
HOUSE BILL 1935

State of Washington

67th Legislature

2022 Regular Session

By Representatives Wicks, Berg, Berry, Dolan, J. Johnson, Ryu, Simmons, Goodman, Morgan, Pollet, Taylor, and Fey

Read first time 01/12/22. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to addressing workplace bullying by making it an
2 unfair practice to subject an employee to an abusive work
3 environment; adding a new section to chapter 49.60 RCW; and creating
4 a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
7 that:

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

10 (b) One of the biggest problems with workplace abuse is public
11 health care costs. When abused targets leave unhealthy work
12 environments, they become burdens of taxpayers;

13 (c) Surveys and studies have documented that: Approximately one
14 in three employees directly experience health-endangering workplace
15 bullying, and abusive work environments can have serious effects on
16 targeted employees and serious consequences for employers; and

17 (d) Unless mistreated employees have been subjected to abusive
18 treatment at work for unlawful discriminatory reasons, they are
19 unlikely to have legal recourse.

20 (2) For these reasons, the legislature intends:

1 (a) To provide legal recourse for employees who have been harmed,
2 psychologically, physically, or economically, by being deliberately
3 subjected to abusive work environments; and

4 (b) To provide legal incentives for employers to prevent and
5 respond to mistreatment of employees at work.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60
7 RCW to read as follows:

8 (1) It is an unfair practice under this chapter to subject an
9 employee to an abusive work environment.

10 (2) It is an affirmative defense to an action for an abusive work
11 environment that:

12 (a) The employer exercised reasonable care to prevent and
13 promptly correct the abusive conduct and the aggrieved employee
14 unreasonably failed to take advantage of appropriate preventive or
15 corrective opportunities provided by the employer. The employer may
16 demonstrate reasonable care by adopting employment policies
17 prohibiting abusive conduct, providing educational materials on
18 maintaining nonabusive work environments and establishing effective
19 enforcement procedures. This defense is not available when the
20 abusive conduct culminates in a negative employment decision; or

21 (b) The complaint is grounded primarily upon a negative
22 employment decision made consistent with an employer's legitimate
23 business interests, such as a termination or demotion based on an
24 employee's poor performance, or the complaint is grounded primarily
25 upon an employer's reasonable investigation of potentially illegal or
26 unethical activity.

27 (3) For purposes of this section:

28 (a) "Abusive conduct" is repeated conduct of an employer or
29 employee in the workplace, that a reasonable person would find
30 hostile, offensive, and unrelated to an employer's legitimate
31 business interests. In considering whether abusive conduct is
32 present, a trier of fact should weigh the severity, nature, and
33 frequency of the conduct. Abusive conduct may include, but is not
34 limited to, infliction of verbal abuse such as the use of derogatory
35 remarks, insults, and epithets; verbal or physical conduct that a
36 reasonable person would find threatening, intimidating, humiliating,
37 or isolating; or the gratuitous sabotage or undermining of a person's
38 work performance or environment. A single act normally will not
39 constitute abusive conduct, unless especially severe and egregious.

1 (b) "Abusive work environment" is a workplace where an employee
2 is subjected to abusive conduct that is so severe that it causes
3 physical, psychological, or economic harm to the employee.

4 (c) "Constructive discharge" is abusive conduct: (i) Which causes
5 the employee to resign; (ii) where, prior to resigning, the employee
6 brings to the employer's attention the existence of the abusive
7 conduct; and (iii) which the employer fails to take reasonable steps
8 to eliminate.

9 (d) "Economic harm" is the material impairment of a person's
10 economic stability, including ones ability to earn income or secure
11 employment opportunities, as documented by a competent physician,
12 psychiatrist, psychotherapist, or psychologist, or supported by
13 competent expert evidence at trial.

14 (e) "Negative employment decision" is a termination, constructive
15 discharge, demotion, unfavorable reassignment, refusal to promote, or
16 disciplinary action.

17 (f) "Physical harm" is the material impairment of a person's
18 physical health or bodily integrity, as documented by a competent
19 physician or supported by competent expert evidence at trial.

20 (g) "Psychological harm" is the material impairment of a person's
21 mental health, as documented by a competent psychologist,
22 psychiatrist, or psychotherapist, or supported by competent expert
23 evidence at trial.

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