

2024 -- S 2473 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKPLACE PSYCHOLOGICAL SAFETY ACT

Introduced By: Senators Ciccone, Sosnowski, F. Lombardi, Bissaillon, Rogers, E Morgan, and Bell

Date Introduced: February 12, 2024

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 60

4 WORKPLACE PSYCHOLOGICAL SAFETY ACT

5 **28-60-1. Short title.**

6 This chapter shall be known and may be cited as the "Workplace Psychological Safety
7 Act."

8 **28-60-2. Public policy.**

9 (a) This chapter sets forth a public policy acknowledging and addressing the relevance and
10 importance of mental health as an integral aspect of human well-being, and therefore, employee
11 well-being. This chapter also sets forth a public policy against any type of psychological abuse that:

12 (1) Violates an employee's right to a physically and psychologically safe work
13 environment; and

14 (2) Injures an employee, hinders the performance of an employee, stigmatizes the
15 employee, and/or undermines the dignity of the employee.

16 (b) This chapter declares and reasserts the obligation of employers to keep their employees
17 and the work environment safe as set forth in laws throughout the state and the federal government.

18 **28-60-3. Purpose.**

1 It is the purpose of this chapter to:

2 (1) Recognize and protect an employee's right not only to a physically safe work
3 environment but also to a psychologically safe work environment in the workplace.

4 (2) Recognize and promote an employer's responsibility to acknowledge, monitor, prevent,
5 discourage, and adequately address issues of psychological abuse in the workplace.

6 (3) Provide legal incentive for employers to acknowledge, monitor, prevent, discourage,
7 and adequately address issues of psychological abuse to eliminate such behaviors before they
8 disrupt the safety of the work environment and/or cause subsequent harm to employees.

9 (4) Provide legal relief and remedy for employees harmed psychologically, emotionally,
10 physically, professionally, or economically by exposure to an unsafe, toxic work environment,
11 including any subsequent damages to make employees whole.

12 **28-60-4. Scope of application.**

13 This chapter shall apply to all employees regardless of the nature of their job.

14 **28-60-5. Definitions.**

15 For the purposes of this chapter, the terms used herein shall have the meanings set forth in
16 this section:

17 (1) "Bullying" means interpersonal abuse that operates employer-to-employee(s),
18 especially superior(s) to subordinate(s).

19 (2) "Mobbing" means an interpersonal abuse system that operates employer-to-
20 employee(s).

21 (3) "Physical injury" means impairment of a person's physical health or bodily integrity as
22 established by competent evidence and may manifest mentally, emotionally, or physically.

23 (4) "Psychological abuse" means mentally provocative harassment. Mistreatment that has
24 the effect of hurting, weakening, confusing, or frightening a person mentally or emotionally.

25 (5) "Psychological injury" means impairment of a person's mental health as established by
26 competent evidence and may manifest mentally, emotionally, or physically.

27 (6) "Reasonable person" means an unbiased person who displays reason, fairness, caution,
28 and care.

29 (7) "Representative employee" means administrative employees in leadership and/or
30 management positions whose responsibility is to oversee and enforce organizational policies
31 including, but not limited to, CEOs, CFOs, presidents, vice presidents, executive directors,
32 members of a board of directors, or employees in human resources, legal, or diversity, equity, and
33 inclusion.

34 (8) "Third party" means a neutral person with no prior affiliation with the parties.

1 (9) "Toxic work environment" means an intolerable employment condition in which a
2 reasonable person would find it difficult, uncomfortable, and/or an impossible environment to
3 perform their workplace duties and tasks.

4 **28-60-6. Employee right to dignity and a psychologically safe work environment.**

5 Every employee shall have the right to a work environment that is safe and affords them
6 the dignity to which all human beings are entitled, free from all forms of psychological abuse.

7 **28-60-7. Employer responsibility to provide safe work environments and ensure**
8 **worker dignity.**

9 Employers have a general duty to provide a safe work environment free from all forms of
10 abuse including psychological abuse. Employers have a general duty to ensure that all employees
11 are treated respectfully and with dignity.

12 **28-60-8. Prohibited activity.**

13 (a) It shall be an unlawful employment practice for any employer or employee to engage
14 in the psychological abuse of another employee that creates a toxic work environment in which a
15 reasonable person would find intolerable to perform their regular workplace duties and tasks, has
16 the ability to cause injury, and/or jeopardizes future career prospects without just cause. The
17 determination of which shall be conducted from the view of a reasonable person under the totality
18 of the circumstances, its impact on the work environment of the employee, and/or its subsequent
19 impact on the employee's well-being.

20 (b) It shall be an unlawful employment practice to retaliate in any manner against an
21 employee who has opposed any unlawful employment practices under this chapter, including, but
22 not limited to, filing a claim internally or externally on behalf of oneself or another objecting to
23 behavior in violation of this chapter whether as a complainant, witness, or advocate.

24 (c) It shall be an unlawful employment practice to require any complainant under this
25 chapter to enter into mediation or forced arbitration.

26 (d) Conduct that does not constitute psychological abuse includes, but is not limited to:

27 (1) Acts intended to exercise a supervisor's authority to discipline with just cause and
28 conducted in a progressive disciplinary manner in compliance with policies and laws;

29 (2) Demands for protecting the confidentiality of the services provided by the employer;

30 (3) The formulation or promulgation of regulations or memoranda to direct the operations,
31 maximize efficiency, and evaluate employees' performance based on the general objectives of the
32 employer;

33 (4) The temporary assignment of additional duties when necessary to ensure the continuity
34 of services;

1 (5) Administrative actions directed to the completion of an employment agreement, with
2 cause; and

3 (6) Employer's affirmative actions to enforce the provisions of a human resources
4 regulation, clauses of employment agreements, or obligations, duties, and prohibitions established
5 by law.

6 (e) Concerted activity/Section 7 activity under the National Labor Relations Act as
7 interpreted by the National Labor Relations Board shall not be construed as psychological abuse.

8 **28-60-9. Procedure.**

9 (a) Every employer shall be responsible for taking all reasonable measures to acknowledge,
10 monitor, prevent, discourage, and adequately address incidents of psychological abuse.

11 (b) Within one hundred eighty (180) days every employer shall:

12 (1) Adopt and implement preventive and detective internal policies against psychological
13 abuse, including anti-retaliation policies, consistent with this chapter. Policies should include a
14 broad reporting procedure, including formal and informal reporting methods.

15 (2) Notify and train all managers, supervisors, and other representative employees as to
16 handling complaints of psychologically abusive behavior, including the employer's reporting
17 provisions and policies to acknowledge, monitor, prevent, discourage and adequately address all
18 such complaints.

19 (3) Post employees' rights under this chapter and employer reporting policies in such a
20 manner that all employees have access, including on the website, bulletin boards, job descriptions,
21 and in applicable promotional materials.

22 (4) Implement and uphold an effective anti-retaliation provision that guarantees no
23 retaliation against any employee who has opposed any unlawful practice in a complaint under this
24 chapter.

25 (5) Implement an investigation policy for all complaints of psychologically abusive
26 behavior which includes notice provisions for complainant regarding the status, completion, and
27 outcome of the complaint and imposes a policy of progressive discipline for any employee
28 determined to have engaged in psychologically abusive behavior.

29 (6) Apply evaluation and discipline processes evenly and fairly to all employees.

30 (7) Annually perform an anonymous workplace climate survey, with its results to be
31 submitted to the department of labor and training annually.

32 (8) Report annually the number of employee complaints of abusive behavior, employee
33 disciplines, workers' compensation claims, absenteeism rates, stress leave rates, attrition rates,
34 discrimination complaints, investigation rates, follow up action rates, the workforce gender and

1 racial makeup, and de-identified wage and salary data by protected category to the department of
2 labor and training, who will make this information publicly available, at a minimum under the
3 access to public records act.

4 (c) If the employer proves to have exercised reasonable care to prevent and promptly
5 correct the conduct, such employer shall be held harmless from any claim under the provisions of
6 this chapter.

7 (d) The aggrieved employee shall have the following options to notify the employer of the
8 complaint without use of the employer's protocol:

9 (1) File a complaint with the department of labor and training (public sector employees),
10 who shall:

11 (i) Evaluate and investigate the conditions described in the complaint; and

12 (ii) Contact the employer in writing and require the employer to respond by a due date with
13 proof that the hazard has been corrected; or make an appointment for a site visit prioritized
14 according to the nature of the hazard; or phone or visit the workplace if there is imminent danger
15 and issue fines and/or penalties.

16 (2) File suit against the employer in the Rhode Island superior court for violation(s) of this
17 chapter.

18 (e) The department of labor and training shall make violations of this chapter available to
19 the public per the access to public records act, redacting all private information as to the aggrieved
20 employee, including their name to protect their privacy and not interfere with future job prospects.

21 **28-60-10. Employer liability.**

22 Any employer that allows, engages in, or promotes psychological abuse whereby creating
23 a toxic work environment shall be liable to the affected employee(s).

24 Every employer shall:

25 (1) Be liable for failing to take the appropriate measures to provide employees with a
26 psychologically safe work environment as outlined in this chapter.

27 (2) Be liable for engaging in any violation of this chapter.

28 (3) Be liable for any damages, including economic, compensatory, and punitive damages,
29 to any employee who has been subjected to work in a toxic work environment as outlined in this
30 chapter in the scope of their employment unless the employer can demonstrate they have met all
31 elements of the affirmative defense provided in § 28-60-12. An employee is entitled to recover the
32 greater of all actual damages or five thousand dollars (\$5,000) for each violation of this chapter.

33 (4) If not prevailing, be liable for the plaintiff's reasonable attorneys' and witnesses' fees
34 and costs.

1 **28-60-11. Scope of the protection.**

2 (a) Any person who reports psychological abuse shall be protected by this chapter.

3 (b) No person shall aid, abet, incite, compel, or coerce the doing of an act forbidden under
4 this chapter or to attempt to do so.

5 (c) No employer shall terminate, sanction, mislead, coerce, intimidate, threaten, interfere
6 with, discriminate against, or otherwise retaliate against any person in the opposition of unlawful
7 employment practices or exercise of any right under this chapter, including, but not limited to, an
8 employee as to the terms, conditions, compensation, location, benefits, or privileges of employment
9 because the employee or witness offers or attempts to offer, verbally or in writing, any testimony,
10 statement, information, or claim to a labor union, human resources office, employer office,
11 legislative, administrative, or judicial forum, or any other internal or external office or otherwise
12 engages in any other reasonable participation in a claim under this chapter insofar as such
13 statements constitute a disclosure of privileged information as provided by law.

14 (d) The employee shall show proof of the violation through direct and circumstantial
15 evidence.

16 (e) The employee may bring a prima facie case of violation of the law by proving they
17 reported an incident of workplace psychological abuse and was subsequently terminated,
18 threatened, or discriminated against in their employment. Once the prima facie case is established,
19 the employer may allege and provide a legitimate and nondiscriminatory ground for the
20 termination. If the employer alleges and provides such grounds, the employee shall show that the
21 grounds alleged by the employer were a mere pretext for termination.

22 **28-60-12. Affirmative defense.**

23 (a) An employer may establish an affirmative defense to limit damages for psychological
24 abuse under this chapter where the employer took all steps outlined in this chapter to acknowledge,
25 monitor, prevent, discourage, and adequately address the issues and complaints surrounding
26 allegations of psychological abuse and exercised reasonable care to prevent and promptly correct
27 any violation in this chapter or acted with just cause.

28 (b) Because this chapter requires employers to take all reasonable necessary steps to
29 adequately address complaints of psychological abuse, an employer shall not be exempt from
30 liability if the employer or its representative employees or supervisors knew or should have known
31 of said conduct and failed to acknowledge, monitor, prevent, discourage, or address the allegations
32 of psychological abuse and promptly correct the situation.

33 (c) This defense shall not be available when the employer or its representative employees
34 or supervisors engage in this conduct.

1 **28-60-13. Remedies.**

2 Complainants who prove a violation of this chapter shall be entitled to all remedies
3 necessary to make such complainants whole. Such remedies shall factor whether a toxic work
4 environment existed and/or whether or not injury resulted:

5 (1) An apology to the complainant employee and mandatory training and/or coaching
6 and/or counseling and/or discipline for violators of this chapter who remain with the employer ;

7 (2) Reinstatement of work;

8 (3) Economic damages for lost wages;

9 (4) Expenses related to treatment related to the psychological abuse including future
10 medical expenses for psychological injury or resulting physical injury;

11 (5) Compensable damages to compensate for the resulting pain and suffering and emotional
12 and psychological damages;

13 (6) Punitive damages to deter future acts of psychological abuse;

14 (7) Injunctive relief whereby the court may enjoin the defendant from engaging in the
15 unlawful employment practice;

16 (8) Public notification of the case outcome without disclosing the plaintiff's name if desired
17 by the plaintiff;

18 (9) Attorneys' fees for the prevailing plaintiff; and

19 (10) Any other relief deemed appropriate, including restorative measures, including
20 modification of the disciplinary record of the employee and/or organizational training.

21 **28-60-14. Statute of limitations.**

22 Any person who has a private cause of action under the provisions of this chapter shall
23 have a period of three (3) years to file said cause of action from the last alleged psychologically
24 abusive act in the Rhode Island superior court.

25 **28-60-15. Severability clause.**

26 If any clause, paragraph, subparagraph, article, provision, section, or part of this chapter
27 are held to be unconstitutional or void, the holding to such effect shall not affect, impair, or
28 invalidate the remainder of this chapter. The effect of said holding shall be limited solely to the
29 clause, paragraph, subparagraph, article, provision, section, or part thereof thus held to be
30 unconstitutional or void.

31 **28-60-16. Conflict with laws.**

32 (a) Nothing in this chapter should limit employee rights under any other law including
33 OSHA, laws under state-level OSHA agencies or their equivalent, Title VII of the Civil Rights Act,
34 the Americans with Disabilities Act, the Age Discrimination in Employment Act, state EEO laws,

1 [the National Labor Relations Act \(NLRA\), and state labor rights laws.](#)

2 [\(b\) Nothing in this chapter shall restrict workers from negotiating broader protections via](#)
3 [collective bargaining or other concerted activity.](#)

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- WORKPLACE PSYCHOLOGICAL
SAFETY ACT

1 This act would provide protection for employees from workplace psychological abuse
2 (bullying), and requires employers to establish, adopt, and implement an anti-workplace bullying
3 policy to address and investigate complaints of workplace psychological abuse. It provides a cause
4 of action against employers who knowingly violate this act and allow, encourage, or ignore
5 workplace bullying with a variety of remedies including, reinstatement of work, lost wages,
6 medical expenses, and punitive damages. The act would also provide an affirmative defense for an
7 employer that addressed complaints in accordance with this chapter.

8 This act would take effect upon passage.

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