

# 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.