

Workplace violence is on the rise at an alarming rate in BC

In the last decade, incidents of workplace violence in BC have increased by 70% according to the Workers' Compensation Board. This figure represents only those incidents that were reported and accepted. Sadly, most workers and employers accept that workplace violence is simply an unavoidable part of the job. But workers need protection from violence at work.

British Columbia needs to recognize the seriousness of this crisis and take immediate action to prevent all forms of workplace violence. Despite well-intentioned attempts by the previous government and the WCB to address the problem, the current legislative and regulatory framework is not working. It's time to level the playing field.

WHAT IS WORKPLACE VIOLENCE?

Workplace violence is often thought of as a physical assault – but this is just the tip of the iceberg. Workplace violence can be described as a continuum of behaviours that can lead to physical assault, homicide and suicide. The BC Federation of Labour has adopted this broader definition of workplace violence which includes sexual violence, gender-based violence, intimate-partner (domestic) violence, as well as aggressive behaviour such as psychological and emotional violence, threatening behaviour, cyber violence, bullying and harassment (including sexual harassment). The fact that bullying and harassment is a form of workplace violence is well supported by the literature and by various organizations around the world.

LAW & POLICY: THE HISTORY OF WORKPLACE VIOLENCE IN BC

British Columbia was once on the leading edge of regulatory requirements for the prevention of workplace violence, incorporating requirements formerly known as Protection of Workers from Violence in the Workplace, into Part 4 of the Occupational Health and Safety Regulations (OHSR) in 1993. In 2003, a Coroner's Inquest was held to examine the tragic double murder-suicide incident in 2002 at the Ministry of Water, Land and Air Protection office in Kamloops, involving Richard Anderson.





The Coroner’s Jury made eight recommendations, including:

- Amend the *Workers Compensation Act (Act)* to broaden the definition of violence;
- Amend the *Act* to make it mandatory to report threats of violence to the employer, and to the Board when necessary; and
- Make workplace violence training programs mandatory for workers.

The WCB proposed comprehensive amendments to the OHSR to address the Jury’s recommendations, however, in 2005 the WCB Board of Directors decided not to adopt the amendments due to negative feedback from stakeholders. Instead, they approved increased education and training on workplace violence for WCB officers, employers and workers.

Six years later, *Bill 14, Workers Compensation Amendment Act, 2011*, was introduced at the BC Legislative Assembly by the Honourable Margaret MacDiarmid, receiving Royal Assent in 2012. Bill 14 proposed amendments which included changing requirements for Section 5.1 of the Act for compensation for mental disorders and adding the words “bullying and harassment.”

According to the Hansard report of the debates on the morning of May 3, 2012, Minister MacDiarmid made her expectations very clear that the Board would accompany Bill 14 with new regulatory provisions that would:

- ensure the *regulations* were “strong, clear, and specific” about bullying and harassment;
- expand the definition of violence in the *regulations* to include bullying and harassment; and
- require employers to have formal prevention plans.

A WINDOW OF OPPORTUNITY SQUANDERED

The government’s directive to amend the regulations related to workplace violence provided the Board with the perfect opportunity to revive and modify the proposed amendments shelved in 2005, as these specifically addressed the minister’s intentions. Instead, the Board developed three new prevention *policies* respecting bullying and harassment, minimizing its importance and disconnecting it completely from the workplace violence regulation. This has proven to be an ineffective approach to prevent the spectrum of violence behaviours that workers are exposed to.



BC HAS LOST ITS LEADING EDGE

BC’s legislative framework for workplace violence has not kept pace with other jurisdictions in Canada.

The Canada Labour Code already requires federal employers to prevent workplace violence and the federal regulations provide a broader definition and more prescriptive requirements for prevention of violence programs. In 2017, a public consultation was held following a Federal Court of Appeal decision, *Canada (Attorney General) v. PSAC, 2015 FCA 273*, where the court accepted the inclusion of harassment in the *Code*’s definition of “violence”. The consultation highlighted the importance of prevention measures and highlighted the need to raise awareness among employers and employees about issues of harassment and violence. As a result, Bill C-65 was introduced in November 2017 to specifically include “harassment” and “psychological injuries and illness” in the *Code*. These amendments would make the federal *Code* the most progressive workplace violence legislation in Canada.

In 2004, Quebec incorporated “psychological harassment” provisions into their legislation.

In 2007, Saskatchewan introduced legislation adding the prevention of workplace harassment to the definition of “occupational health and safety.”

In 2010, workplace violence and harassment requirements came into effect under Ontario’s *Occupational Health and Safety Act*, including domestic violence. In 2016, amendments were passed to broaden the requirements for employers to ensure the safety of workers.

LEGISLATIVE IMPROVEMENTS TO PREVENT WORKPLACE VIOLENCE

With violent workplace incidents increasing each year, the time to act is now. The path forward is clear. All the necessary studies, research and analyses have been done. Our current framework is not working. Other jurisdictions in Canada have leaped ahead of British Columbia to introduce the necessary improvements to their respective legislation. It is time for BC to introduce world-class legislative standards for preventing workplace violence.

RECOMMENDATIONS:

Government has the authority to ensure that BC has “strong, clear and specific” legislation respecting workplace violence, including sexual violence, sexual harassment, intimate partner violence, bullying and harassment. The BC Federation of Labour encourages the government to take the following bold steps to prevent workplace harassment and violence:

1. Amend Section 115, General duties of employers, of the *Workers Compensation Act* (Act) to add the legislative requirement to prevent workplace violence.
2. Amend Section 106, Definitions, of the Act to add “workplace violence” as a hazard with a definition that includes the full continuum of inappropriate behaviours, including sexual violence, sexual harassment, gender-based violence, intimate partner violence, bullying and harassment.
3. Amend Section 107(2)(b), Purposes of the Part, of the Act to read “to prevent work related hazards that lead to physical or psychological illnesses and injuries or death.”
***Note:** removing the word “accident” supports the prevention of non-accident related hazards; adding “psychological” supports prevention of psychosocial hazards such as bullying and harassment; and “death” is not currently included and should be.*
4. Amend Sections 172(1) of the Act to include the requirement to report incidents of workplace violence to the Board.
5. Amend Sections 172(1)(a) and 173(1)(b) and (c) of the Act to include “illness” in the criteria for notice of accidents to the Board and incidents that must be investigated (like s. 177, 179 and 191).



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The BCFED has a long and proud history of fighting for the rights of all working people.

The goals of the BCFED are best exemplified by its slogan:
“What we desire for ourselves, we wish for all.”

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