment” - which is handled by another agency (the Civil Rights Department, formerly the Department of Fair Employment and Housing).” They argue, “Functionally, treating “harassment” as “violence” will require employers across the state to write an exhaustive summary of every time a racial or sexist comment is made in the workplace ... *regardless of whether there is violence of even a threat of violence*. For example – imagine how many times such reports would need to be written in bars across California based on conduct that “annoys” an employee and causes “stress”. And now imagine writing a report for each such comment. These reports will not make any workplace safer, and are properly the domain of CRD to handle – not Cal/OSHA.”

They conclude by stating that, “SB 553 will not actually prevent any workplace violence, so there is no urgency to supersede Cal/OSHA’s ongoing work. Substantively, SB 533 does not change the realities around workplace violence – namely, that it is a criminal matter that employers are not well-equipped to prevent.”

7. Author Amendments:

The author would like to amend the bill at today’s hearing as follows:

Amendment 1 & 2

527.8 (a) Any employer or collective bargaining representative of an employee who has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an order after hearing on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer. ~~A collective bargaining representative seeking a temporary restraining order and an order after hearing on behalf of employees at other workplaces of the employer shall also be the collective bargaining representative of those other employees.~~ **For purposes of this section only, a person shall be considered a collective bargaining representative for all employees named in the petition for a temporary restraining order and an order after hearing, regardless of whether those employees are represented by the collective bargaining representative for purposes of collective bargaining with respect to conditions of employment under the employer, if the person serves as a collective bargaining representative for at least one employee who works for the employer.**

527.8 (c) This section does not permit a court to issue a temporary restraining order or order after hearing prohibiting speech or other activities that are constitutionally protected, **protected by the National Labor Relations Act (29 U.S.C. Sec. 151 et seq.), protected by Chapter 11.5 (commencing with Section 3555) of Division 4 of Title 1 of the Government Code,** or otherwise protected by Section 527.3 or any other provision of law.

Amendment 3

6401.9 (5) “Employer’s facilities” shall not include facilities operated by the Department of Corrections and Rehabilitation.

Amendment 4

6401.9 (v) How to prepare for and respond to an active shooter scenario at the workplace.

Any training that involves content described in this clause and that is provided at any educational workplaces shall not be provided at any time when, or location where, students are present. For purposes of this clause, “educational workplace” means any workplace where students are educated in any subject matter.

8. Double Referral:

Amendments taken after the bill was referred to this Committee have triggered a re-referral to Senate Judiciary. Should the bill be passed today, it will be sent to Senate Rules Committee for a re-referral to Senate Judiciary Committee.

9. Prior Legislation:

SB 1299 (Padilla, Chapter 842, Statutes of 2014) required the Occupational Safety and Health Standards Board, no later than July 1, 2016, to adopt standards that require specified hospitals to adopt a workplace violence prevention plan as part of their injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

SUPPORT

United Food and Commercial Workers (Sponsor)
 American Federation of State County and Municipal Employees (AFSCME)
 California Alliance for Retired Americans
 California Food and Farming Network
 California Institute for Rural Studies
 California Labor Federation, AFL-CIO
 California Nurses Association
 California Rural Legal Assistance Foundation (CRLA Foundation)
 California School Employees Association
 California State Council of Service Employees International Union (SEIU California)
 California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers –
 Transportation Division (SMART-TD)
 California Teachers Association
 Central California Environmental Justice Network
 Garment Worker Center
 ILWU Local 26
 Legal Aid At Work
 National Union of Healthcare Workers (NUHW)
 Nurse Alliance of SEIU California
 Pesticide Action Network
 Restaurant Opportunity Center United
 Roots of Change
 San Mateo Labor Council, AFL-CIO
 Santa Clara Wage Theft Coalition
 United Food and Commercial Workers, Western States Council

Warehouse Worker Resource Center
Worksafe

OPPOSITION

Acclamation Insurance Management Services
Allied Managed Care
American Pistachio Growers
Associated Roofing Contractors
California Association of Sheet Metal & Air Conditioning Contractors National Association
California Chamber of Commerce
California Cotton Ginners and Growers Association
California Craft Brewers Association
California Farm Bureau
California Framing Contractors Association
California Fresh Fruit Association
California Grocers Association
California League of Food Producers
California Restaurant Association
California Retailers Association
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Far West Equipment Dealers Association
Flasher Barricade Association
Housing Contractors of California
National Federation of Independent Business
Nisei Farmers League
Official Police Garages of Los Angeles
Plant California Alliance
Residential Contractors Association
Western Agricultural Processors Association
Western Electrical Contractors Association
Western Steel Council

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