

STATE OF NEW YORK

1893

2025-2026 Regular Sessions

IN SENATE

January 14, 2025

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed 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:

ARTICLE 20-D

WORKPLACE BULLYING PREVENTION

Section 760. Legislative findings and intent.

5 761. Definitions.

6 762. Abusive work environment.

7 763. Employer liability.

8 764. Employee liability.

9 765. Affirmative defenses.

10 766. Burden of proof.

11 767. Remedies.

12 768. Enforcement.

13 769. Effect on collective bargaining agreements.

14 769-a. Effect of other laws.

15 § 760. Legislative findings and intent. 1. The legislature hereby
16 finds that:

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

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

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

24 LBD01166-02-5

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

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

9 (e) abusive work environments can have serious and costly consequences
10 for employers, including reduced employee productivity and morale, high
11 absenteeism rates, increased medical and workers' expenses, and
12 increased employee turnover with concomitant replacement and training
13 costs;

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

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

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

24 2. It is the purpose of this article:

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

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

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

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

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

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

47 3. "Adverse employment action" means an outcome which negatively
48 impacts an employee, including, but not limited to, a termination,
49 demotion, unfavorable reassignment, failure to promote, disciplinary
50 action or reduction in compensation.

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

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

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

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

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

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

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

13 8. "Disability" shall mean disability as defined in subdivision twenty-
14 one of section two hundred ninety-two of the executive law.

15 § 762. Abusive work environment. 1. No employee shall be subjected to
16 an abusive work environment.

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

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

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

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

31 (b) the complainant employee unreasonably failed to take advantage of
32 appropriate preventive or corrective opportunities provided by the
33 employer.

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

36 2. It shall be an affirmative defense for an employee only that the
37 employee committed a violation of such section at the direction of the
38 employer, under actual or implied threat of an adverse employment
39 action.

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

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

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

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

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

48 1. such employee was subjected to abusive conduct;

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

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

54 § 767. Remedies. 1. Where a defendant has been found liable for a
55 violation of section seven hundred sixty-two of this article, the court
56 may enjoin such defendant from engaging in the unlawful employment prac-

1 tice and may order any other relief that is deemed appropriate includ-
2 ing, but not limited to, reinstatement, removal of the offending party
3 from the plaintiff's work environment, reimbursement for lost wages,
4 front pay, medical expenses, compensation for pain and suffering,
5 compensation for emotional distress, punitive damages and attorney fees.

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

12 § 768. Enforcement. 1. The provisions of this article are enforceable
13 solely by means of a civil cause of action commenced by an injured
14 employee.

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

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

29 § 769-a. Effect of other laws. 1. No provision of this article shall
30 be deemed to exempt any person or entity from any liability, duty or
31 penalty provided by any other state law, rule or regulation.

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

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