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LC003459/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- DIGNITY AT WORK ACT

Introduced By: Senators Ciccone, Nesselbush, Bell, Quezada, and Picard

Date Introduced: January 21, 2020

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  
2 RELATIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 52.1

4 DIGNITY AT WORK ACT

5 **28-52.1-1. Short title.**

6 This act shall be known and may be cited as "The Dignity at Work Act of 2020".

7 **28-52.1-2. Legislative findings.**

8 The general assembly hereby finds as follows:

9 (1) Generalized workplace harassment and bullying is a severe and pervasive problem. At  
10 least one third of workers in the United States will face workplace bullying during their careers.  
11 Workplace bullying leads to a loss of esteem, dignity and self-worth for targets and witnesses.  
12 Workplace bullying also leads to severe emotional, psychological, economic and physical harm to  
13 targets. Such harms include feelings of shame and humiliation, anxiety, depression, insomnia,  
14 hypertension, substance abuse, post-traumatic stress disorder, suicidal ideation, heart disease,  
15 stress-induced illnesses, suicide, workplace violence and job loss.

16 (2) Generalized workplace harassment and bullying costs American employers billions of  
17 dollars in lost productivity, turnover, absenteeism, presentism, decreased morale, increased  
18 insurance premiums, workers' compensation, medical and legal costs.

19 (3) Workplace bullying and general harassment has been studied in the United States

1 since at least the 1970s, when psychiatrist Carroll Brodsky published the earliest examination of  
2 workplace bullying in America in 1976. Since then, a multitude of employer systems have been  
3 made available to address the problem. Despite these decades of work and awareness, employer  
4 policies alone have been ineffective in preventing, remedying and eliminating workplace  
5 bullying.

6 (4) Since the 1980s, the United States Supreme Court has determined that discriminatory  
7 harassment in the workplace that creates a hostile work environment is prohibited under federal  
8 law. Hostile work environments are prohibited under various federal anti-discrimination statutes,  
9 such as Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990  
10 (ADA), and the Age Discrimination in Employment Act of 1967 (ADEA). However, a hostile  
11 work environment that is unconnected to an employee's membership in a protected group is not  
12 actionable under these laws. The Legislature hereby finds that if mistreated employees who have  
13 been subjected to harassment cannot establish that the behavior was motivated by race, color, sex,  
14 sexual orientation, national origin or age, such employees are unlikely to be protected by the law  
15 against such mistreatment.

16 (5) Existing workers' compensation provisions and common law tort law are inadequate  
17 to discourage workplace bullying or to provide adequate redress to employees who have been  
18 harmed by workplace bullying.

19 (6) Since the 1940s, the right to dignity has been recognized as an inalienable human  
20 right and the foundation of freedom, justice and peace in the world. A typical adult will spend at  
21 least a third of their waking hours at work. Therefore, the right to dignity must be assured in the  
22 workplace. In order to protect workers' right to dignity, legislation must be passed protecting this  
23 right and providing legal recourse for targets of workplace bullying and/or general harassment  
24 and other abusive behaviors.

25 **28-52.1-3. Purpose.**

26 (a) The purpose of this chapter is to recognize and protect the right to dignity in the  
27 workplace, and to prevent, detect, remedy and eliminate all forms of workplace bullying and  
28 harassment that infringe upon that right. Accordingly, the provisions of this chapter shall be  
29 construed liberally and given broad interpretation consistent with this purpose.

30 (b) It is also the purpose of this chapter to:

31 (1) Prevent, detect, remedy and eliminate workplace bullying, moral, psychological and  
32 general harassment and other abusive behavior from the American workplace.

33 (2) Provide a remedy for workers who are targets of workplace bullying, moral,  
34 psychological or general harassment and/or other forms of workplace abuse in order to make

1 whole such targets of workplace abuse.

2 (3) Provide an incentive for employers to prevent, detect, remedy and eliminate  
3 workplace bullying, moral, psychological and general harassment and other forms of abuse in the  
4 workplace, in order that such behaviors shall be addressed and eliminated before they cause harm  
5 to the targets of such behaviors.

6 **28-52.1-4. Definitions.**

7 (a) For the purposes of this chapter, the following words and phrases shall have the  
8 following meanings:

9 (1) "Employer" means any organization or individual employing an individual to engage  
10 in any work on their behalf or on behalf of their subsidiaries, customers or clients, whether such  
11 work is paid or unpaid. This shall include non-profit agencies employing volunteers. This shall  
12 also include organizations hiring workers through a temporary agency or other such organization  
13 to perform work on their behalf. Employers who exert control over the means, methods, payroll  
14 or personnel practices of their suppliers shall be considered joint employers with said supplier for  
15 the purpose of this act. Where more than one organization or individual meets the definition of  
16 employer under this act, for the purpose of a claim by a targeted employee, such organizations  
17 shall have joint and several liability as co-employers.

18 (2) "Employee" means a person who engages in work for another, whether such work is  
19 paid or unpaid, or whether such other directly employs said employee. "Employees" includes  
20 individuals who perform work in any capacity, including apprentices, trainees, unpaid interns,  
21 volunteers, or independent contractors.

22 (3) "Right to Dignity" means the fundamental right to receive respect for one's dignity as  
23 a human being and the right to enjoy the conditions necessary for human dignity to flourish.  
24 Respect for dignity implies the right not to be treated in a degrading or humiliating manner.

25 (4) "Workplace Bullying" means an abuse or misuse of power through means that  
26 undermine, humiliate, denigrate, or sabotage a person in the workplace, and which has the  
27 purpose or effect of threatening, intimidating, dominating, or otherwise infringing upon a person's  
28 right to dignity. The source of power shall not be considered as limited to formal organizational  
29 power or authority.

30 (i) Workplace bullying may take the form of interpersonal interactions, organizational  
31 practices, or management actions. Workplace bullying may take the form of harassment,  
32 incivility, abusive supervision, physical violence, aggressions and other types of objectionable  
33 behaviors. The behaviors may come from any level of the organization, including supervision, co-  
34 workers, subordinates, customers and even direct reports.

1           (ii) Workplace bullying can encompass a broad spectrum of conduct. Examples of  
2 workplace bullying include, but are not limited to:

3           (A) Persistent or egregious use of abusive, insulting, or offensive language;

4           (B) Unwarranted physical contact or threatening gestures;

5           (C) Interfering with a person's personal property or work equipment;

6           (D) The use of humiliation, personal criticism, ridicule, and demeaning comments

7           (E) Overbearing or intimidating levels of supervision;

8           (F) Withholding information, supervision, training or resources to prevent someone from  
9 doing their job;

10          (G) Changing work arrangements, such as rosters, offices, assignments, leave, and  
11 schedules to deliberately inconvenience someone;

12          (H) Isolating, or marginalizing a person from normal work activities;

13          (I) Inconsistently following or enforcing rules, to the detriment of an employee;

14          (J) Unjustifiably excluding colleagues from meetings or communications;

15          (K) Intruding on a person's privacy by pestering, spying or stalking; and

16          (L) Spreading misinformation or malicious rumors.

17          (iii) While the offender's intent is relevant to the remedy phase of a claim, it shall not be a  
18 required element to support a claim of workplace bullying. The decision on whether bullying has  
19 occurred is not to be determined by the intent of the offender, but rather by the nature of the  
20 behavior itself, and whether it has the effect of infringing upon a worker's right to dignity. An  
21 infringement upon the right to dignity shall be assessed by the impact the behavior has on the  
22 recipient. This includes, but is not limited to:

23          (A) Effects on the target's self-esteem (e.g., caused when an employee is subjected to  
24 excessively harsh criticism and repeated reminders of past mistakes);

25          (B) Effects on the target's social relations (e.g., caused when an employee is isolated by  
26 others or ignored);

27          (C) Effects on the target's reputation (e.g., caused when an employee is ridiculed,  
28 demeaned, or the subject of gossip or lies);

29          (D) Effects on the target's professional life (e.g., caused when an employee is given  
30 meaningless work assignments, no work assignments at all, or unreasonably difficult assignments  
31 or schedules); and

32          (E) Effects on the target's psychological and physical health (e.g., caused when the  
33 employee is threatened, attacked, or receives unsafe work assignments, including during  
34 pregnancy or a temporary health issue.).

1           (5) "Moral, Psychological, or General Harassment" means unwelcome, objectionable  
2 conduct that is severe or pervasive enough to create an intimidating, hostile or abusive  
3 environment. Such analysis will be conducted from the view of a reasonable person under the  
4 totality of the circumstances

5           (i) For harassment to be legally actionable, a victim must demonstrate one or more of the  
6 following:

7           (A) The harassment disturbed their emotional tranquility in the workplace.

8           (B) The harassment affected their ability to perform their job as usual, or up to standard.

9           (C) The harassment interfered with and undermined their personal sense of well-being.

10          (ii) A single incident of harassment is sufficient to create a triable issue regarding the  
11 existence of a hostile work environment, if the harassing conduct creates an intimidating, hostile,  
12 or offensive working environment. The question of whether an environment is objectively hostile  
13 or abusive must be answered by reference to all the circumstances. These kinds of questions are  
14 especially well-suited for jury determination and are rarely appropriate for disposition on  
15 summary judgment, unless a complaint is clearly frivolous, unreasonable or totally without  
16 foundation.

17          (6) "Supervisor" means any individual who is empowered by the employer with the  
18 ability to change the employment status of an employee or who directs an employee's daily work  
19 activities.

20          (i) The term "supervisor" shall not be limited to only those with the power to hire, fire,  
21 demote, promote, transfer or discipline. It includes those with the power to set schedules, make  
22 task assignments, mediate complaints, distribute rewards and punishments, or assert other  
23 intangible forms of authority.

24          (7) "Management Action" means a course of action that is taken by an employer or its  
25 supervisors or its agents, to direct and control the way work is done. A management action shall  
26 not be considered bullying if it is carried out with just cause and is conducted in a reasonable  
27 manner. Examples of management action include, but are not limited to:

28          (i) Conducting performance appraisals;

29          (ii) Holding meetings to address underperformance;

30          (iii) Disciplining a worker for misconduct;

31          (iv) Investigating alleged misconduct;

32          (v) Transferring a worker for operational reasons; or

33          (vi) Implementing organizational change or restructuring out of economic necessity.

34          (8) "Just Cause" means a standard of reasonableness used to evaluate a person's actions in

1 a given set of circumstances. If a person acts with just cause, his or her actions are based on  
2 reasonable grounds and committed in good faith.

3 (9) "Retaliation" means a materially adverse action that might deter a reasonable person  
4 from engaging in protected activity such as submitting a complaint or reporting abuse.

5 (i) "Materially adverse" includes any form of unfavorable treatment that rises above  
6 trivial harms, petty slights, or minor annoyances. Materially Adverse action need not be job-  
7 related or occur in the workplace to constitute unlawful retaliation.

8 (10) "Constructive discharge" - an adverse employment action where:

9 (i) The employee reasonably believed he or she was subjected to an abusive work  
10 environment;

11 (ii). The employee resigned because of that conduct; and

12 (iii). The employer knew or should have known of the abusive conduct prior to the  
13 resignation and failed to stop it.

14 **28-52.1-5. Worker right to dignity in the workplace.**

15 Every worker shall have the right to a workplace environment that affords them the  
16 dignity to which all human beings are entitled.

17 **28-52.1-6. Prohibition against bullying, moral, psychological, and general**  
18 **harassment and other abusive behaviors.**

19 (a) It shall be unlawful for any person to engage in workplace bullying, moral,  
20 psychological or general harassment of a co-worker or other employee in the working  
21 environment.

22 (1) Bullying, moral, psychological or general harassment shall be prohibited without  
23 regard to its subject matter or motivating animus. There is no requirement that the bullying  
24 behavior be extreme, outrageous, or repetitive to be unlawful under this chapter.

25 (2) It shall be unlawful for an employee to be bullied to the point of resignation. If an  
26 employer's action or inaction makes the situation at work so intolerable for the employee that the  
27 employee resigns, it may be considered a constructive dismissal.

28 (3) It shall be unlawful for any person to aid, abet, incite, compel or coerce the doing of  
29 an act forbidden under this chapter, or to attempt to do so.

30 (4) It shall be an unlawful employment practice to coerce, intimidate, threaten, or  
31 interfere with any person in the exercise of, or on account of having exercised, or on account of  
32 having aided or encouraged any other person in the exercise of, any right granted or protected  
33 under this chapter.

34 **28-52.1-7. Employer responsibility to assure worker dignity and protect against**

1 **workplace bullying, moral, psychological and general harassment and other abusive**  
2 **behaviors.**

3 Employers shall have a general duty to provide a workplace free from bullying and  
4 moral, psychological or general harassment and to provide a workplace that protects each  
5 employee's personal integrity, dignity and human rights.

6 (1) If bullying or harassment occurs at work, the employer shall make available the  
7 means and measures for remedying the situation. Any employer who does not take all reasonable  
8 steps necessary to prevent, detect and eliminate such behavior in their workplace shall be in  
9 violation of this law and shall be liable for damages to make the targets of such bullying whole,  
10 including but not limited to economic damages, damages for pain and suffering and equitable  
11 relief.

12 (2) Employers shall be required to post notice of employee's rights under this law, to  
13 distribute the employer's anti-bullying policy including an explanation of reporting measures,  
14 investigation process and remedial processes.

15 (3) Employers shall have a general duty to ensure, so far as is reasonably practical, that  
16 they provide a work environment free from the risks associated with workplace bullying, that  
17 they put in place a system to monitor, prevent and manage workplace bullying, and that workers  
18 are adequately informed and trained on the topic of workplace bullying prevention and  
19 management.

20 (4) Employers shall take all necessary steps to assure that there be no retaliation against  
21 any complainant who has filed a complaint under this chapter in good faith.

22 (5) Employers shall take all necessary steps to assure that there be no retaliation against  
23 any individual for participating in a complaint as a witness, or for taking action as a bystander to  
24 prevent or eliminate bullying of a target, or for opposing any behavior made unlawful by this Act.

25 **28-52.1-8. Vicarious liability for wrongful exercise of power.**

26 (a) Supervisory or managerial authority, in any form, shall not be used to abuse, bully,  
27 manipulate or denigrate a worker. Employers shall be strictly liable for any wrongful exercise of  
28 power by individuals who have the ability to make decisions regarding employee's employment  
29 status or by those who direct, supervise, or evaluate employees.

30 (1) This chapter does not prohibit management action taken out of economic necessity or  
31 as a reasonable response to incidents of misconduct or poor performance. Employers retain a  
32 prerogative to direct and control the way work is carried out, respond to poor performance and, if  
33 necessary, take disciplinary action.

34 (b) A complainant who is aggrieved by a management action must carry the initial burden

1 of showing that the management action was objectionable in order to support the presumption of  
2 bullying.

3 (1) Objectionable behavior means behavior that a reasonable person, having regard for all  
4 the circumstances, would view as unreasonable, unwanted, and potentially harmful. An  
5 objectionable management action consists of two elements:

6 (i) The behavior must be a management action and  
7 (ii) Either it must be objectionable for the action to be taken or the action itself must be  
8 conducted in an objectionable manner, with an adverse effect on the target or his or her  
9 employment terms and conditions.

10 (2) Examples of objectionable management action, whether intentional or unintentional,  
11 include but are not limited to:

- 12 (i) Subjecting individuals to excessive supervision and unwarranted monitoring;
- 13 (ii) The inappropriate use of disciplinary procedures, including using performance  
14 reviews to misrepresent an employee's work history;
- 15 (iii) Arbitrarily withholding information that is vital for effective work performance;
- 16 (iv) Unjustifiably removing whole areas of work responsibility from a person;
- 17 (v) Setting impossible targets and objectives, or changing targets without telling the  
18 person;
- 19 (vi) Deliberate isolation by ignoring or excluding a person;
- 20 (vii) Setting tasks that are unreasonably below or beyond a person's skill level;
- 21 (viii) Denying access to information, supervision, consultation or resources to the  
22 detriment of the worker; and
- 23 (ix) Conducting an unfair workplace investigation;

24 (c) The complainant is only obliged to present evidence of objectionable behavior to  
25 support the presumption of bullying. When there are facts from which it may be presumed that  
26 there has been bullying, it shall be for the respondent to prove that the actions that led to the  
27 complaint did not constitute bullying

28 (d) Once the employee has provided facts to support the presumption of bullying, the  
29 burden of proof shall be on the employer to show that the management action was not guided by  
30 unlawful motives. For a management action to be considered reasonable and therefore not  
31 classified as bullying, it must be a legitimate business action based on just cause. There must also  
32 be some line of cause and effect tied to the conduct, behavior or performance of an employee.  
33 Furthermore, the relevant management action must at all times be a reasonable and proportionate  
34 response to the attributes of the employee to which it is directed.



- 1 (1) Examples of management actions that are reasonable include, but are not limited to:
- 2 (i) Setting realistic and achievable performance goals,
- 3 (ii) Expecting employees to maintain reasonable workplace standards,
- 4 (iii) Fair and appropriate rostering and allocation of working hours,
- 5 (iv) Transferring a worker to another area or role for operational reasons,
- 6 (v) Deciding not to select a worker for promotion where a fair and transparent process is
- 7 followed,
- 8 (vi) Informing a worker about unsatisfactory work performance in an honest, fair and
- 9 constructive way,
- 10 (vii) Informing a worker about unreasonable behavior in an objective and confidential
- 11 way, and
- 12 (viii) Taking disciplinary action where it is appropriate or justified in the circumstances.
- 13 (e) If the employer can show that its actions were reasonable and unrelated to bullying,
- 14 the complainant shall have the opportunity to refute that assertion as pretext for unlawful
- 15 behavior. To establish pretext in the absence of direct evidence, a complainant can offer many
- 16 different forms of circumstantial evidence. An inquiry into pretext requires that the fact-finder
- 17 evaluate the credibility of the employer's explanation.
- 18 (f) The facts required to establish objectionable behavior must be made on a case-by-case
- 19 basis, taking into account the following:
- 20 (i) What the action is;
- 21 (ii) How the action came about;
- 22 (iii) How the action was carried out; and
- 23 (iv) The way in which the action affects a worker;
- 24 (v) A court will look at the overall conduct surrounding the management action;
- 25 (vi) Consideration may also be given as to whether the management action involved a
- 26 significant departure from established policies or procedures and, if so, whether the departure was
- 27 objectionable in the circumstances. In certain cases, reasonable management action may
- 28 constitute bullying if the manner, form or frequency it is engaged in is objectionable.
- 29 **28-52.1-9. Vicarious liability for moral, psychological, and general harassment.**
- 30 (a) An employer shall be vicariously liable for acts committed by employees with respect
- 31 to the harassment of employees, if the employer, or its agents, or its supervisors, knew or should
- 32 have known about the misconduct and failed to take immediate and appropriate corrective action.
- 33 (b) An employer may also be responsible for the acts committed by customers, clients,
- 34 and other non-employees, with respect to harassment of employees, if the employer, or its agents

1 or supervisors, knew or should have known about the conduct and failed to take immediate and  
2 appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent  
3 of the employer's control and any other legal responsibility that the employer may have with  
4 respect to the conduct of those nonemployees shall be considered.

5 (c) An employer shall be strictly liable for the acts committed by its supervisors, with  
6 respect to harassment of employees. This liability includes harassment that results in a tangible  
7 employment action such as termination, failure to promote or hire, and loss of wages.

8 (d) When a supervisor's harassment does not include a tangible employment action, an  
9 employer can reduce damages if it can demonstrate that it exercised reasonable care to prevent  
10 and promptly correct any harassing behavior. An employer who exercises reasonable care shall  
11 not be compelled to pay damages if the aggrieved employee could have avoided all of the  
12 actionable harm, for example by taking advantage of employer provided complaint procedures. If  
13 some but not all of the harm could have been avoided, then an award of damages shall be  
14 mitigated accordingly.

15 (e) To succeed in reducing the employee's damages, the employer must prove three  
16 elements:

17 (1) The employer took reasonable steps to prevent and correct workplace harassment;

18 (2) The employee unreasonably failed to use the preventive and corrective measures that  
19 the employer provided or otherwise avoid or mitigate harm; and

20 (3) Reasonable use of the employer's procedures would have prevented at least some of  
21 the harm that the employee suffered.

22 If the employer establishes that the employee, by taking reasonable steps to utilize  
23 internal complaint procedures, could have caused the harassing conduct to cease, the employer  
24 will only remain liable for any compensable harm that was unavoidable.

25 (f) A victim of harassment has a general duty to use such means as are reasonable under  
26 the circumstances to avoid or minimize the damages that result from violations of this Act.  
27 However, an employee's failure to report harassment may be reasonable given the employee's  
28 genuinely held, subjective belief of potential retaliation. The reasonableness of the employee's  
29 actions shall be considered in light of the circumstances facing him or her at the time, including  
30 the ability to report the conduct without facing undue risk, expense, or humiliation. Fears that are  
31 substantiated by evidence will excuse a victim's failure to take advantage of the employer's anti-  
32 harassment policy.

33 (g) A target of psychological, moral, and general harassment does not have to suffer  
34 psychological injuries to recover under this chapter. As long as a work environment is reasonably

1 perceived to be hostile or abusive, there is no need for it also to be psychologically injurious.

2 **28-52.1-10. Retaliation.**

3 (a) No employer or employee shall retaliate in any manner against an employee who has  
4 opposed any unlawful employment practice under this chapter, or who has made a charge,  
5 testified, assisted or participated in any manner in an investigation or proceeding under this  
6 chapter, including, but not limited to, internal complaints and proceedings, arbitration and  
7 mediation proceedings, and legal actions. Furthermore, an employee who promptly reports in  
8 good faith an act of bullying before it becomes actionable shall also be protected from retaliation.

9 (b) No employer shall silence an employee through the use of a non-disclosure  
10 agreement, including in a settlement agreement. All employees shall have the freedom to share  
11 their stories free from consequences from the employer.

12 **28-52.1-11. Individual liability.**

13 Any individual who engages in workplace bullying or moral, psychological or general  
14 harassment shall be jointly and severally liable along with their employer.

15 **28-52.1-12. Remedies.**

16 (a) Targets of workplace bullying shall be entitled to all remedies necessary to make such  
17 targets whole. Such remedies shall include:

18 (1) Economic damages for lost wages, both back pay and front pay, and any expenses  
19 related to treatment related to the bullying;

20 (2) Compensable damages to compensate for the pain and suffering, emotional and  
21 psychological damages resulting from such workplace bullying;

22 (3) Punitive damages as deemed necessary to deter future acts of workplace bullying;

23 (4) Injunctive relief, whereby the court may enjoin the defendant from engaging in the  
24 unlawful employment practice; and

25 (5) And any other relief that is deemed appropriate, including, but not limited to: medical  
26 expenses, psychological treatment, restorative measures, organizational training and attorney's  
27 fees.

28 (b) Courts may also require employers to implement effective anti-bullying policies,  
29 including investigation and training policies, and require bullies to engage in training and other  
30 remedial measures.

31 (c) A complaining party may recover punitive damages under this Chapter only if the  
32 complaining party can demonstrate that the employer engaged in prohibited conduct with intent  
33 to injure or with knowing disregard of the protected rights of an aggrieved individual.

34 (d) The remedies provided in this chapter shall be in addition to any remedies provided

1 under any other law, and nothing in this chapter shall relieve any person from any liability, duty,  
2 penalty or punishment provided by any other law.

3 **28-52.1-13. Causes of action.**

4 (a) There is hereby established a Fair Work Commission (the “commission”), consisting  
5 of seven (7) members to be appointed by the governor, to address workplace bullying and to  
6 enforce this act. In the enforcement of this chapter, the Commission shall have the following  
7 powers and duties:

8 (1) To issue enforcement guidance and formulate policies to effectuate the purposes of  
9 this Chapter and make recommendations to agencies and officers of the state or its political  
10 subdivisions in aid of such policies and purposes.

11 (2) To receive, initiate, investigate, seek to conciliate, hold hearings, and issue orders on  
12 complaints alleging violations of this chapter.

13 (3) To require answers to interrogatories, compel the attendance of witnesses, examine  
14 witnesses under oath or affirmation in person by deposition, and require the production of  
15 documents relevant to the complaint, in accordance with this chapter.

16 (4) To make available to the public information on this Act, grievance procedures, and  
17 public records of the Commission and any other information that would further the purposes and  
18 intentions of this chapter.

19 (b) The commission shall also have the right to represent claimants in judicial  
20 proceedings and during the ALJ process. At the conclusion of the investigation, the Commission  
21 may bring the complaint in front of an ALJ to litigate the Commission's determination,  
22 recommend appropriate penalties against an employer and/or engage in mediation between the  
23 claimant and employer or issue the claimant a right to sue letter to bring a private claim of action.

24 **28-52.1-14. Applicable statute of limitations.**

25 (a) Claimants shall have three years from the last act of bullying or moral, psychological  
26 or general harassment to either file a complaint with the Fair Work Commission or to file  
27 litigation

28 (b) If a claimant files a complaint with the Fair Work Commission the statute of  
29 limitations for filing a private cause of action is tolled.

30 (c) Claimants who file with the Fair Work Commission shall have 90 days to file a  
31 private cause of action after the Commission issues a right to sue determination.

32 (d) Under this subsection, apprentices, trainees, unpaid interns, volunteers, and  
33 independent contractors may file a complaint alleging unlawful bullying and harassment.

34 Nothing in this subsection shall create an employment relationship under wage and hour

1 [provision, workers' compensation, or unemployment insurance.](#)

2 **28-52.1-15. Conflicts with other laws.**

3 [\(a\) Nothing in this law should be construed as limiting employee rights under any other](#)  
4 [law including rights under Title VII of the Civil Rights Act, The Americans with Disabilities Act,](#)  
5 [the Age Discrimination in Employment Act and state EEO laws.](#)

6 [\(b\) Nothing in this law should be construed as limiting employee rights under the](#)  
7 [National Labor Relations Act \(NLRA\) and/or State Labor Rights laws. Concerted](#)  
8 [Activity/Section 7 activity under the NLRA as interpreted by the NLRB shall not be construed as](#)  
9 [workplace bullying or moral, psychological or general harassment.](#)

10 [\(c\) Nothing under this law shall restrict workers from negotiating broader protections of](#)  
11 [their dignity or protections against workplace bullying or harassment under via collective](#)  
12 [bargaining or other concerted activity.](#)

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

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LC003459/SUB A/2  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO LABOR AND LABOR RELATIONS -- DIGNITY AT WORK ACT

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1           This act would establish the Dignity at Work Act, to provide workers with more  
2 protection from bullying and harassment in the workplace.

3           This act would take effect upon passage.

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LC003459/SUB A/2  
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