

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2071 Session of 2018

INTRODUCED BY STEPHENS, BAKER, MILLARD, BERNSTINE, MURT, D. COSTA, STAATS, COX, JOZWIAK AND WATSON, FEBRUARY 13, 2018

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 25, 2018

AN ACT

1 Providing for implementation of workplace violence policies and
2 workplace violence prevention measures by employers and for
3 ~~preemption~~ CIVIL ACTION. <--

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Workplace
8 Violence Prevention Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Employee." Includes any individual employed by an employer.

14 "Employer." Includes any individual, partnership,
15 association, corporation, business trust, the Commonwealth, an
16 agency, authority or instrumentality of the Commonwealth, a
17 political subdivision, an agency, authority or instrumentality
18 of a political subdivision, or a person or group of persons

1 acting, directly or indirectly, in the interest of an employer
2 in relation to any employee.

3 "Workplace violence." Violence, a threat of violence,
4 harassment, intimidation or extremely disruptive behavior by a
5 person against an employee which occurs during the course of the
6 employee's employment or as the result of the employment.

7 "Workplace violence policy." A written policy created by an
8 employer to provide for workplace rules and procedures intended
9 to prevent or respond to workplace violence.

10 "Workplace violence prevention measure." An action taken by
11 an employer for the purpose of preventing or reducing the
12 incidence or severity of workplace violence. The term includes,
13 but is not limited to:

14 (1) Providing training for employees with regard to the
15 employer's workplace violence policy or general training on
16 how to prevent and respond to workplace violence.

17 (2) Hiring or retaining security personnel to provide
18 protection from workplace violence.

19 (3) Deploying electronic security systems, alarms,
20 surveillance systems or other electronic measures intended to
21 identify, monitor or make employees aware of potential
22 workplace violence.

23 (4) Physically modifying the employer's premises or
24 restricting access to certain parts of the premises in a
25 manner intended to provide for the protection of employees.

26 (5) Installing barriers, locks, doors, bulletproof or
27 bullet-resistant windows or other obstructions, partitions or
28 any other physical deterrent intended to provide for the
29 protection of employees.

30 Section 3. Employer rights.

1 An employer shall have the right, at the employer's
2 discretion, to implement a workplace violence policy or any
3 workplace violence prevention measure to provide for the safety
4 of employees provided in compliance with applicable Federal and
5 State law~~-, INCLUDING THE USE OF A PHYSICAL BARRIER THAT~~ <--
6 REQUIRES A PERSON SERVING FOOD IN ANY ESTABLISHMENT EITHER TO
7 OPEN A WINDOW OR OTHER APERTURE OR TO PASS FOOD THROUGH AN OPEN
8 WINDOW OR OTHER APERTURE, IN ORDER TO HAND THE FOOD TO A
9 CUSTOMER INSIDE THE ESTABLISHMENT.

10 ~~Section 4. Preemption.~~ <--

11 ~~(a) General rule. This act shall preempt and supersede any~~
12 ~~municipal ordinance, rule, policy or licensure requirement that~~
13 ~~limits, restricts or prohibits an employer from implementing a~~
14 ~~workplace violence prevention policy or workplace violence~~
15 ~~prevention measure.~~

16 ~~(b) Regulation or restriction of workplace violence policy~~
17 ~~or prevention measure. An ordinance, rule, policy or licensure~~
18 ~~requirement enacted by a municipality which limits, restricts or~~
19 ~~prohibits workplace violence policies or any workplace violence~~
20 ~~prevention measure is void.~~

21 ~~(c) Rebuttable presumption. There shall be a rebuttable~~
22 ~~presumption that a municipal ordinance, rule, policy or~~
23 ~~licensure requirement that limits, restricts or prohibits a~~
24 ~~workplace violence policy or any workplace violence prevention~~
25 ~~measure to provide for the safety of employees is preempted by~~
26 ~~this act, if the workplace violence policy or workplace violence~~
27 ~~prevention measure:~~

28 ~~(1) is not prohibited by Federal or State law; and~~

29 ~~(2) is consistent with recommendations issued by the~~

30 ~~United States Occupational Safety and Health Administration.~~

1 ~~(d) Applicability. This section shall not apply to a~~
2 ~~mandate enacted by a municipality affecting an employee or class~~
3 ~~of employees of the municipality itself.~~

4 ~~Section 5. Effective date.~~

5 ~~This act shall take effect in 60 days.~~

6 SECTION 4. CIVIL ACTION.

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7 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING 42
8 PA.C.S. CH. 85 SUBCH. C (RELATING TO ACTIONS AGAINST LOCAL
9 PARTIES), A PARTY WHO BRINGS OR MAINTAINS AN ACTION AGAINST A
10 MUNICIPALITY IN ORDER TO OBTAIN RELIEF UNDER THIS ACT SHALL BE
11 ENTITLED TO RECOVER ALL OF THE FOLLOWING:

12 (1) COSTS, INCLUDING ATTORNEY FEES.

13 (2) DAMAGES IN THE AMOUNT OF \$10,000.

14 SECTION 5. EFFECTIVE DATE.

15 THIS ACT SHALL TAKE EFFECT NOVEMBER 1, 2018.