

PUBLICATION

Tennessee Amends Anti-Bullying Immunity Act to Apply to Private Employers

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On April 23, 2019, Governor Bill Lee signed into law an expansion of the 2014 Healthy Workplace Act, which now offers protection to private employers from some legal claims arising from workplace bullying. The Act provides immunity to employers who adopt an anti-bullying policy that complies with certain requirements from lawsuits arising out of "any employee's abusive conduct that results in negligent or intentional infliction of mental anguish."

The Healthy Workplace Act was adopted to address abusive conduct in workplaces. According to the Healthy Workplace Campaign, 29 states have introduced similar legislation to curb workplace bullying. The Tennessee Act previously applied only to state and local governmental agencies, but following the expansion, now also applies to private employers.

Abusive conduct under the Act includes repeated verbal abuse; verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature; or sabotage of an employee's performance in the workplace. The Act does not create a new cause of action for bullying in the workplace, nor does it limit an individual employee's personal liability for claims arising from abusive conduct in the workplace. Instead, the Act encourages employers to adopt anti-bullying policies by offering immunity from lawsuits arising from abusive workplace conduct to those who adopt such a policy.

Employers who wish to receive immunity under the Act have two options. First, employers may adopt the Tennessee Advisory Commission on Intergovernmental Relations' (TACIR) model anti-bullying policy. Second, employers may draft their own anti-bullying policy, which must meet two requirements set out by the Act: (1) assist employers in recognizing and responding to abusive conduct; and (2) prevent retaliation against employees who report abusive conduct.

Employers are not mandated to adopt an anti-bullying policy, but if you are interested in exploring your options under the Act or updating your policies to address workplace bullying, please contact your attorney at Baker Donelson.