

STATE OF NEW YORK

3482

2025-2026 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. BRONSON, BICHOTTE HERMELYN, ROSENTHAL, SEAWRIGHT, DeSTEFANO, SIMON, GONZALEZ-ROJAS, SHRESTHA, EPSTEIN, GLICK, TAPIA, SAYEGH, KELLES, SIMONE, WEPRIN, HEVESI, LEVENBERG, GIGLIO, BURDICK, JACKSON, SEPTIMO, McDONOUGH, CLARK, GALLAGHER, CUNNINGHAM, LUNSFORD, FORREST, DAVILA, BRABENEC, DURSO, STECK, REYES, KIM, NOVAKHOV, R. CARROLL, OTIS, STIRPE, RAGA, DINOWITZ -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing the New York workplace bullying prevention act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York workplace bullying prevention act".

3 § 2. The labor law is amended by adding a new article 20-D to read as
4 follows:

5 ARTICLE 20-D

6 WORKPLACE BULLYING PREVENTION

7 Section 760. Legislative findings and intent.

8 761. Definitions.

9 762. Abusive work environment.

10 763. Employer liability.

11 764. Employee liability.

12 765. Affirmative defenses.

13 766. Burden of proof.

14 767. Remedies.

15 768. Enforcement.

16 769. Effect on collective bargaining agreements.

17 769-a. Effect of other laws.

18 § 760. Legislative findings and intent. 1. The legislature hereby
19 finds that:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (a) the social and economic well-being of the state is dependent upon
2 healthy and productive employees;

3 (b) approximately one-third of all employees directly experience work-
4 place bullying, abusive mistreatment or harassment during their working
5 lives;

6 (c) workplace bullying, mobbing and non-discriminatory harassment can
7 inflict serious health harms upon targeted employees, including insomnia
8 and chronic fatigue syndrome, anxiety and depression disorders,
9 migraines, suicidal ideation, impaired immune systems, hypertension and
10 cardiovascular disease, complex post-traumatic stress syndrome, and
11 deterioration of familial relationships;

12 (d) coworkers who witness abusive mistreatment of other employees can
13 be negatively impacted in similar ways;

14 (e) abusive work environments can have serious and costly consequences
15 for employers, including reduced employee productivity and morale, high
16 absenteeism rates, increased medical and workers' expenses, and
17 increased employee turnover with concomitant replacement and training
18 costs;

19 (f) existing harassment laws are only applicable if the abusive
20 mistreatment in the workplace is motivated by discriminatory animus
21 towards the target's race, color, religion, national origin, sex, sexual
22 orientation, age, disability, or military status;

23 (g) legal protection from abusive mistreatment in the workplace should
24 not be limited to behaviors predicated on protected class status; and

25 (h) existing workers' compensation plans, occupational safety and
26 health laws, and common law tort actions do not adequately prevent work-
27 place bullying, nor do they provide adequate opportunities for redress
28 and relief to employees who have been harmed by workplace bullying.

29 2. It is the purpose of this article:

30 (a) to provide an incentive for employers and workers to refrain from
31 mistreating their workers and coworkers in an abusive manner;

32 (b) to provide an incentive for employers to prevent and respond to
33 workplace bullying in their workplace; and

34 (c) to provide legal redress for employees who have been harmed
35 psychologically, physically or economically by workplace bullying.

36 § 761. Definitions. As used in this article, the following terms shall
37 have the following meanings:

38 1. "Abusive conduct" means acts, omissions, or both, that a reasonable
39 person would find abusive, based on the severity, nature, and frequency
40 of the conduct, including, but not limited to: repeated verbal abuse
41 such as the use of derogatory remarks, insults, and epithets; verbal,
42 non-verbal, or physical conduct of a threatening, intimidating, or
43 humiliating nature; or the sabotage or undermining of an employee's work
44 performance. It shall be considered an aggravating factor if the conduct
45 exploited an employee's known psychological or physical illness or disa-
46 bility. A single act normally shall not constitute abusive conduct, but
47 an especially severe and egregious act may meet this standard.

48 2. "Abusive work environment" means an employment condition when an
49 employer or one or more of its employees, acting with intent to cause
50 pain or distress to an employee, subjects that employee to abusive
51 conduct that causes physical harm, psychological harm or both.

52 3. "Adverse employment action" means an outcome which negatively
53 impacts an employee, including, but not limited to, a termination,
54 demotion, unfavorable reassignment, failure to promote, disciplinary
55 action or reduction in compensation.

56 4. "Constructive discharge" means an adverse employment action where:

1 (a) the employee reasonably believed such employee was subjected to an
2 abusive work environment;

3 (b) the employee resigned because of that conduct; and

4 (c) the employer was aware of the abusive conduct prior to the resig-
5 nation and failed to stop it.

6 5. "Physical harm" means the impairment of a person's physical health
7 or bodily integrity, as established by competent evidence.

8 6. "Psychological harm" means the impairment of a person's mental
9 health, as established by competent evidence.

10 7. "Injury" means physical or mental injuries arising out of and in
11 the course of employment and such disease or infection as may naturally
12 and unavoidably result therefrom. The term "injury" shall not include an
13 injury which is solely mental and is based on work-related stress if
14 such mental injury is a direct consequence of a lawful personnel deci-
15 sion involving a disciplinary action, work evaluation, job transfer,
16 demotion, discharge, or termination taken in good faith by the employer,
17 and which does not violate any other provisions of this article.

18 8. "Disability" shall mean disability as defined in subdivision twen-
19 ty-one of section two hundred ninety-two of the executive law.

20 § 762. Abusive work environment. 1. No employee shall be subjected to
21 an abusive work environment.

22 2. No employer or employee shall retaliate in any manner against an
23 employee who has opposed any unlawful employment practice under this
24 article, or who has made a charge, testified, assisted, or participated
25 in any manner in an investigation or proceeding under this article,
26 including, but not limited to, internal complaints and proceedings,
27 arbitration and mediation proceedings and legal actions.

28 § 763. Employer liability. 1. An employer shall be vicariously liable
29 for a violation of section seven hundred sixty-two of this article
30 committed by its employee.

31 2. Where the alleged violation of such section does not include an
32 adverse employment action, it shall be an affirmative defense for an
33 employer only that:

34 (a) the employer exercised reasonable care to prevent and correct
35 promptly any actionable behavior; and

36 (b) the complainant employee unreasonably failed to take advantage of
37 appropriate preventive or corrective opportunities provided by the
38 employer.

39 § 764. Employee liability. 1. An employee may be individually liable
40 for a violation of section seven hundred sixty-two of this article.

41 2. It shall be an affirmative defense for an employee only that the
42 employee committed a violation of such section at the direction of the
43 employer, under actual or implied threat of an adverse employment
44 action.

45 § 765. Affirmative defenses. It shall be an affirmative defense that:

46 1. the complaint is based on an adverse employment action reasonably
47 made for poor performance, misconduct or economic necessity;

48 2. the complaint is based on a reasonable performance evaluation; or

49 3. the complaint is based on an employer's reasonable investigation
50 about potentially illegal or unethical activity.

51 § 766. Burden of proof. To establish a prima facie case, the complain-
52 ant employee must demonstrate that:

53 1. such employee was subjected to abusive conduct;

54 2. such employee suffered physical or mental injury as defined in this
55 article; and

1 3. the evidence and circumstances indicate that there was a causal
2 connection between the abusive conduct and the injuries, adverse employ-
3 ment action, discharge, or other damages suffered by the employee.

4 § 767. Remedies. 1. Where a defendant has been found liable for a
5 violation of section seven hundred sixty-two of this article, the court
6 may enjoin such defendant from engaging in the unlawful employment prac-
7 tice and may order any other relief that is deemed appropriate includ-
8 ing, but not limited to, reinstatement, removal of the offending party
9 from the plaintiff's work environment, reimbursement for lost wages,
10 front pay, medical expenses, compensation for pain and suffering,
11 compensation for emotional distress, punitive damages and attorney fees.

12 2. Where an employer is liable for a violation of section seven
13 hundred sixty-two of this article that did not include an adverse
14 employment action, emotional distress damages and punitive damages may
15 be awarded only when the actionable conduct was extreme and outrageous.
16 This limitation does not apply to individually named employee defend-
17 ants.

18 § 768. Enforcement. 1. The provisions of this article are enforceable
19 solely by means of a civil cause of action commenced by an injured
20 employee.

21 2. An action to enforce the provisions of this article shall be
22 commenced within one year of the last act that constitutes the alleged
23 violation of section seven hundred sixty-two of this article.

24 § 769. Effect on collective bargaining agreements. This article shall
25 not prevent, interfere, exempt or supersede any current provisions of an
26 employee's existing collective bargaining agreement which provides
27 greater rights and protections than prescribed in this article nor shall
28 this article prevent any new provisions of the collective bargaining
29 agreement which provide greater rights and protections from being imple-
30 mented and applicable to such employee within such collective bargaining
31 agreement. Where the collective bargaining agreement provides greater
32 rights and protections than prescribed in this article, the recognized
33 collective bargaining agent may opt to accept or reject to be covered by
34 the provisions of this article.

35 § 769-a. Effect of other laws. 1. No provision of this article shall
36 be deemed to exempt any person or entity from any liability, duty or
37 penalty provided by any other state law, rule or regulation.

38 2. The remedies provided in this article shall be in addition to any
39 remedies provided under any other provision of law, and nothing in this
40 article shall relieve any person from any liability, duty, penalty or
41 punishment provided by any other provision of law, except that if an
42 employee receives workers' compensation for medical costs for the same
43 injury or illness pursuant to both this article and the workers' compen-
44 sation law, or compensation under both this article and such law in cash
45 payments for the same period of time not working as a result of the
46 compensable injury or illness or the unlawful employment practice, the
47 payments of workers' compensation shall be reimbursed from damages paid
48 under this article.

49 § 3. This act shall take effect immediately, and shall apply to
50 abusive conduct occurring on or after such date.