

Comments of Rachel Seelig, Esq. Director
Disability Law Project, Vermont Legal Aid, Inc.
House Committee on General, Housing and Military Affairs
January 6, 2022

Mr. Chair and Members of the Committee:

Thank you for inviting Vermont Legal Aid to provide testimony on H. 329.

My name is Rachel Seelig. I am Director of the Disability Law Project at Vermont Legal Aid. The Disability Law Project provides legal advice and representation to Vermonters with legal issues related to their disabilities. This includes anti-discrimination work in the contexts of housing, employment, and places of public accommodation.

Vermont Legal Aid's representation of Vermonters experiencing discrimination and harassment goes far beyond the DLP. The Housing Discrimination Law Project (HDLP), the Poverty Law Project (PLP) and the Victims of Crime Project (VOCA) also address discrimination and harassment.

I am here to express support for H.329. In the past six years, Vermont Legal Aid has opened 671 cases regarding discrimination, not all of which specifically alleged harassment as the form of discrimination. This includes 88 complaints of discrimination in education, 27 cases regarding employee rights, 136 complaints of employment discrimination, and 420 cases of housing discrimination. 115 of the employment discrimination cases were opened for people with disabilities.

These numbers provide you with a rough estimate of the scope of discrimination and harassment complaints received by Vermont Legal Aid. For example, a case regarding inappropriate restraint of a child with a disability may also be a discrimination case. We speak to many Vermonters who are may be mistreated in their work, and yet, not have merit to seek relief against harassment.

Here are some examples of our clients' experiences:

- Client with a learning disability saw work hours drastically reduced after requesting reasonable accommodations and experienced other staff making negative comments about their sexuality.
- A client with autism spectrum disorder (ASD) was involuntarily transferred away from the position for which they had been hired by a supervisor who "joked" to client and others about client's ASD, calling the client "slow" and "off" and telling other employees

there was “something wrong with” client. The supervisor also promoted another staff person over client, despite client’s greater experience and training.

- Clients with intellectual disability are singled out for criticism by supervisors, subjected to disparate supervision due to disability, teased by co-workers and supervisors regarding their disabilities, and called “retarded”.
- Female client was traumatized when a co-worker grabbed her female body parts at work, just once. It was not a supervisor, but the impact on her mental health was severe and led to loss of the position.

I am here to express support for this bill because the reality is that under current binding precedent in our state, it is very difficult for many, if not most, of these Vermonters to find justice when faced with discrimination or harassment.

This bill remedies problems that exist within our system that impact access to justice in responding to discrimination, even with the assistance of a Legal Aid or private attorney:

- (1) The Statute of Limitations. The current statute of limitations of three years is too short, and the six-year limitation in this bill is much more appropriate.
- (2) Internal Grievances. Internal grievance processes are often futile, put someone in an even more vulnerable position, or are attempted but the organization does not follow its own policies and procedures.
- (3) Harassment definition. This definition would create substantial consistency with the statutory definition of harassment in the context of schools, which also sets a “substantially interferes” or “creates an intimidating, hostile, or offensive” environment, at 16 V.S.A. § 11.

I do want to raise one concern: the only form of harassment that would no longer need to meet the high bar of “severe or pervasive” standard in the employment context is sexual harassment; in the Title 16 section, which applies to schools, the removal of this high bar applies to all harassment. I would suggest the committee clarify that “severe or pervasive” is not a requirement to show harassment across all the statutes.

Thank you for your consideration.