



General Assembly

February Session, 2008

Raised Bill No. 60

LCO No. 154

00154_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING BULLYING IN THE WORKPLACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) As used in this section
2 and sections 2 and 3 of this act:

3 (1) "Abusive conduct" means conduct or a single act of an employer
4 or employee in the workplace that is performed with malice and is
5 unrelated to an employer's legitimate business that a reasonable
6 person would find hostile or offensive considering the severity, nature
7 and frequency of the conduct or the severity and egregiousness of the
8 single act. Abusive conduct includes, but is not limited to, (A) repeated
9 infliction of verbal abuse such as the use of derogatory remarks, insults
10 and epithets; (B) verbal or physical conduct that a reasonable person
11 would find threatening, intimidating or humiliating; or (C) sabotaging
12 or undermining a person's work performance;

13 (2) "Abusive workplace" means a workplace where an employee is
14 subjected to abusive conduct that is so severe that it causes physical or
15 psychological harm to the employee;

16 (3) "Conduct" means all forms of behavior, including acts and
17 omission of acts;

18 (4) "Constructive discharge" means abusive conduct (A) that causes
19 the employee to resign; (B) where, prior to resigning, the employee
20 brings to the employer's attention the existence of the abusive conduct;
21 and (C) the employer fails to take reasonable steps to eliminate;

22 (5) "Employee" means an individual who is employed by an
23 employer;

24 (6) "Employer" means any person, firm, business, educational
25 institution, nonprofit agency, corporation, limited liability company,
26 the state, any political subdivision of the state, any governmental
27 agency, or any other entity that employs persons;

28 (7) "Malice" means the desire to see another person suffer
29 psychological, physical or economic harm, without legitimate cause or
30 justification, that is displayed by the presence of factors such as
31 outward expressions of hostility, harmful conduct inconsistent with an
32 employer's legitimate business interest, a continuation of harmful,
33 illegitimate conduct after a person requests that it cease or
34 demonstrates outward signs of emotional or physical distress as a
35 result of the conduct, or attempts to exploit a person's known
36 psychological or physical vulnerability;

37 (8) "Negative employment decision" means a termination,
38 constructive discharge, demotion, unfavorable reassignment, refusal to
39 promote or disciplinary action;

40 (9) "Physical harm" means the material impairment of a person's
41 physical health or bodily integrity, as documented by a competent
42 physician or supported by competent expert evidence at trial; and

43 (10) "Psychological harm" means the material impairment of a
44 person's mental health, as documented by a competent psychologist,
45 psychiatrist or psychotherapist or supported by competent expert

46 evidence at trial.

47 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) No person shall:

48 (1) Subject an employee to an abusive workplace, or

49 (2) Retaliate in any manner against an employee because such
50 employee has made a charge that he or she has been subjected to an
51 abusive workplace under this section, or has testified, assisted or
52 participated in any manner in an investigation or proceeding under
53 this section or section 3 of this act, including, but not limited to, the
54 employer's internal investigations or proceedings, arbitration and
55 mediation proceedings and legal actions.

56 (b) An employer shall be in violation of this section if such employer
57 (1) subjects an employee to an abusive work environment, or (2) has
58 knowledge that any person has subjected an employee of such
59 employer to an abusive work environment and has failed to exercise
60 reasonable care to prevent and promptly correct the abusive conduct.

61 (c) It is an affirmative defense to an action brought against an
62 employer under this section that:

63 (1) The employer exercised reasonable care to prevent and promptly
64 correct the abusive conduct and the aggrieved employee unreasonably
65 failed to take advantage of appropriate preventative or corrective
66 opportunities provided by the employer. Such defense is not available
67 when the abusive conduct culminates in a negative employment
68 decision;

69 (2) The complaint is based on a negative employment decision that
70 was made consistent with the employer's legitimate business interests,
71 such as a termination or demotion based on an employee's poor
72 performance; or

73 (3) The complaint is based on the employer's reasonable
74 investigation of potentially illegal or unethical activity.

75 Sec. 3. (NEW) (*Effective October 1, 2008*) (a) A violation of section 2 of
76 this act may be enforced solely by a private right of action. Such action
77 shall be commenced not later than one year after the last act that
78 comprises the alleged abusive conduct.

79 (b) Where a defendant has been found to have subjected an
80 employee to an abusive workplace in violation of section 2 of this act,
81 the court may enjoin the defendant from engaging in the abusive
82 conduct and may order any other relief that is deemed appropriate,
83 including, but not limited to, reinstatement, removal of the offending
84 person from the complainant's work environment, back pay, front pay,
85 medical expenses, compensation for emotional distress, punitive
86 damages and attorney's fees.

87 Sec. 4. (NEW) (*Effective October 1, 2008*) Nothing in section 2 or 3 of
88 this act shall be deemed to exempt or relieve any person from any
89 liability, duty, penalty or punishment provided by any other provision
90 of the general statutes.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section | <i>October 1, 2008</i> | New section |
| Sec. 2 | <i>October 1, 2008</i> | New section |
| Sec. 3 | <i>October 1, 2008</i> | New section |
| Sec. 4 | <i>October 1, 2008</i> | New section |

Statement of Purpose:

To provide a private right of action against bullying in the workplace.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]