It is enacted by the General Assembly as follows:

SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 52.1

THE HEALTHY WORKPLACE ACT OF 2018


This act shall be known and may be cited as "The Healthy Workplace Act of 2018".

28-52.1-2. Legislative findings and purpose.

The legislature finds that:

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

(2) Nearly a one-third (1/3) of all employees will directly experience health-endangering workplace bullying, abuse, sexual harassment and/or non-sexual harassment during their working lives;

(3) Workplace bullying, abuse, sexual harassment and/or non-sexual harassment can inflict serious harm upon targeted employees, including feelings of shame and humiliation, severe anxiety, depression, suicidal tendencies, impaired immune systems, hypertension, increased risk of cardiovascular disease, and symptoms consistent with post-traumatic stress disorder;

(4) Abusive work environments can have serious consequences for employers, including reduced employee productivity and morale, higher turnover and absenteeism rates, and increases
(5) If mistreated employees who have been subjected to abusive treatment at work cannot establish the behavior was motivated by race, color, sex, sexual orientation, national origin, or age, they are unlikely to be protected by the law against such mistreatment;

(6) Legal protection from abusive work environments should not be limited to behavior grounded in protected class status as that provided for under employment discrimination statutes;

(7) Existing workers' compensation plans and common law tort actions are inadequate to discourage this behavior or to provide adequate relief to employees who have been harmed by abusive work environments; and

(8) It is the purpose of this chapter:

(i) To provide legal relief for employees who have been harmed, psychologically, physically, or economically, by deliberate exposure to abusive work environments; and

(ii) To provide legal incentive for employers to prevent and respond to abusive mistreatment of employees at work.


(a) For the purposes of this chapter:

(1) “Abusive conduct” means and includes acts, omissions, or both, that a reasonable person would find abusive based on the severity, nature, and frequency of the conduct. Abusive conduct may include, but is not limited to:

(i) Repeated verbal abuse such as the use of derogatory remarks, insults, epithets;

(ii) Verbal, or nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature; or

(iii) The sabotage or undermining of an employee’s work performance.

(iv) Sexual harassment as defined in § 28-51-1(b).

(v) It shall be considered an aggravating factor that the conduct exploited an employee’s known psychological or physical illness or disability. A single act normally will not constitute abusive conduct, but an especially severe and egregious act may meet this standard.

(2) “Abusive work environment” means and exists when an employer or one or more of its employees, acting with intent to cause pain and distress to an employee, subjects that employee to abusive conduct that causes physical and/or, psychological harm.

(3) “Adverse employment action” means and includes, but is not limited to, a termination, demotion, unfavorable reassignment, failure to promote, disciplinary action, or reduction in compensation.

(4) “Constructive discharge” means and shall be considered a termination, and therefore,
and adverse employment action within the meaning of this chapter. A constructive discharge for 
purposes of this chapter exists where:

   (i) The employee reasonably believed they were subjected to an abusive work 
environment;

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

   (iii) The employer was aware of the abusive conduct prior to the resignation and failed to 
stop it.

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

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


(a) It shall be an unlawful employment practice under this chapter to subject an employee 
to an abusive work environment as defined in § 28-52.1-2.

(b) It shall be an unlawful employment practice under this chapter to retaliate in any 
manner against an employee who has opposed any unlawful employment practice under this 
chapter, who has made a charge, testified, assisted, or who has participated in any manner in an 
investigation or proceeding under this chapter, including, but not limited to, internal complaints 
and proceedings, arbitration and mediation proceedings, and legal actions.

28-52.1-5. Employer liability and defense.

(a) An employer shall be vicariously liable for any unlawful employment practice 
committed by their employee.

(b) Where the alleged unlawful employment practice does not include an adverse 
employment action, it shall be an affirmative defense for an employer that:

   (1) The employer exercised reasonable care to prevent and promptly correct any 
actionable behavior; and

   (2) The complainant employee unreasonably failed to take advantage of appropriate 
preventive or corrective opportunities provided by the employer.


(a) An employee may be individually liable for an unlawful employment practice as 
defined by this chapter.

(b) It shall be an affirmative defense for an employee only that the employee committed 
an unlawful employment practice as defined by this chapter at the direction of the employer, 
under actual or implied threat of an adverse employment action.

It shall be an affirmative defense that:

1. The complaint is based on an adverse employment action reasonably made for poor performance, misconduct, or economic necessity; or

2. The complaint is based on reasonable performance evaluation; or

3. The complaint is based on an employer's reasonable investigation about potentially illegal or unethical activity.


(a) Relief generally. Where a party is liable for an unlawful employment practice under this chapter, the court may enjoin the defendant from engaging in the unlawful employment practice, and may order any other relief that is deemed appropriate, including, but not limited to, reinstatement, removal of the offending party from the complainant's work environment, back pay, front pay, medical expenses, compensation for pain and suffering, compensation for emotional distress, punitive damages, and attorneys' fees.

(b) Limitations on employer liability. Where an employee is liable for an unlawful employment practice under this chapter that did not include an adverse employment action, emotional distress damages and punitive damages may be awarded only when the actionable conduct was extreme and outrageous. This limitation does not apply to individually named employee defendants.


(a) This chapter shall be enforced solely by a private right of action.

(b) An action under this chapter must be commenced not later than one year after the last act that constitutes the alleged unlawful employment practice.

28-52.1-10. Effect on other legal relationships.

(a) This chapter does not supersede any rights and obligations provided under collective bargaining laws and regulations.

(b) The remedies provided in this chapter shall be in addition to any remedies provided under any other law, and nothing in this chapter shall relieve any person from any liability, duty, penalty or punishment provided by any other law, except that if an employee receives workers' compensation for medical costs for the same injury or illness pursuant to both this chapter and the workers' compensation law, or compensation under both this chapter and that law in cash payments for the same period of time not working as a result of the compensable injury or illness or the unlawful employment practice, the payment of workers' compensation shall be reimbursed from the compensation paid under this chapter.
SECTION 2. This act shall take effect upon passage.
This act would create the "Healthy Workplace Act of 2018" and would establish a cause of action against employers and employees for workplace bullying, harassment and other abusive conduct that is tolerated by employers and which may not fall into other categories already protected such as race, color and sex or sexual orientation.

This act would take effect upon passage.