

SB21-176 Protecting Opportunities and Workers' Rights Act | Oppose
Thursday, April 1 2021
Senate Judiciary Committee

I'd like to start by thanking the Chair and committee members for your consideration of this testimony. My name is Kelly Brough and I submit this testimony on behalf of the Denver Metro Chamber of Commerce in opposition to SB176.

The Denver Metro Chamber represents 3,000 businesses and their 400,000 employees, and I want to be clear about our position here. We are opposed to this bill, but that doesn't mean that we think sexual harassment or discrimination is ever ok. It's not. Employers have a responsibility to treat their employees with respect and protect them from harassment and discrimination and when that doesn't work our legal system provides a process by which perpetrators are held responsible for their actions. We are opposed to this bill because it is deeply flawed.

To begin, we support the Colorado Civil Rights Administrative Process. We supported the bill in 2018 to continue the CCRD as an effective way to reach resolution in discrimination claims without lengthy and costly fights in court. This bill completely bypasses that process for the private sector – sending claims straight to court, whether or not probable cause even exists. According to the CCRD annual report, in the last five years probable cause has been found in less than 3% of filings.

Bypassing the CCRD isn't the only way this bill encourages litigation. The definitions and requirements in the bill also create an environment in which frivolous lawsuits could become the norm – and that's bad for employers and employees. The definition of hostile workplace is extremely broad, including anything that *“undermines a person's sense of well-being.”* A definition like that certainly goes beyond discrimination or harassment. Also, workers no longer need to meet the federal standards of conduct to carry a claim forward. Meaning any action an employee believes to be discriminatory is considered an actionable hostile work environment regardless of whether it is “severe or pervasive.” This is an important issue, frivolous claims distract from real issues, cost more money for everybody and really hurt those employees with real claims that deserve the priority and attention of our legal system.

Most employers work hard to do right by our employees and protect them against harassment and discrimination. The systems we have in place today help ensure ALL employers are held accountable to do just that. If there are issues with our current system, we should address those specifically instead of removing an effective process (one that was designed specifically to protect and serve employees) and disregarding federal law.

Please vote no on SB 176.