

“Caring for Our Caregivers”: House Passes Unprecedented Workplace Violence Prevention Bill

November 22, 2019

By [Dee Anna D. Hays](#)

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HR 1309 would direct the Occupational Safety and Health Administration (OSHA) to (1) adopt an interim final standard on workplace violence prevention in the health care and social service industries within one year of its enactment, (2) promulgate a proposed final standard within two years of enactment, and (3)

issue a final standard within 42 months of enactment. If OSHA fails to timely adopt an interim final standard, which is likely, then the [onerous provisions](#) set forth in the bill would go into effect.

During the floor debate, several amendments passed by voice vote. These amendments would:

- require a covered employer to email its organization's workplace violence prevention plan to the organization's staff, following completion of annual training;
- include procedures to provide information about available trauma and related counseling for employees in reporting, incident response, and post-incident investigation procedures;
- require information about the bill's anti-retaliation provision to be provided in its required workplace violence and prevention training;
- ensure that nothing in this bill would be construed to limit or prevent healthcare workers from reporting violent incidents to appropriate law enforcement;
- require the Secretary of Labor to provide an annual report to Congress that would include statistics and a summary from the annual reports submitted to the secretary by employers;
- state that additional training must be provided for covered employees who work with victims of torture, trafficking, or domestic violence;
- ensure that the annual evaluations include changes based on informed findings by employers;
- ensure that nothing in the bill would be construed to limit or diminish any protections in relevant federal, state, or local law related to domestic violence, stalking, dating violence, and sexual assault; and
- prioritize providing technical assistance and advice to employers throughout the first year of enactment to ensure businesses are in compliance.

Interestingly, the only proposed amendment that failed would have required OSHA to follow the established rulemaking process in promulgating a final standard on workplace violence prevention for health care and social service workers.

Sponsors argue that the legislation is necessary because caregivers are at risk and OSHA's rulemaking process takes too long. According to a [2012 Government Accountability Office study](#), it takes OSHA more than seven years to issue a standard. If passed, the measure would immediately give teeth to OSHA's [Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers](#).

Some employers view the bill as overreaching, pushed by nurses' labor unions to buck traditional rulemaking and shift assignments, staffing ratios, and administrative procedures in their favor. Moreover, the bill includes extensive recordkeeping obligations, forcing employers to maintain records related to workplace violence risk and hazard assessments, violent incident logs, and investigation and training records for at least five years. In addition to requiring a written workplace violence prevention plan, the bill requires employers to implement engineering controls that may include installation of weapon detectors, shatter-resistant glass around workstations, opaque glass in patient rooms; removal of access to any ordinary item that could possibly be used as a weapon; affixing furniture to the floor; the use of closed-circuit television monitoring and video recording; and the distribution of personal alarms for all staff.

The bill's likelihood of passage in the Republican-controlled Senate looks grim. However, if it did pass, according to a high-placed source at OSHA, it would be effectively impossible for OSHA to comply given its timelines and interim reporting requirements.

OSHA already frequently cites employers for failing to take steps to prevent workplace violence under the General Duty Clause, Section 5(a) (1) of the Occupational Safety and Health Act of 1970. Under the clause, all employers are required to keep their workplaces “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” OSHA’s stance that workplace violence is a serious, recognized hazard in several high-risk industries, including healthcare, is undisputed.

Employers should consider monitoring this federal legislation along with similar legislation at the state and local levels to understand the changing requirements for workplace violence prevention programs.

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