

HOUSE BILL No. 2200

By Committee on Federal and State Affairs

1-30

1 AN ACT concerning workplace bullying, abuse and harassment of state
2 employees; state agency policy to address and correct workplace
3 bullying, abuse and harassment.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) The legislature finds that:

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

9 (2) at least $\frac{1}{3}$ of all employees will directly experience health-
10 endangering workplace bullying, abuse and harassment during their
11 working lives, and this form of mistreatment is approximately four times
12 more prevalent than sexual harassment alone;

13 (3) workplace bullying, abuse and harassment can inflict serious
14 harm upon targeted employees, including feelings of shame and
15 humiliation, severe anxiety, depression, suicidal tendencies, impaired
16 immune systems, hypertension, increased risk of cardiovascular disease
17 and symptoms consistent with post-traumatic stress disorder; and

18 (4) abusive work environments can have serious consequences for
19 employers, including reduced employee productivity and morale, higher
20 turnover and absenteeism rates and increases in medical and workers
21 compensation claims.

22 (b) It is the purpose of this act to insure that every state agency has a
23 policy in place to address and correct workplace bullying.

24 Sec. 2. As used in sections 1 through 4, and amendments thereto:

25 (a) "Abusive conduct" means acts, omissions, or both, that a
26 reasonable person would find abusive, based on the severity, nature and
27 frequency of the conduct, including, but not limited to: (1) Repeated verbal
28 abuse such as the use of derogatory remarks, insults and epithets; (2)
29 verbal, nonverbal or physical conduct of a threatening, intimidating or
30 humiliating nature; or (3) the sabotage or undermining of an employee's
31 work performance. It shall be considered an aggravating factor if the
32 conduct exploited an employee's known psychological or physical illness
33 or disability. A single act normally shall not constitute abusive conduct, but
34 an especially severe and egregious act may meet this standard.

35 (b) "Abusive work environment" means an employment condition
36 when an employer or one or more of its employees, acting with intent to

1 cause pain or distress to an employee, subjects that employee to abusive
2 conduct that causes physical harm, psychological harm or both.

3 (c) "Adverse employment action" means an outcome which
4 negatively impacts an employee, including, but not limited to: A
5 termination, demotion, unfavorable reassignment, failure to promote,
6 disciplinary action or reduction in compensation.

7 (d) "Bullying" means: (1) Any intentional gesture, any intentional
8 written, verbal, or an electronic communication or physical act or threat
9 either by any agent or employee of the state towards a state of Kansas
10 employee that is sufficiently severe, persistent or pervasive that such
11 gesture, communication, act or threat creates an intimidating, threatening
12 or abusive workplace for a state of Kansas employee that a reasonable
13 person, under the circumstances, knows or should know will have the
14 effect of:

15 (A) Harming the state employee, whether physically or emotionally;
16 (B) damaging the state employee's property;
17 (C) placing a state employee in reasonable fear of harm; or
18 (D) placing a state employee in reasonable fear of damage to the state
19 employee's property;

20 (2) cyberbullying; or

21 (3) any other form of intimidation or harassment prohibited by the
22 state of Kansas in policies concerning bullying adopted pursuant to this
23 section.

24 (e) "Constructive discharge" means an adverse employment action
25 where:

26 (1) The employee reasonably believed such employee was subjected
27 to an abusive work environment;

28 (2) the employee resigned because of that conduct; and

29 (3) the employer was aware of the abusive conduct prior to the
30 resignation and failed to stop it.

31 (f) "Cyberbullying" means bullying by use of any electronic
32 communication device including, but not limited to, e-mail, instant
33 messaging, text messages, blogs, mobile phones, pagers, online games and
34 websites.

35 (g) "Psychological harm" means the impairment of a person's mental
36 health, as established by competent evidence.

37 (h) "Physical harm" means the impairment of a person's physical
38 health or bodily integrity, as established by competent evidence.

39 Sec. 3. (a) No state employee shall be subjected to an abusive work
40 environment.

41 (b) Each state agency shall adopt a policy to prohibit workplace
42 bullying. Such policy shall include:

43 (1) A mechanism for reporting and correcting workplace bullying;

1 (2) protections for individuals reporting workplace bullying;
2 (3) a defined progressive discipline policy to apply to repeat
3 offenders; and

4 (4) a requirement for annual reporting to the division of personnel
5 services of the department of administration and the department of labor.

6 (c) The division of personnel services of the department of
7 administration, in cooperation with the department of labor, shall draft and
8 make available sample policies.

9 (d) No state agency, any of its agents, or any state employee shall
10 retaliate in any manner against a state employee who has reported any
11 unlawful employment practice under this act, or who has participated in
12 any manner in an investigation or proceeding under this act.

13 Sec. 4. (a) All state agencies shall exercise reasonable care to prevent
14 and correct promptly any bullying behavior. All state agencies shall
15 provide a working environment as safe as possible by having preventative
16 measures in place and by dealing immediately with threatening or
17 potentially violent situations.

18 (b) All state employees shall treat other employees with dignity and
19 respect. No employee shall engage in threatening, violent, intimidating or
20 other abusive conduct or behaviors.

21 Sec. 5. This act shall take effect and be in force from and after its
22 publication in the statute book.