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:

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

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

ARTICLE 20-D

WORKPLACE BULLYING PREVENTION

Section 760. Legislative findings and intent.
761. Definitions.
762. Abusive work environment.
763. Employer liability.
764. Employee liability.
765. Affirmative defenses.
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767. Remedies.
768. Enforcement.
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§ 760. Legislative findings and intent. 1. The legislature hereby finds that:

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

(b) approximately one-third of all employees directly experience workplace bullying, abusive mistreatment or harassment during their working lives;

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

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

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

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

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

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

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

2. It is the purpose of this article:

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

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

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

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

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

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

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

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

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

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

(c) the employer was aware of the abusive conduct prior to the resignation and failed to stop it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 766. Burden of proof. To establish a prima facie case, the complainant employee must demonstrate that:

1. such employee was subjected to abusive conduct;

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

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

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

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

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

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

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

§ 769. Effect on collective bargaining agreements. This article shall not prevent, interfere, exempt or supersede any current provisions of an employee's existing collective bargaining agreement which provides greater rights and protections than prescribed in this article nor shall this article prevent any new provisions of the collective bargaining agreement which provide greater rights and protections from being implemented and applicable to such employee within such collective bargaining agreement. Where the collective bargaining agreement provides greater rights and protections than prescribed in this article, the recognized collective bargaining agent may opt to accept or reject to be covered by the provisions of this article.

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

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

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