

2018 Regular Session

HOUSE BILL NO. 524

BY REPRESENTATIVES CARPENTER AND MORENO

PUBLIC OFFLS/EMPS: Requires policies prohibiting sexual harassment and annual training on preventing sexual harassment

1 AN ACT

2 To enact Chapter 6 of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 42:341 through 344, relative to public officers and employees; to provide for
4 policies prohibiting sexual harassment; to provide for training on the prevention of
5 sexual harassment; to provide for annual reports; to provide for definitions; to
6 provide for the duties of certain agency heads; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 6 of Title 42 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 42:341 through 344, is hereby enacted to read as follows:

10 CHAPTER 6. PREVENTION OF SEXUAL HARASSMENT

11 §341. Definitions

12 Unless the context clearly indicates otherwise, the following words and
13 terms, when used in this Chapter, shall have the following meanings:

14 (1) "Agency" means a department, office, division, agency, commission,
15 board, committee, or other organizational unit of a governmental entity.

16 (2) "Agency head" means the chief executive or administrative officer of an
17 agency or the chairman of a board or commission.

18 (3) "Elected official" means any person holding an office in a governmental
19 entity which is filled by the vote of the appropriate electorate. It shall also include
20 any person appointed to fill a vacancy in such office.

1 (4) "Governmental entity" means the state or any political subdivision.

2 (5) "Public employee" means anyone who is:

3 (a) An administrative officer or official of a governmental entity who is not
4 filling an elective office.

5 (b) Appointed to a post or position created by rule, law, resolution,
6 ordinance, charter, or executive order.

7 (c) Employed by an agency, officer, or official of a governmental entity.

8 (6) "Public servant" means a public employee or an elected official.

9 §342. Mandatory policy prohibiting sexual harassment

10 A. Each agency head shall develop and institute a policy to prevent sexual
11 harassment which is applicable to all public servants in the agency.

12 B. At a minimum, the policy shall contain all of the following:

13 (1) A clear statement that unwelcome sexual advances, requests for sexual
14 favours, and other verbal or physical conduct of a sexual nature constitute sexual
15 harassment when the conduct explicitly or implicitly affects an individual's
16 employment or the holding of office, unreasonably interferes with an individual's
17 work performance, or creates an intimidating, hostile, or offensive work environment
18 and shall not be tolerated.

19 (2) An effective complaint or grievance process that includes taking
20 immediate and appropriate action when a complaint of sexual harassment involving
21 any public servant in the agency is received.

22 (3) A clear prohibition against retaliation against an individual for filing a
23 complaint or testifying or participating in any way in an investigation or other
24 proceeding involving a complaint of sexual harassment.

25 §343. Preventing sexual harassment; mandatory training requirements

26 A. Each public servant shall receive a minimum of one hour of education
27 and training on preventing sexual harassment during each full calendar year of his
28 public employment or term of office, as the case may be.

1 B. The education and training required pursuant to this Section may be
2 received either in person or via the Internet through training and education materials
3 approved by the public servant's agency head.

4 C. Each agency head shall ensure that each public servant in the agency is
5 notified of the agency's policy against sexual harassment and the mandatory training
6 requirement on preventing sexual harassment. The agency head, or his designee,
7 shall be responsible for maintaining records of the compliance of each public servant
8 in the agency with the mandatory training requirement. Each public servant's record
9 of compliance shall be a public record and available to the public in accordance with
10 the Public Records Law.

11 D. Each agency head shall ensure that its policy against sexual harassment
12 and its complaint procedure is prominently posted on its website or, if the agency
13 does not have a website, that a notice on how to obtain the information is posted in
14 a conspicuous location in each of the agency's offices.

15 §344. Mandatory reports

16 A. Each agency head shall compile an annual report, by February first of
17 each year, containing information from the previous calendar year regarding his
18 agency's compliance with the requirements of this Chapter including the number and
19 percentage of public servants in his agency who have completed the training
20 requirements, the number of sexual harassment complaints received by his agency,
21 and the amount of time it took to resolve each complaint. These reports shall be
22 public record and available to the public in the manner provided by the Public
23 Records Law.

24 B. Agency heads in state government also shall submit the reports required
25 by Subsection A of this Section by February fifteenth of each year as follows:

26 (1) Agency heads in the twenty principal departments of the executive
27 branch of state government, the office of the governor, and the office of lieutenant
28 governor shall submit the report to the division of administration.

1 (2) Agency heads in the legislative branch of state government shall submit
2 the report to the Legislative Budgetary Control Council.

3 (3) Agency heads in the judicial branch of state government, including the
4 supreme court, courts of appeal, district courts, and other courts authorized by
5 Article V of the Constitution of Louisiana, shall submit the report to the chief justice
6 of the supreme court.

7 Section 2. The first reports required by R.S. 42:344 as enacted by this Act shall be
8 due in February of 2020.

9 Section 3. This Act shall become effective on January 1, 2019; however each agency
10 head shall take all actions necessary to bring his agency in compliance with the provisions
11 of R.S. 42:342 and 343 as enacted by Section 1 of this Act as soon as possible.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 524 Engrossed

2018 Regular Session

Carpenter

Abstract: Requires each agency head in state and local government to develop and institute a policy to prevent sexual harassment which is applicable to all public servants in the agency, requires every public servant to receive a minimum of one hour of training to prevent sexual harassment each year, and requires annual reports.

Proposed law requires each agency head to develop and institute a policy to prevent sexual harassment which is applicable to all public servants in the agency. Requires the policy at a minimum to contain: (1) a clear statement that unwelcome conduct of a sexual nature constitutes sexual harassment under specified circumstances and shall not be tolerated; (2) an effective complaint or grievance process that includes taking immediate and appropriate action when a complaint is received; and (3) a clear prohibition against retaliation against an individual for filing a complaint or participating in any way in an investigation or other proceeding involving a complaint.

Proposed law requires each public servant to receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office either in person or via the Internet through training and education materials approved by the public servant's agency head. Requires each agency head to ensure that each public servant in the agency is notified of the agency's policy and the mandatory training requirement and provides that the agency head, or his designee, shall be responsible for maintaining records of the compliance of each public servant in the agency with the mandatory training requirement. Provides that each public servant's record of compliance shall be a public record and available to the public in accordance with present law (Public Records Law). Further requires each agency head to ensure that its policy against sexual harassment and its complaint procedure is prominently posted on its website or, if the agency does not have a website, that a notice on how to obtain the information is posted in a conspicuous location in each of the agency's offices.

Proposed law further requires each agency head to compile an annual report due no later than Feb. first of each year, containing information from the previous calendar year regarding his agency's compliance with the requirements of proposed law including the number and percentage of public servants in his agency who have completed the training requirements, the number of sexual harassment complaints received by his agency, and the amount of time it took to resolve each complaint. Specifies that these reports are public records and available to the public in the manner provided by present law (Public Records Law). Further requires agency heads in the executive branch of state government to submit the report to the division of administration, agency heads in the legislative branch of state government to the Legislative Budgetary Control Council, and agency heads in the judicial branch of state government to the chief justice of the supreme court by Feb. 15th each year.

Proposed law defines "agency", "agency head", "elected official", "governmental entity", "public employee", and "public servant" for its purposes.

Proposed law specifies that the first reports required shall be due in Feb. of 2020.

Effective January 1, 2019, however requires each agency head to take all actions necessary to bring his agency in compliance with proposed law requirements regarding the policy and training as soon as possible.

(Adds R.S. 42:341-344)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Make technical changes.