

HB 591 – FINAL VERSION

20Mar2013... 0761h  
01/30/14 0104s  
01/30/14 0319s  
4Jun2014... 1930CofC

2014 SESSION

13-0671  
06/03

HOUSE BILL            ***591***

AN ACT            relative to an abusive work environment and the health and safety of public employees.

SPONSORS:       Rep. Schuett, Merr 20; Rep. J. Schmidt, Hills 28; Rep. Davis, Merr 20; Rep. Turcotte, Merr 22; Rep. Emerson, Ches 11; Rep. Irwin, Sull 6; Rep. Gale, Hills 28; Rep. Alicea, Merr 8

COMMITTEE:      Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill prohibits abusive work environments for public employees.

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Explanation:      Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struck through]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                      relative to an abusive work environment and the health and safety of public employees.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Abusive Work Environment; Purpose Statement. The state of New Hampshire is committed to  
2 providing a positive work environment for state employees free from intimidation, ridicule, and  
3 harassment. The abuse of employees in the workplace is declared to be against public policy. Such  
4 harassment can inflict serious harm upon targeted employees such as increased stress and anxiety,  
5 concentration problems, loss of self-confidence and reduced performance, reduced quality of family  
6 life, depression, or a sense of isolation, and in extreme cases, risk of suicide. Abusive work  
7 environments can have serious consequences for employers including reduced employee productivity  
8 and morale, higher turnover and absenteeism rates, unsafe work environment, and increases in  
9 medical and worker compensation claims. If mistreated employees who have been subjected to  
10 abusive treatment at work cannot establish that the behavior was motivated by race, creed, color,  
11 age, marital status, familial status, physical or mental disability, or national origin, they are  
12 unlikely to be protected by the law against such treatment. Protection from abusive work  
13 environments should not be limited to behavior grounded in protected class status as that provided  
14 by employment discrimination statutes, and there does not exist in New Hampshire law appropriate  
15 pathways to provide adequate relief to employees who have been harmed by abusive environments.  
16 Therefore, it is necessary to prevent and respond to abusive mistreatment of state employees at  
17 work.

18            2 Abusive Work Environments. Amend the chapter heading of RSA 275-E to read as follows:

19                                      CHAPTER 275-E

20                      WHISTLEBLOWERS' PROTECTION ACT **AND ABUSIVE WORK ENVIRONMENTS**

21            3 New Subdivision; Abusive Work Environment. Amend RSA 275-E by inserting after section 9  
22 the following new subdivision:

23                                      Abusive Work Environment

24            275-E:10 Definitions. In this subdivision:

25                      I. "Abusive conduct" means a pattern of incidents involving written, verbal, or electronic  
26 communications, or physical acts or gestures, or any combination thereof, directed at another  
27 employee or group of employees which intimidates, degrades, or humiliates the target. Such

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incidents may be overt or covert behavior, or both. Abusive conduct includes but is not limited to:

- (a) Constant and harsh displays of disrespect.
- (b) Behavior or language that frightens, degrades, or criticizes the employee alone or in public.
- (c) Encouraging others to turn against the targeted employee.
- (d) Ignoring or showing hostility towards an employee seeking information or assistance.
- (e) Using confidential information to publicly humiliate an employee.
- (f) Creating unreasonable demands, for example workload, deadlines, or duties, that set a worker up for failure.
- (g) Constant and unreasonable criticism which is not part of a typical evaluation process.
- (h) Deliberately denying an employee access to information or resources necessary to properly complete a task.

II. “Abusive work environment” means an employment condition where any employee or group of employees subjects another employee or a group of employees to abusive conduct so severe that it causes tangible harm.

III. “Employee” shall mean any full or part-time, classified or unclassified officer or employee of any branch, department, commission, bureau, institution, or agency of the state government including employees of the general court, the retirement system, the judicial system, and the community college system.

IV. “Employer” means any branch, department, commission, bureau, agency, or agent of the state of New Hampshire, but shall not mean any political subdivisions of the state.

275-E:11 Written Policy. Each employer shall within 6 months after the effective date of this subdivision adopt and communicate to all employees a written policy prohibiting abusive conduct in the workplace. This policy shall include at minimum:

- I. A clear policy statement prohibiting abusive conduct.
- II. A statement prohibiting retaliation against a targeted employee, witness, or anyone who in good faith provides information about incidents of abusive conduct.
- III. A procedure which identifies all persons to whom an employee may report abusive conduct whether he or she is targeted or not. Such a procedure shall permit an employee to bypass his or her supervisor to report concerns of abusive conduct in the workplace.
- IV. A statement that written complaints related to abusive conduct by employees shall be filed within 25 work days of the occurrence.
- V. A procedure for employees to request and receive trained conflict resolution assistance within the workplace whether a formal complaint of abusive conduct is filed or not.
- VI. A written procedure for investigating reports of abusive conduct, to be initiated within 5 work days of the reported incident, that includes:
  - (a) Appointment of an impartial investigator from outside the agency, if possible.

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1 (b) A time limit for investigations which shall not exceed 30 work days for a preliminary  
2 report unless exceptional circumstances exist.

3 (c) A provision for confidentiality of the investigation including discussions with  
4 witnesses and maintenance of documents.

5 (d) A procedure for reporting investigation conclusions to the targeted employee or  
6 employees, the perpetrators, the head of the agency, and the director of personnel of the department  
7 of administrative services within 10 work days of completion of the investigation.

8 (e) A provision that records related to the initial claim and investigation be retained in a  
9 secure manner for a period of 3 years.

10 VII. A neutral and timely appeals process to the commissioner of labor or the director of  
11 personnel of the department of administrative services if the complaint involves the department of  
12 labor.

13 VIII. A requirement that all documentation regarding the initial claim and all follow up  
14 investigations be provided to the commissioner of labor, or the director of personnel of the  
15 department of administrative services as appropriate for appealed cases.

16 IX. A requirement to distribute the policy to all new and current employees immediately  
17 upon adoption, and to train each employee and supervisor upon hiring or promotion and annually  
18 thereafter.

19 X. A provision for annual policy review and provision for change if needed.

20 4 New Paragraph; Powers and Duties of Commissioners. Amend RSA 21-G:9 by inserting after  
21 paragraph VI the following new paragraph:

22 VII. The commissioner shall comply with all requirements of RSA 275-E:11.

23 5 Effective Date. This act shall take effect 60 days after its passage.