



Vermont Businesses
for Social Responsibility

January 25, 2022

House Committee on General, Housing, & Military Affairs
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Dear Representatives,

On behalf of Vermont Businesses for Social Responsibility, thank you for the opportunity to offer testimony on H. 329. For over 30 years, VBSR has worked to leverage the power of business for positive social and environmental change. A central part of that work has been informing and assisting employers, workers, lawmakers, and members of the public in preventing and addressing workplace harassment and discrimination. While VBSR supports the intent of this bill, we have some concerns about its provisions and their impacts on Vermont businesses and employees alike.

VBSR supports the extension of the statute of limitations to six years. We feel that this would help to reduce barriers to reporting and tackling workplace discrimination and allows employees ample time to pursue recourse internally and/or remove themselves from an unsafe situation. Filing a claim immediately is not always possible for claimants, so a providing them with a longer runway would offer flexibility and needed time.

The added language in H. 329 expanding the definition of unlawful discrimination and clarifying that harassment and/or discrimination “need not be severe or pervasive to constitute a violation,” raised several questions from our members. **We understand that the “severe or pervasive” standard of proof for claims has become a significant barrier for those who have legitimately been affected by harassment and support the legislature in adopting a standard that is less than “severe or pervasive.” However, we have concerns around eliminating the standard entirely.** Adopting a lesser standard, would be more effective in driving employers to take more proactive measures to avoid discrimination claims in their workplace, including training and education for employees, HR professionals, and managers to identify and respond to claims of harassment and discrimination, regardless of whether it meets said standard. Even if the behavior is not unlawful, inappropriate and disrespectful conduct at work should always be addressed and never tolerated.

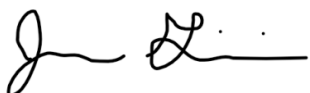
Justice, Equity, Diversity, and Inclusion are guiding principles of corporate social responsibility and the triple-bottom-line, and our businesses have worked diligently to advance these principles through organizational change and public policy. We agree that prevention is key to workplace discrimination, however the threat of a legal action should not be the primary preventative mechanism, but rather a last resort. **Encouraging employees to circumvent the internal grievance process means forgoing the initial opportunity for discussion, shared learning, and corrective action on the part of the employer. Based on the changes proposed in this bill, employers with the best practices and the best intentions could find themselves embroiled in legal battles that could’ve otherwise been avoided by a conversation.** We know that internal discussions may not always be possible in a hostile work environment, however Vermonters currently have the right to file a civil complaint with a federal or state law enforcement agency or to hire a lawyer to assist them at any time, regardless of whether they have reported the issue to their employer internally.

Our businesses believe that failing to take action to correct workplace discrimination is not only illegal and unethical, but also bad for business. It is in a business' best interest for employees to feel comfortable reporting discrimination, so that they can investigate and address any conduct that violates the law or internal policies. H. 329 as currently written would steer claimants away from internal grievance processes and invite legal action even though litigation can be a long, stressful, and painful process—one that could lead to significant legal fees for both the claimant and the defendant.

Instead of encouraging employees to circumvent the internal grievance process, VBSR urges the legislature to implement more stringent requirements surrounding workplace policies on harassment and discrimination. Under current law, all employers in Vermont are required to have a policy against *sexual harassment*. Said policy must include a process for filing a complaint with the relevant enforcement agencies as well as their contact information. Additionally, all employers with more than five employees need to include a description of the procedure for filing an internal complaint of sexual harassment, one that includes the names and contact information for those who receive the complaints. Current law also affords employees the right to make the report to his or her supervisor if the person one must report to is the perpetrator. Whether it's the direct supervisor or the head of the company, businesses have the legal responsibility to act in a timely matter and put a stop to the harassment. **The standards surrounding the reporting of other forms of discrimination and harassment are markedly less stringent and should be strengthened to match those surrounding sexual harassment.**

Again, VBSR supports the intent of this bill and appreciates the opportunity to offer comments. We remain committed to dismantling white supremacy, homophobia, ableism, and all other forms of discrimination in both our businesses and the communities to which they belong. We would be happy to work with the Committee in strengthening this bill to the benefit of employers and employees alike.

Thank you for your time and consideration,



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