

Representative Stephen E. Sandstrom proposes the following substitute bill:

ABUSIVE WORKPLACE POLICIES ACT

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Labor Code to require policies prohibiting certain workplace practices by certain public employers.

Highlighted Provisions:

This bill:

- ▶ enacts the Abusive Workplace Policies Act, including:
 - defining terms;
 - requiring a policy against certain conduct; and
 - addressing training.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34A-12-101, Utah Code Annotated 1953

34A-12-102, Utah Code Annotated 1953

34A-12-103, Utah Code Annotated 1953



26 **34A-12-201**, Utah Code Annotated 1953

27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **34A-12-101** is enacted to read:

30 **CHAPTER 12. ABUSIVE WORKPLACE POLICIES ACT**

31 **Part 1. General Provisions**

32 **34A-12-101. Title.**

33 This chapter is known as the "Abusive Workplace Policies Act."

34 Section 2. Section **34A-12-102** is enacted to read:

35 **34A-12-102. Definitions.**

36 As used in this chapter:

37 (1) (a) "Abusive conduct" means conduct that a reasonable person would find hostile
38 on the basis of the severity, nature, and frequency of the conduct.

39 (b) "Abusive conduct" includes:

40 (i) repeated infliction of verbal abuse, such as the use of derogatory remarks, insults,
41 and epithets;

42 (ii) verbal or physical conduct of a threatening, intimidating, or humiliating nature;

43 (iii) the sabotage or undermining of an employee's work performance; or

44 (iv) an attempt to exploit an employee's known psychological or physical vulnerability.

45 (2) "Abusive workplace" means a workplace in which a person acts with malice to
46 subject an employee to abusive conduct so severe that it causes tangible harm to the employee.

47 (3) "Adverse employment action" includes:

48 (a) a termination;

49 (b) a constructive discharge;

50 (c) a demotion;

51 (d) an unfavorable reassignment;

52 (e) a failure to promote;

53 (f) a disciplinary action; or

54 (g) a reduction in compensation.

55 (4) "Conduct" includes an act, a failure to act, or both.

56 (5) "Constructive discharge" means that:

- 57 (a) an employee reasonably believes that the employee is subject to abusive conduct;
58 (b) the employee resigns because of that abusive conduct;
59 (c) before resigning, the employee informs the employer of the abusive conduct; and
60 (d) the employer fails to take reasonable steps to correct the situation.
61 (6) "Employee" means an individual under a contract of hire with an employer.
62 (7) (a) "Employer" means:
63 (i) a state agency;
64 (ii) an institution of higher education as defined in Section 53B-3-102; or
65 (iii) a public authority legally constituted by the state as an administrative agency to
66 provide control of and direction for public education.
67 (b) "Employer" includes an agent of an employer.
68 (8) "Malice" means the desire to cause pain, injury, or distress to another.
69 (9) "Physical harm" is the material impairment of an individual's physical health or
70 bodily integrity, as established by competent evidence.
71 (10) "Psychological harm" means a material impairment of an individual's mental
72 health, as established by competent evidence.

73 (11) "Tangible harm" means:

74 (a) physical harm; or

75 (b) psychological harm.

76 Section 3. Section **34A-12-103** is enacted to read:

77 **34A-12-103. Scope of chapter.**

78 (1) This chapter does not exempt or relieve a person from a liability, duty, or penalty
79 provided by another law of this state.

80 (2) This chapter does not create a remedy for abusive conduct or an abusive workplace.

81 Section 4. Section **34A-12-201** is enacted to read:

82 **Part 2. Policies Against Abusive Workplace**

83 **34A-12-201. Policy against abusive workplace required -- Training.**

84 (1) On and after July 1, 2012, an employer shall adopt a policy that provides that:

85 (a) a person may not subject an employee to an abusive workplace; and

86 (b) a person may not take an adverse employment action in any manner against an
87 employee who:

88 (i) opposes conduct that is a violation of Subsection (1)(a);
89 (ii) engages in reasonable conduct to prevent conduct that is illegal or unethical; or
90 (iii) makes a charge, testifies, assists, or participates in an investigation or proceeding
91 under this chapter, including:
92 (A) an internal complaint or proceeding;
93 (B) an arbitration or mediation proceeding; or
94 (C) a legal action.
95 (2) The executive director of the Department of Human Resource Management shall
96 include in statewide training provided in accordance with Section 67-19-6 training regarding
97 the requirements of this chapter.