



*A Union of Professionals*

## **Understanding the Workplace Violence Prevention for Health Care and Social Service Workers Act Senate Bill 851**

### **What Does the Bill Do?**

The bill requires the Occupational Safety and Health Administration to establish a standard under which each covered employer will develop and implement a workplace violence prevention plan tailored to the relevant hazards in the specific facility. This bill is nearly identical to a version that passed the House of Representatives in 2019 on a bipartisan basis. Amendments that were passed in that vote are included in H.R. 1195 and listed below.

### **What's in the Plan?**

In preparing a plan, covered employers, in conjunction with employees (and their representatives where applicable), identify workplace violence risks in their workplaces, including environmental risk factors, risk factors specific to the patient population and past violent incidents.

The plan should include work practice controls such as security, staffing and training on de-escalation techniques, as well as environmental controls such as personal alarm devices, adequate exit routes, surveillance monitoring systems, barrier protection, entry procedures and weapons detectors.

The plan must outline procedures for reporting, responding to and investigating incidents, and providing medical care and first aid to affected employees. The plan must include procedures for coordination with other employers who have employees who work at the site; and the plan must be evaluated annually.

Under the plan, all staff, including contract staff, will receive annual workplace violence prevention training from qualified instructors with opportunities to ask questions and request additional training. New employees will be trained prior to assignment, and workers whose job circumstances have changed have the right to additional training. Staff will receive supplemental training after significant violent incidents. Managers and supervisors will be trained to recognize hazardous work assignments.

### **Who's Covered?**

The standard will cover hospitals, residential treatment facilities, non-residential treatment settings, medical treatment or social service settings in correctional or detention facilities, psychiatric treatment facilities, substance use disorder treatment centers, community care settings such as group homes and mental health clinics, and

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PRESIDENT

Fedrick C. Ingram  
SECRETARY-TREASURER

Evelyn DeJesus  
EXECUTIVE VICE PRESIDENT

American Federation of Teachers, AFL-CIO • 555 New Jersey Ave. N.W. • Washington, DC 20001 • 202-879-4400 • [www.aft.org](http://www.aft.org)



federal healthcare facilities such as those operated by the Veterans Administration and the Indian Health Service, as well as field work settings such as home care and home-based hospice, and emergency services and transport services.

The rule covers direct-hire employees, contracted and subcontracted employees, and temporary or leased employees employed at these covered facilities. Public facilities not otherwise covered by a state OSHA that accepts funding for Medicare will be covered.

### **How's Violence Defined?**

The term "workplace violence" means: (1) any act of violence or threat of violence, without regard to intent, and includes the threat or use of physical force against an employee that results in or has a high likelihood of resulting in physical injury, psychological trauma or stress, without regard to whether an employee sustains actual physical injury, psychological trauma or stress; and (2) an incident involving the threat or use of a firearm or a dangerous weapon, including the use of common objects as weapons, without regard to whether an employee sustains an actual injury, psychological trauma or stress.

### **What's the Timeline?**

This will be done in two stages: An interim final standard will be issued within one year of enactment, and then a final standard will be issued within 42 months of enactment. The interim standard will be based upon the OSHA Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers and the requirements set forth in this bill.

### **How Is the Plan Enforced?**

The OSHA standard mandates that employers investigate each incident of workplace violence as soon as practicable, document the findings and take corrective measures. The OSHA standard requires that employers must record workplace violence incidents in a violent incident log. Employers must maintain records related to the plan, and employees are provided the right to examine and make copies of the plan, the log and related plan documents, with appropriate protections for patient and worker privacy.

Workplace violence prevention training, as described above, is required for all covered employees.

The OSHA standard prohibits retaliation against a covered employee for reporting a workplace violence incident, threat or concern to an employer, law enforcement, local emergency services, or a government agency.

### **Amendments Included in S.851**

- The plan must include procedures to provide information about available counseling for employees.
- Nothing in the bill limits covered employees from reporting workplace violence incidents to appropriate law enforcement.
- Information about whistleblower protections must be included in the training offered to covered employees.
- Annual updates to the plan must include changes informed by the annual evaluations.
- The U.S. secretary of labor must send Congress an annual report based on employer reports to OSHA.