

- (7) "Offender" means a coworker or supervisor who has been investigated pursuant to a sexual harassment written complaint filed by an employee and has been deemed by his agency to have violated the provisions of proposed law.
- (8) "Retaliation" means adverse action taken against an employee or other individual for filing a sexual harassment written complaint or testifying or cooperating in an investigation or proceeding involving a sexual harassment written complaint.
- (9) "Sexual harassment" means an instance of unwanted sexual conduct which occurs after an employee has communicated to the coworker that such conduct is unwelcome when any of the following occur:
- (a) Submission to such conduct is made, either explicitly or implicitly, a term or condition of employment.
 - (b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the employee.
 - (c) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive or hostile working environment.
- (10) "Sexual harassment prevention coordinator" means the human resources director or other person who is designated by the agency to coordinate and distribute educational and training materials and who is charged with receiving written complaints pursuant to proposed law.
- (11) "Supervisor" means a coworker who is a representative of the agency and who is authorized by the agency to do any of the following:
- (a) Promote or demote the employee who filed the written complaint pursuant to proposed law.
 - (b) Perform an annual or periodic written performance review of the employee who filed the written complaint pursuant to proposed law:
- (12) "Unwanted sexual conduct" means an unwelcome advance, request for sexual favor, or other verbal or physical conduct of a sexual nature.

Proposed law provides that it shall be unlawful for any coworker to commit sexual harassment, as is defined in proposed law, against any employee.

Proposed law provides that an employee, who believes the employee is a victim of sexual harassment as defined in proposed law, may file a written complaint with the supervisor or the coordinator of sexual harassment prevention at the agency in which the employee is employed.

Proposed law provides that the state agency's investigator will conduct an investigation of the employee's written complaint.

Proposed law provides that, when the employee believes the employee is a victim of sexual harassment, as defined in proposed law, and the alleged offender is the head of the employee's state agency or the agency's investigator, the employee may file the written complaint with the sexual harassment prevention coordinator at the commissioner of administration's office. Proposed law provides that the investigator for the commissioner of administration's office, in conjunction with the office of risk management, shall conduct an investigation of the employee's written complaint.

Proposed law provides that the investigation into the employee's written complaint of sexual harassment will include taking statements from the coworker or supervisor and any witnesses.

Proposed law provides that if, at any time during the investigation, the investigator becomes aware that, in addition to the allegations of sexual harassment, there exists credible evidence that the employee has been a victim of a sexually related crime in La. Criminal Code or other source of criminal law, the investigator shall assist the employee in reporting the crime to state or local law enforcement authorities.

Proposed law provides that the investigator, the agency head, and the sexual harassment prevention coordinator shall keep all information regarding the investigation confidential, except when such confidentiality would interfere with the resolution of the investigation.

Proposed law provides that, after the investigation is conducted, and there is a finding by the agency that sexual harassment has taken place which was described in the written complaint, the offender shall be subject to a reprimand and shall be ordered to take remedial training to reform his conduct. Proposed law provides that, if the offender fails to take the remedial training or commits a second or subsequent offense after the remedial training provided for in proposed law that the offender commits sexual harassment against an employee in violation of proposed law, the offender shall be demoted or dismissed.

Proposed law provides that, in addition to the disciplinary action as provided for in proposed law, the sexual harassment misconduct shall be made part of the employment record of the offender.

Proposed law provides that, if the offender is the supervisor, he shall be subject to removal from his supervisory duty over employees if he is found by his agency to have committed sexual harassment, in violation of proposed law against an employee whom he supervises.

Proposed law provides that the division of administration shall promulgate the written complaint form to be used by state employees to report complaints of sexual harassment.

Proposed law provides that, notwithstanding anything to the contrary, civil service shall insert a question on all state employment applications which will ask the applicant if he has ever been fired or terminated from employment on the basis of a sexual harassment complaint that was filed against him while he was employed with his current or previous employer. Proposed law provides that, as

it relates to an applicant who has a history of being an alleged offender in sexual harassment complaints at his previous employment, the Dept. of State Civil Service shall develop policies and procedures which will assist state agencies in doing all of the following:

- (1) Determining if the historical evidence indicates that applicant is reasonably likely in the future to put state employees at risk for sexual harassment.
- (2) Determining if the applicant should be hired in a supervisory capacity.
- (3) Determining if the applicant should be barred from employment at the state agency.

Proposed law provides that, each public official, whether elected or appointed, of each state agency and each employee of that agency shall complete a minimum of one hour of education and training on recognizing and preventing sexual harassment each year of the term of his public employment or term of office. Proposed law provides that all newly appointed public officials or newly hired employees shall complete the required one hour of educational training within the first 30 days of hiring. All newly elected officials shall complete the required one hour training on sexual harassment within the first 90 days after taking office.

Proposed law provides that each appointed head of a department of the executive branch shall be required to complete an additional one hour education and training on sexual harassment prevention during each year of his public employment or term of office.

Proposed law provides that the civil service will compile and produce training materials, a video or digital teaching, or other educational information designed to prevent sexual harassment to be used for training public officials and state employees.

Proposed law provides that the education and training requirements provided for in proposed law may be completed through any one of the following methods:

- (1) In person, through the agency, with training or educational materials provided for by civil service.
- (2) By the internet, compact disk, or other training or educational materials provided for by civil service.
- (3) In person through the Comprehensive Public Training Program maintained by the Department of State Civil Service.

Proposed law provides that the civil service shall develop and make available to each state agency a remedial training curriculum for persons who is subject to disciplinary action as provided for in proposed law.

Proposed law provides that each agency shall designate at least one person to be the sexual harassment prevention coordinator, who will provide all public officials and employees of that

agency with information and instruction related to recognizing and preventing sexual harassment in the work place, utilizing education and training materials made available by civil service. Proposed law provides that the sexual harassment prevention coordinator will complete a minimum of two hours of education and training regarding sexual harassment prevention in the workplace annually. Proposed law provides that the name and contact information of the sexual harassment prevention coordinator must be posted for easy access by employees of the agency. Proposed law provides that each agency will forward the name of the sexual harassment prevention coordinator to division of administration no later than July 1st of each year and any change of the coordinator within 30 days of the change in the name or contact information of the coordinator.

Proposed law provides that each agency's sexual harassment prevention coordinator shall keep records of each public official or employee's compliance with the sexual harassment prevention education and training requirements of proposed law. Proposed law provides that, if the agency's head or the sexual harassment prevention coordinator discovers that a public official or employee has failed to complete the annual training required by proposed law after the public official or the employee has been notified of the failure, the agency shall report the failure to complete training to the legislative auditor.

Proposed law provides that the commissioner of the division of administration shall promulgate a sexual harassment prevention handbook which is consistent with the public policy enacted by proposed law. Proposed law also provides that the sexual harassment prevention handbook will include all of the following:

- (1) The clear and concise public policy that the state is committed to workplace decency and will not tolerate, condone, or permit any kind of sexual harassment of any state employee or applicant for state employment.
- (2) Provide the legal definition of sexual harassment as provided in proposed law.
- (3) The prohibition against retaliation.
- (4) To whom the policy is applicable.
- (5) Sample explanations of behavior, as cited by the U.S. Equal Opportunity Commission or other authoritative legal sources, which are examples of unwanted sexual conduct.
- (6) Define violations for prohibited conduct in a sexual harassment investigation including failing to cooperate with a sexual harassment investigation, interfering with the investigative process, and filing a false report of sexual harassment.
- (7) Sexual harassment prevention training requirements, as provided in proposed law.
- (8) A complaint procedure including the place in which to access the form to file a written complaint if the employee is a victim of sexual harassment in violation of proposed law.

- (9) To whom a written complaint may be filed.
- (10) What details may be necessary to facilitate an investigation.
- (11) Appropriate response of the supervisor or agency head.
- (12) Description of the process to keep information obtained pursuant to the investigation confidential.
- (13) Description of the investigation process, including the initial investigative process, the interview process, and notice of final recommendations.
- (14) Complaint resolution, including potential corrective actions and additional measures that may be taken upon completion of the investigative process.
- (15) Follow-up procedures implemented to ensure non-recurrence and compliance with the provisions of this proposed law.
- (16) Explanation of what constitutes good faith and bad faith complaints.
- (17) The process, and corrective action, for false or bad faith complaints.
- (18) Apprise employees of applicable federal and state law and the right to file suit.

Proposed law provides that the division of administration will transmit a copy of the sexual harassment prevention handbook to the head of each agency, by either electronic means or hard copy. Proposed law provides that, upon receiving the transmitted copy of the sexual harassment prevention handbook, the agency shall add the following information to the handbook indicating the name and contact information of the sexual harassment prevention coordinator, for the agency, who will coordinate and facilitate the complaint process. Proposed law provides that the agency shall distribute the agency's sexual harassment prevention handbook to each employee, either by electronic means or hard copy.

Proposed law provides that the commissioner of administration shall promulgate, in accordance with the provisions of the Administrative Procedures Act, such rules as may be necessary in order to implement proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(R.S. 42:1281 - 1293)