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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 307 Session of  
2023

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INTRODUCED BY HARKINS, HILL-EVANS, CIRESI, SCHLOSSBERG, SANCHEZ,  
D. WILLIAMS, GUENST, MADDEN, NEILSON, FREEMAN, STURLA,  
KINKEAD AND N. NELSON, MARCH 10, 2023

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 10, 2023

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AN ACT

1 Providing for legal protections from abusive work environments  
2 and for remedies.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Healthy  
7 Workplace Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Abusive conduct." As follows:

13 (1) An act or omission intended to inflict and resulting  
14 in physical injury or psychological injury, which is not  
15 injury compensable under the act of June 2, 1915 (P.L.736,  
16 No.338), known as the Workers' Compensation Act, if the  
17 injury necessitates treatment by a qualified, licensed

1 medical, mental health or rehabilitative professional and is  
2 inflicted by means of acts or omissions that a reasonable  
3 individual would find abusive, based on the severity, nature  
4 and frequency of the conduct, including:

5 (i) Repeated verbal abuse by the use of derogatory  
6 remarks, insults and epithets.

7 (ii) Verbal, nonverbal or physical conduct of a  
8 threatening, intimidating or humiliating nature.

9 (iii) The sabotage or undermining of an employee's  
10 work performance.

11 (2) It shall be considered an aggravating factor if the  
12 conduct exploited an employee's known psychological or  
13 physical illness or disability.

14 (3) A single act normally shall not constitute abusive  
15 conduct, but an especially severe and egregious act may meet  
16 this standard.

17 "Abusive work environment." An employment condition when an  
18 employer or one or more of an employer's employees, acting with  
19 intent to cause pain or distress to an employee, subjects an  
20 employee to abusive conduct.

21 "Adverse employment action." A materially and objectively  
22 adverse reduction in terms, conditions or privileges of  
23 employment, including:

24 (1) a termination, demotion, unfavorable reassignment or  
25 failure to promote;

26 (2) disciplinary action; or

27 (3) reduction in compensation.

28 "Employee." A person who performs a service for wages or  
29 other remuneration under a contract of hire, written or oral,  
30 express or implied, for an employer. The term does not include:

1           (1) an individual employed in agriculture or in the  
2 domestic service of a person;

3           (2) an individual who, as a part of the individual's  
4 employment, resides in the personal residence of the  
5 employer; or

6           (3) an individual employed by the individual's parents,  
7 spouse or child.

8       "Employer." An individual, partnership, association,  
9 organization, corporation, legal representative, trustee in  
10 bankruptcy or receiver employing another person within this  
11 Commonwealth. The term includes the Commonwealth and any  
12 political subdivision, authority, board or commission of the  
13 Commonwealth. The term does not include religious, fraternal,  
14 charitable or sectarian corporations or associations, except  
15 those corporations or associations supported, in whole or in  
16 part, by governmental appropriations.

17       "Physical injury." The impairment of an individual's  
18 physical health or bodily integrity, as established by competent  
19 evidence to the satisfaction of the court.

20       "Psychological injury." The impairment of an individual's  
21 mental health, as established by competent evidence to the  
22 satisfaction of the court.

23 Section 3. Abusive work environment.

24       (a) Prohibition.--An employee may not be subjected to an  
25 abusive work environment by an employer or other employee.

26       (b) Retaliation prohibited.--An employer or employee may not  
27 retaliate in any manner against an employee who has opposed an  
28 unlawful employment practice under this act or who has made a  
29 charge, testified, assisted or participated in any manner in an  
30 investigation or proceeding under this act, including by:

- 1 (1) internal complaints and proceedings;
- 2 (2) arbitration and mediation proceedings; or
- 3 (3) legal actions.

4 Section 4. Employer liability.

5 An employer shall be liable for a violation of section 3  
6 committed by an employer's employee. If the alleged violation of  
7 section 3 does not include an adverse employment action, it  
8 shall be an affirmative defense for an employer only that:

- 9 (1) the employer exercised reasonable care to promptly  
10 prevent and correct any actionable behavior; and
- 11 (2) the complainant employee unreasonably failed to take  
12 advantage of appropriate preventive or corrective  
13 opportunities provided by the employer.

14 Section 5. Employee liability.

15 An employee may be individually liable for a violation of  
16 section 3. It shall be an affirmative defense for an employee  
17 only that the employee committed a violation of section 3 at the  
18 direction of the employer, under actual or implied threat of an  
19 adverse employment action.

20 Section 6. Affirmative defenses.

21 Any of the following is an affirmative defense to an action  
22 under section 3:

- 23 (1) The complaint is based on an adverse employment  
24 action reasonably made for poor performance, misconduct or  
25 economic necessity.
- 26 (2) The complaint is based on a reasonable performance  
27 evaluation.
- 28 (3) The complaint is based on an employer's reasonable  
29 investigation about potentially illegal or unethical  
30 activity.

1 (4) The complaint is based on an action taken by the  
2 employer that it was required by law to take.

3 Section 7. Remedies.

4 (a) Relief.--If a defendant has been found liable for a  
5 violation of section 3, the court may enjoin the defendant from  
6 engaging in the unlawful employment practice and may order any  
7 other relief that is deemed appropriate, including any one or  
8 more of the following:

9 (1) Rehiring of the plaintiff, reinstatement to a  
10 position and rescission of an adverse employment action.

11 (2) Removal of the offending party from the plaintiff's  
12 work environment.

13 (3) Payment of back pay, front pay and medical expenses.

14 (4) Damages for pain and suffering.

15 (5) Damages for emotional distress.

16 (6) Punitive damages.

17 (7) Reasonable attorney fees.

18 (b) Limitation.--If an employer is liable for a violation of  
19 section 3 that did not include an adverse employment action,  
20 emotional distress damages and punitive damages may be awarded  
21 only when the actionable conduct was extreme and outrageous. The  
22 limitation does not apply to individually named employee  
23 defendants.

24 Section 8. Enforcement.

25 A person aggrieved by a violation of this act may initiate a  
26 civil action or other proceeding in a court of competent  
27 jurisdiction not later than one year from the date of the last  
28 alleged violation of section 3.

29 Section 9. Collective bargaining or arbitration agreements.

30 This act shall not prevent, interfere, exempt or supersede

1 provisions of an employee's collective bargaining or arbitration  
2 agreement that provide greater rights and protections than  
3 prescribed in this act. This act shall not prevent new  
4 provisions of the collective bargaining or arbitration agreement  
5 that provide greater rights, remedies and protections from being  
6 implemented and applicable to the employee within the collective  
7 bargaining or arbitration agreement.

8 Section 10. Effect of other laws.

9 (a) Effect.--Except as provided in subsection (b),  
10 provisions of this act may not be deemed to exempt a person from  
11 a liability, duty or penalty provided by any other provision of  
12 law. The remedies provided under section 7 shall be in addition  
13 to remedies provided under any other provision of law.

14 (b) Exception.--Payments of workers' compensation shall be  
15 reimbursed from damages paid under this act if an employee  
16 receives compensation:

17 (1) for medical costs for the same injury or illness  
18 under this act and the act of June 2, 1915 (P.L.736, No.338),  
19 known as the Workers' Compensation Act; or

20 (2) in cash payments under this act and the Workers'  
21 Compensation Act for the same period of time not working as a  
22 result of the compensable injury or illness or unlawful  
23 employment practice.

24 Section 11. Effective date.

25 This act shall take effect in 60 days.