

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act creating an employer’s duty of care to safeguard its employees from workplace bullying.

PETITION OF:

NAME:

Paul R. Feeney

DISTRICT/ADDRESS:

Bristol and Norfolk

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1170 OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act creating an employer’s duty of care to safeguard its employees from workplace bullying.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws, as appearing in the 2022 Official Edition, are hereby amended by
2 inserting after chapter 149A the following chapter:-

3 Chapter 149B. The Healthy Workplace Act

4 Section 1. Legislative Findings and Purpose

5 Whereas, the social and economic well-being of the State is dependent upon healthy and
6 productive employees;

7 Whereas, approximately a third of all employees will directly experience health-
8 endangering workplace bullying during their working lives;

9 Whereas, workplace bullying can negatively affect an employee’s mental and physical
10 health and inflict serious harm, including, among other things, feelings of shame and
11 humiliation, severe anxiety, depression, suicidal ideation, impaired immune systems,
12 hypertension, increased risk of cardiovascular disease, and post-traumatic stress disorder;

13 Whereas, workplace bullying can have serious consequences for employers, including
14 reduced employee productivity and morale, greater levels of fear and distrust, higher turnover
15 and absenteeism rates, and increased demands on employee benefit programs, including health
16 care coverage;

17 Whereas, if employees who have been subjected to workplace bullying cannot establish
18 that the behavior was motivated by protected class membership status such as race, color, sex,
19 sexual orientation, national origin, disability, or age, or by retaliation for engaging in protected
20 whistleblowing, then they are unlikely to enjoy legal protection against such abuse;

21 Whereas, legal protection from abusive work environments should not be limited to
22 behavior grounded in protected class status; and,

23 Whereas, existing workers’ compensation plans, occupational safety and health laws, and
24 common-law tort actions are inadequate to discourage workplace bullying or to provide relief to
25 employees who have been harmed by workplace bullying.

26 Whereas, it is the purpose of this chapter to create an enforceable duty of care for
27 employers to engage in reasonable preventive and responsive actions to safeguard employees
28 from workplace bullying and to abstain from retaliating against employees who act pursuant to
29 their rights under this chapter.

30 Section 2. Definitions

31 "Workplace bullying": when an employer or one or more its employees, subjects an
32 employee to an abusive work environment that causes physical harm, psychological harm, or
33 both;

34 "Abusive work environment": acts, omissions, or both, that a reasonable person would
35 find constitutes an abusive work environment, based on the severity, nature, and frequency of the
36 conduct, including, but not limited to: repeated verbal abuse such as targeted derogatory remarks,
37 insults, epithets, or ridicule; verbal, non-verbal, or physical conduct of a threatening,
38 intimidating, or humiliating nature; defamatory statements that undermine an employee's
39 vocational and personal reputation; the sabotage or deliberate undermining of an employee's
40 work performance; and orchestrated patterns of ostracism. A single act normally shall not
41 constitute an abusive work environment, but an especially severe and egregious act may meet
42 this standard. Pertinent online communications and off-site conduct between employees shall be
43 included in determining whether an abusive work environment exists. Conduct that exploits an
44 employee's known psychological or physical illness or disability shall be considered an
45 aggravating factor in determining whether an abusive work environment exists. A single act
46 normally shall not constitute an abusive work environment, but an especially severe and
47 egregious act may meet this standard. Pertinent online communications and off-site conduct
48 between employees shall be included in determining whether an abusive work environment
49 exists. Conduct that exploits an employee's known psychological or physical illness or disability
50 shall be considered an aggravating factor in determining whether an abusive work environment
51 exists. An adverse employment action as defined in Section 2(c) and associated with behaviors

52 defined in this section shall be considered an aggravating factor in determining whether an
53 abusive work environment exists.

54 “Adverse employment action”: an outcome that negatively impacts an employee,
55 including but not limited to, termination, constructive discharge, suspension, or reduction in
56 compensation.

57 “Constructive discharge”: an adverse employment action where: (1) the employee
58 reasonably believed they were subjected to workplace bullying; (2) the employee resigned
59 because of that mistreatment; and (3) the employer was aware of the workplace bullying prior to
60 the resignation and failed to stop it.

61 “Retaliation”: retaliatory acts or omissions, by way of an adverse employment action or
62 other material response that would dissuade a reasonable person from exercising their rights
63 under this chapter, directed at an employee because they opposed any employment practice
64 under this chapter, or made a charge, testified, assisted, or participated in any manner in an
65 investigation or proceeding under this chapter.

66 “Psychological harm”: the impairment of a person’s mental health, as established by
67 competent evidence.

68 “Physical harm”: the impairment of a person’s physical health or bodily integrity, as
69 established by competent evidence.

70 Section 3. Duty to safeguard from workplace bullying

71 (a) An employer has a duty of care to safeguard each of its employees from workplace
72 bullying.

73 (b) An employer fulfills its duty of care under Section 3 (a) by engaging in reasonable
74 preventive and responsive measures concerning workplace bullying. (c) Reasonable preventive
75 measures include:

76 (1) Establishing policies and procedures for preventing, reporting, and responding to
77 workplace bullying;

78 (2) Disseminating to all employees a policy that includes, at minimum, a definition of
79 workplace bullying consistent with this chapter, notification of the rights conferred by this
80 chapter, and procedures for reporting workplace bullying; and,

81 (3) On an annual basis, conducting employee training and education about workplace
82 bullying.

83 (d) Reasonable responsive measures include:

84 (1) Conducting good faith investigations in response to reports and claims of workplace
85 bullying;

86 (2) Complying with the employer's own policies and procedures concerning workplace
87 bullying;

88 (3) Offering remedial measures to an employee subjected to workplace bullying, which
89 may include, but are not limited to, stopping the bullying behaviors, implementing reasonable
90 preventive measures as described in Section 3(b)(1), removing responsible parties from the
91 employee's work environment, and providing reasonably foreseeable relief including medical
92 care, mental health care, lost wages and benefits, and restoration or reinstatement for an adverse
93 employment action as defined in this chapter.

94 (4) Instituting remedial measures, personnel actions, and discipline for those engaging in
95 workplace bullying, which may include, but are not limited to, coaching, counseling, removal of
96 supervisory duties, pay reduction, transfer, suspension, demotion, and/or termination.

97 (e) It shall not be a violation of the duty of care under this Section when an allegation of
98 workplace bullying is based on:

99 (1) an adverse employment action reasonably made for poor performance, misconduct, or
100 business necessity;

101 (2) a reasonable performance evaluation; or,

102 (3) an employer's reasonable investigation about potentially illegal or unethical activity.

103 (f) An employee may bring an action in Superior Court for an employer's failure to meet
104 its duty of care as defined in this subsection.

105 Section 4. Duty to not retaliate

106 (a) An employer has a duty of care not to retaliate against an employee who has opposed
107 any employment practice under this chapter, or who has made a charge, testified, assisted, or
108 participated in any manner in an investigation or proceeding under this chapter, including, but
109 not limited to, internal complaints and proceedings, arbitration and mediation proceedings, and
110 legal actions.

111 (b) When retaliation as defined in this chapter has occurred, an employer may attempt to
112 mitigate its violation of duty of care by offering remedial measures to the employee, including,
113 but not limited to, stopping the retaliatory behaviors, implementing reasonable preventive
114 measures as described in Section 3(b)(1), removing responsible parties from an employee's work

115 environment, and providing reasonably foreseeable relief including medical care, mental health
116 care, lost wages and benefits, and restoration or reinstatement for an adverse employment action
117 as defined in this chapter.

118 (c) When retaliation as defined in this chapter has occurred, an employer may attempt to
119 mitigate its violation of duty of care by requiring appropriate remedial measures, personnel
120 actions, and discipline for those engaging in retaliation, including, but not limited to, coaching,
121 counseling, removal of supervisory duties, pay reduction, transfer, suspension, demotion, or
122 termination.

123 (d) An employee may bring an action in Superior Court for an employer's failure to meet
124 its duty of care as defined in this subsection.

125 Section 5. Remedies

126 (a) When an employer is found to have failed to meet its duty of care under Section 3 of
127 this chapter, the court may enjoin the defendant from engaging in further workplace bullying and
128 order other relief including, as appropriate, requiring that the employer to comply with its duty of
129 care under Section 3; and awarding relief consistent with remedial measures defined in Section
130 3(b)(2)(iii-iv), as well as attorney's fees.

131 (b) When an employer is found to have failed to meet its duty of care under Section 4 of
132 this chapter, the court may enjoin the defendant from engaging in further retaliation and order
133 other relief including, as appropriate, requiring that the employer comply with its duty of care
134 under Section 4; and awarding relief consistent with remedial measures defined in Section 4(b-
135 c), as well as attorney's fees.

136 (c) Where an employer is found to have failed to meet its duty of care under Section 3 or
137 Section 4 of this chapter and attempts to mitigate its failure as defined in Section 3(b)(2)(iii-iv)
138 and Section 4(b-c), respectively, the employee has a duty to reasonably consider the employer's
139 offer to mitigate said failure. Reasonableness shall be determined by the severity of the breach
140 (including the impact of the breach on the employee's physical and mental health) and the
141 corresponding timing and remedial sufficiency of the employer's offer. It further shall be a
142 rebuttable presumption that an employee is acting reasonably by refusing to work under the
143 supervision of any co-employee who engaged in the behaviors violative of this chapter.

144 Section 6. Time limitations

145 An action under this chapter must be commenced no later than one year after the last act
146 that constitutes the alleged violation of Section 3 or Section 4 of this chapter.

147 Section 7. Preservation of rights

148 Nothing in this chapter shall supersede rights and obligations provided under other
149 federal, state, and local laws, including, but not limited to, those addressing employment
150 discrimination, occupational safety and health, workers' compensation, and collective
151 bargaining.