

2018 Regular Session

SENATE BILL NO. 404

BY SENATOR HEWITT

EMPLOYMENT. Provides relative to sexual harassment prevention policies and training for public servants. (gov sig)

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AN ACT

To enact Chapter 17-A of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1281 through 1294, relative to sexual harassment prevention; to define and prohibit sexual harassment; to provide for legislative intent; to provide for public policy; to provide for definitions; to define prohibited acts; to provide for complaint procedure; to provide for remedies; to provide for disciplinary actions; to provide for duties; to provide for educational training; to provide for a handbook; to provide for administrative rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 17-A of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1281 through 1294, is hereby enacted to read as follows:

**CHAPTER 17-A. LOUISIANA PUBLIC SERVANTS' SEXUAL**

**HARASSMENT PREVENTION AND TRAINING**

**PART I. PREVENTION OF SEXUAL HARASSMENT**

**IN PUBLIC EMPLOYMENT**

**§1281. Legislative intent**

**A. The legislature finds and declares that all of the following harms**

1 occur related to sexual harassment:

2 (1) Sexual harassment violates an individual's basic civil rights.

3 (2) Sexual harassment undermines the personal dignity of state  
4 employees and officials.

5 (3) Sexual harassment violates and undermines the integrity of the  
6 workplace, whether or not the individual public servant is the direct subject of  
7 the sexual harassment.

8 (4) Sexual harassment can destroy the career opportunities and the very  
9 livelihood of a public servant or official.

10 §1282. Declaration of public policy

11 A. The public policy of Louisiana is that state and local governments are  
12 committed to workplace decency and will not tolerate, condone, or permit any  
13 kind of sexual harassment of any public servant or by any public servant nor  
14 will retaliation against any victim of sexual harassment be permitted.

15 B. In furtherance of that public policy the state will do all of the  
16 following:

17 (1) Encourage victims to report incidents of sexual harassment as soon  
18 as possible.

19 (2) Immediately investigate all incidents of sexual harassment.

20 (3) Keep confidential all investigations in order to protect the identity of  
21 the victim.

22 (4) Protect the victim from retaliation.

23 (5) Take corrective action against the offender in order to render justice  
24 to the victim and prevent future incidents of sexual harassment.

25 §1283. Definitions

26 For purposes of this Chapter, the following terms shall have the  
27 definitions ascribed in this Section unless the context indicates otherwise:

28 (1) "Agency" means the department, office, division, agency,  
29 commission, board, committee or other organizational unit of the state, local

1 government, or political subdivision which employs the public servant.

2 (2) "Alleged offender" means a coworker or supervisor who is the  
3 subject of a sexual harassment written complaint filed by a public servant  
4 pursuant to this Chapter.

5 (3) "Civil service" means the Department of State Civil Service provided  
6 for in Article X, Section 6, Paragraph A of the Constitution of Louisiana.

7 (4) "Coworker" means a fellow worker who is a public servant, whether  
8 a public employee or an elected official.

9 (5) "Elected official" shall mean "elected official" as defined in R.S.  
10 42:1102(9).

11 (6) "Investigator" means the public servant who is designated by the  
12 agency to receive and investigate the sexual harassment complaint.

13 (7) "Offender" means a coworker or supervisor who has been  
14 investigated pursuant to a sexual harassment written complaint filed by another  
15 public servant and has been deemed by his agency to have violated the  
16 provisions of this Chapter.

17 (8) "Public employee" shall mean "public employee" as defined in R.S.  
18 42:1102(18).

19 (9) "Public servant" shall mean "public servant" as defined in R.S.  
20 42:1102(19).

21 (10) "Retaliation" means adverse action taken against a public servant  
22 or other individual for any of the following:

23 (a) Filing a sexual harassment written complaint.

24 (b) Testifying or cooperating in an investigation or proceeding involving  
25 a sexual harassment written complaint.

26 (11) "Sexual harassment" means an instance of unwanted sexual conduct  
27 which occurs after a public servant has communicated to the coworker that  
28 such conduct is unwelcome when any of the following occur:

29 (a) Submission to such conduct is made, either explicitly or implicitly, a

1 term or condition of employment.

2 (b) Submission to or rejection of such conduct by an individual is used  
3 as the basis for employment decisions affecting the public servant.

4 (c) The conduct has the purpose or effect of unreasonably interfering  
5 with an individual's work performance or creating an intimidating, offensive,  
6 or hostile working environment.

7 (12) "Sexual harassment prevention coordinator" means the human  
8 resources director or other person who is designated by the agency to  
9 coordinate and distribute educational and training materials pursuant to Part  
10 II of this Chapter and to receive written complaints pursuant to Part I of this  
11 Chapter.

12 (13) "Supervisor" means a coworker who is appointed by his agency and  
13 who is authorized by the agency to do any of the following:

14 (a) Promote or demote the public servant who filed the written complaint  
15 pursuant to R.S. 42:1285.

16 (b) Perform an annual or periodic written performance review of the  
17 public servant who filed the written complaint pursuant to R.S. 42:1285.

18 (14) "Unwanted sexual conduct" means an unwelcome advance, request  
19 for sexual favor, or other verbal or physical conduct of a sexual nature.

20 §1284. Prohibited acts

21 It shall be unlawful for any coworker to commit sexual harassment  
22 against any public servant.

23 §1285. Complaint procedure; investigations

24 A.(1) A public servant, who believes the employee is a victim of sexual  
25 harassment as defined in R.S. 42:1283, may file a written complaint with the  
26 supervisor or the coordinator of sexual harassment prevention at the agency in  
27 which the public servant is employed or the sexual harassment prevention  
28 coordinator with the commissioner of administration.

29 (2) The written complaint shall be on a form promulgated by the division

1 of administration pursuant to R.S. 42:1287.

2 (3) When a written complaint is filed pursuant to this Subsection, the  
3 investigator who received the complaint pursuant to Paragraph (1) of this  
4 Subsection shall conduct an investigation of the public servant's written  
5 complaint.

6 B.(1) When the public servant who believes he is a victim of sexual  
7 harassment, as defined in R.S. 42:1283, and the alleged offender is the head of  
8 the public servant's agency or the agency's investigator, the public servant may  
9 file the written complaint with the sexual harassment prevention coordinator  
10 with the commissioner of administration's office.

11 (2) When a written complaint is filed pursuant to Paragraph (1) of this  
12 Subsection, the sexual harassment prevention coordinator with the  
13 commissioner of administration's office, in conjunction with the office of risk  
14 management, shall conduct an investigation of the public servant's written  
15 complaint as provided for in R.S. 42:1287.

16 C. The investigation of the public servant's written complaint shall  
17 include taking statements from the public servant, coworkers, or supervisor and  
18 any witnesses.

19 D. If at any time during the investigation, the investigator becomes aware  
20 that, in addition to the allegations of sexual harassment, there exists credible  
21 evidence that the public servant has been a victim of a sexually related crime as  
22 provided in Title 14 of the Louisiana Revised Statutes of 1950 or other source of  
23 criminal law, the investigator shall assist the public servant in reporting the  
24 crime to state or local law enforcement authorities.

25 E. The investigator, the agency head, and the sexual harassment  
26 prevention coordinator shall keep all information regarding the investigation  
27 confidential, except when such confidentiality would interfere with the  
28 resolution of the investigation.

29 F. If requested by the public servant, the agency shall make every effort

1 to relocate the alleged victim or the offender or both pending the investigation.

2 §1286. Disciplinary actions; assistance to victims

3 A. After the investigation is conducted, and there is a finding by the  
4 agency that the sexual harassment described in the written complaint took  
5 place, the agency shall impose appropriate corrective action as determined by  
6 the appointing authority.

7 B. In addition to the appropriate corrective action in Subsection A of this  
8 Section, the offender shall take the remedial training as provided in R.S.  
9 42:1290 to reform his conduct.

10 C. The agency shall document the sexual harassment misconduct in the  
11 offender's employment file.

12 §1287. Division of administration; written complaint forms, risk management

13 A. The division of administration shall promulgate the written complaint  
14 form for sexual harassment to be filed pursuant to R.S. 42:1285.

15 B.(1) The sexual harassment prevention coordinator for the division of  
16 administration shall serve as the person who receives the written complaints  
17 when a public servant files a written complaint against the head of the public  
18 servant's agency or the investigator of the public servant's agency.

19 (2) The division of administration in conjunction with the office of risk  
20 management shall investigate the written complaint.

21 §1288. State employment applications for unclassified employees; prior  
22 employment history of sexual harassment allegations

23 A. Notwithstanding anything to the contrary, each state agency shall  
24 insert a question on all employment applications for unclassified employees  
25 which will ask the applicant if he has ever been disciplined, fired, terminated,  
26 or resigned to avoid dismissal from employment.

27 B. As it relates to an applicant for an unclassified position who has a  
28 history of being an alleged offender in sexual harassment complaints in his  
29 previous employment, the state agency shall develop policies and procedures

1 which will assist state agencies in doing all of the following:

2 (1) Determining if the historical evidence indicates that applicant is  
3 reasonably likely in the future to put unclassified employees at risk for sexual  
4 harassment.

5 (2) Determining if the applicant should be hired in a supervisory  
6 capacity.

7 (3) Determining if the applicant should be barred from employment at  
8 the state agency.

9 PART II. EDUCATION AND TRAINING TO

10 PREVENT SEXUAL HARASSMENT

11 §1289. Educational training; preventing sexual harassment; mandatory  
12 requirements; civil service

13 A.(1) Every public servant shall complete a minimum of one hour of  
14 education and training on recognizing and preventing sexual harassment each  
15 year of the term of his public employment or term of office. All newly appointed  
16 public officials or newly hired employees shall complete the required one hour  
17 of educational training within the first thirty days of employment. All newly  
18 elected officials shall complete the required one hour educational training on  
19 sexual harassment prevention within the first ninety days after taking office.

20 (2) Each public servant who is appointed to receive and investigate  
21 complaints pursuant to R.S. 42:1285 shall be required to receive an additional  
22 one hour of education and training on sexual harassment during each year of  
23 his public employment or term of office, as the case may be.

24 B.(1) The Department of State Civil Service shall compile and produce  
25 training materials, a video or digital teaching, or other educational information  
26 designed to prevent sexual harassment.

27 (2) The education and training requirements provided for in Subsection  
28 A may be completed through any one of the following methods:

29 (a) In person, through the agency, with training or educational materials

1 provided for by the Department of State Civil Service.

2 (b) By the internet, compact disk, or other training or educational  
3 materials provided for by Department of State Civil Service.

4 (c) In person by the Department of State Civil Service.

5 C. The Department of State Civil Service shall develop and make  
6 available education and training materials at no cost to assist agency heads and  
7 public servants in complying with the requirements of this Chapter.

8 §1290. Remedial training

9 Each agency shall require as remedial training that the offender meet  
10 with the sexual harassment prevention coordinator for one hour and review, in  
11 detail, the agency handbook provided for in R.S. 42:1292.

12 §1291. Agency designee, sexual harassment prevention coordinator

13 A.(1) Each agency shall designate at least one person to be the sexual  
14 harassment prevention coordinator.

15 (2) The sexual harassment prevention coordinator shall provide all  
16 public servants of that agency with information and instruction relative to  
17 recognizing and preventing sexual harassment in the work place, utilizing  
18 education and training materials made available by civil service.

19 (3) The sexual harassment prevention coordinator shall complete a  
20 minimum of two hours of education and training regarding sexual harassment  
21 prevention in the workplace annually.

22 B.(1) Each agency head shall ensure that each public servant in the  
23 agency is notified of the current name and contact information of each sexual  
24 harassment prevention coordinator and that the current name and contact  
25 information of each coordinator is posted and maintained in a convenient and  
26 conspicuous manner which makes the information easily accessible to each  
27 public servant in the agency.

28 (2) Each agency head shall submit the name and contact information of  
29 the agency's sexual harassment prevention coordinator to division of



1 administration no later than July first of each year.

2 (3) Each agency head shall notify the division of administration within  
3 thirty days of any change in the name or contact information of the sexual  
4 harassment prevention coordinator.

5 C.(1) Each agency's sexual harassment prevention coordinator shall keep  
6 records of the compliance with the requirements of this Section by each public  
7 servant.

8 (2) If the agency's head or the sexual harassment prevention coordinator  
9 discovers that a public servant has failed to complete the annual training  
10 required by this Section after the public servant has been notified of the failure,  
11 the agency shall report the failure to complete training to the legislative auditor.

12 §1292. Agency handbook on sexual harassment and prevention

13 A. The commissioner of the division of administration shall promulgate  
14 a sexual harassment prevention handbook which is consistent with the public  
15 policy enacted by the legislature pursuant to R.S. 42:1282.

16 B. The sexual harassment prevention handbook will include all of the  
17 following:

18 (1) The clear and concise public policy, pursuant to R.S. 42:1282, that the  
19 state is committed to workplace decency and will not tolerate, condone, or  
20 permit any kind of sexual harassment of any public servant or applicant for  
21 public employment.

22 (2) Provide the legal definition of sexual harassment as provided in R.S.  
23 42:1283.

24 (3) The prohibition against retaliation.

25 (4) To whom the policy is applicable.

26 (5) Sample explanations of behavior, as cited by the United States Equal  
27 Opportunity Commission or other authoritative legal sources, which are  
28 examples of unwanted sexual conduct.

29 (6) Define violations for prohibited conduct in a sexual harassment

1 investigation including failing to cooperate with a sexual harassment  
2 investigation, interfering with the investigative process, and filing a false report  
3 of sexual harassment.

4 (7) Sexual harassment prevention training requirements, as provided in  
5 this Part.

6 (8) A complaint procedure including the place in which to access the  
7 form to file a written complaint if the public servant is a victim of sexual  
8 harassment in violation of this Chapter.

9 (9) To whom a written complaint may be filed.

10 (10) What details may be necessary to facilitate an investigation.

11 (11) Appropriate response of the supervisor or agency head.

12 (12) Description of the process to keep information obtained pursuant  
13 to the investigation confidential.

14 (13) Description of the investigation process, including the initial  
15 investigative process, the interview process, and notice of final  
16 recommendations.

17 (14) Complaint resolution, including potential corrective actions and  
18 additional measures that may be taken upon completion of the investigative  
19 process.

20 (15) Follow-up procedures implemented to ensure non-recurrence and  
21 compliance with the provisions of this Chapter.

22 (16) Explanation of what constitutes good faith and bad faith complaints.

23 (17) The process and corrective action for false or bad faith complaints.

24 (18) Apprise public servants of applicable federal and state law and the  
25 right to file suit.

26 C.(1) The division of administration will transmit a copy of the sexual  
27 harassment prevention handbook to the head of each agency.

28 (2) The transmission of the copy of the sexual harassment prevention  
29 handbook may be by electronic means or distributing a physical copy.

1            D.(1) Upon receiving the transmitted copy of the sexual harassment  
2            prevention handbook, the agency shall add the following information to the  
3            handbook indicating the name and contact information of the sexual  
4            harassment prevention coordinator, for the agency, who will coordinate and  
5            facilitate the complaint process.

6            (2) The agency shall distribute the agency's sexual harassment  
7            prevention handbook to each public servant.

8            (3) The transmission of agency's sexual harassment prevention handbook  
9            may be delivered to each public servant by electronic means or by physical  
10           copy.

11           §1293. Administrative rules

12           The commissioner of administration shall promulgate, in accordance  
13           with the provisions of the Administrative Procedure Act, such rules as may be  
14           necessary in order to implement the provisions of this Chapter.

15           §1294. Mandatory reports

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

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

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

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

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

7                   Section 2. This Act shall be known and may be cited as the "Louisiana Public  
8                   Servants' Sexual Harassment Prevention and Training Act".

9                   Section 3. This Act shall become effective upon signature by the governor or, if not  
10                  signed by the governor, upon expiration of the time for bills to become law without signature  
11                  by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
12                  vetoed by the governor and subsequently approved by the legislature, this Act shall become  
13                  effective on the day following such approval.

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The original instrument was prepared by Carla S. Roberts. The following  
digest, which does not constitute a part of the legislative instrument, was  
prepared by Tim Prather.

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DIGEST

SB 404 Engrossed                   2018 Regular Session                   Hewitt

Proposed law provides for the "Louisiana Public Servants' Sexual Harassment Prevention and Training Act."

Proposed law provides that the legislature finds and declares that all of the following harms related to sexual harassment:

- (1) Sexual harassment violates an individuals basic civil rights.
- (2) Sexual harassment undermines the personal dignity of state employees and officials.
- (3) Sexual harassment violates and undermines the integrity of the workplace, whether or not the individual public servants is the direct subject of the sexual harassment.
- (4) Sexual harassment can destroy the career opportunities and the very livelihood of a public servant.

Proposed law provides that the public policy of Louisiana is that state and local governments are committed to workplace decency and will not tolerate, condone, or permit any kind of sexual harassment of any public servant or by any public servant nor will retaliation against any victim of sexual harassment be permitted.

Proposed law provides that the state will do all of the following:

- (1) Encourage victims to report incidents of sexual harassment as soon as possible.

- (2) Immediately investigate all incidents of sexual harassment.
- (3) Keep confidential all investigation in order to protect the identify of the victim.
- (4) Protect the victim from retaliation.
- (5) Take correction action against the offender in order to render justice to the victim and prevent future incidents of sexual harassment.

Proposed law provides for the following definitions related to proposed law:

- (1) "Agency" means the department, office, division, agency, commission, board, committee or other organizational unit of the state, local government, or political subdivision which employs the public servant.
- (2) "Alleged offender" means a coworker or supervisor who is the subject of a sexual harassment written complaint filed by a public servant pursuant to proposed law.
- (3) "Civil service" means the Dept. of State Civil Service provided for in the La. Constitution.
- (4) "Coworker" means a fellow worker who is a public servant, whether a public employee or an elected official.
- (5) "Elected official" means an elected official as defined in present law.
- (6) "Investigator" means the public servant who is designated by the agency to receive and investigate the sexual harassment complaint.
- (7) "Offender" means a coworker or supervisor who has been investigated pursuant to a sexual harassment written complaint filed by another public servant and has been deemed by his agency to have violated the provisions of proposed law.
- (8) "Public employee" shall mean "public employee" as defined in present law.
- (9) "Public Servant" shall mean "public servant" as defined in present law.
- (10) "Retaliation" means adverse action taken against a public servant 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.
- (11) "Sexual harassment" means an instance of unwanted sexual conduct which occurs after a public servant 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 public servant.
  - (c) The conduct has the purpose or effect or unreasonably interfering with an individuals work performance or creating an intimidating, offensive or hostile working environment.
- (12) "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.

- (13) "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 public servant who filed the written complaint pursuant to proposed law.
  - (b) Perform an annual or periodic written performance review of the public servant who filed the written complaint pursuant to proposed law.
- (14) "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 public servant.

Proposed law provides that a public servant, who believes the public servant 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 public servant is employed or the sexual harassment prevention coordinator with the commissioner of administration.

Proposed law provides that the investigator who received the complaint pursuant to proposed law will conduct an investigation of the public servant's written complaint.

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

Proposed law provides that the investigation into the public servant'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 public servant has been a victim of a sexually related crime in La. Criminal Code or other source of criminal law, the investigator shall assist the public servant 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 if requested by the public servant, the agency shall make every effort to relocate the alleged victim or the offender or both pending 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, the agency shall impose appropriate corrective action as determined by the appointing authority. Proposed law provides that in addition to the appropriate corrective action as provided in proposed law, offender shall take the remedial training as provided in proposed law to reform his conduct. Proposed law provides that the agency shall document the sexual harassment misconduct in the offender's employment file.

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

Proposed law provides that each state agency shall insert a question on all employment applications for unclassified employees which will ask the applicant if he has ever been disciplined, fired, terminated, or resigned to avoid dismissal from employment. For an applicant for an unclassified position who has a history of being an alleged offender in sexual harassment complaints in his previous employment, the state agency 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 unclassified 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 every public servant 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 public servant who is appointed to receive and investigate complaints pursuant to proposed law shall be required to receive an additional one hour of education and training on sexual harassment during each year of his public employment or term of office, as the case may be.

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 servants.

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 by the Department of State Civil Service.

Proposed law provides that each agency shall require as remedial training that the offender meet with the sexual harassment prevention coordinator for one hour and review, in detail, the agency handbook 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 servants 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 public servants 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 servant'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 servant has failed to complete the annual training required by proposed law after the public servant 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 public servant 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 public servant 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 public servants 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 public servant, 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 Procedure Act, such rules as may be necessary in order to implement proposed law.

Proposed law provides that each agency head shall compile an annual report, by February 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, the number of sexual harassment complaints wherein a pay discrepancy is found and the amount of time it took to resolve each complaint. These reports shall be public record and available to the public in the manner provided by the Public Records Law.

Proposed law provides that the agency heads in state government shall submit the reports required by proposed law by February 15th of each year as follows:

- (1) Agency heads in the 20 principal departments of the executive branch of state government, the office of the governor, and the office of lieutenant governor shall submit the report to the division of administration.
- (2) Agency heads in the legislative branch of state government shall submit the report to the Legislative Budgetary Control Council.
- (3) Agency heads in the judicial branch of state government, including the supreme court, courts of appeal, district courts, and other courts authorized by Article V of the Constitution of Louisiana, shall submit the report to the chief justice of the supreme court.

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

(R.S. 42:1281-1294)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

- 1. Changes references from "state employees" and "public officials" to "public servants".
- 2. Redefines the public policy of the state relative to sexual harassment.
- 3. Provides definitions for elected official, investigator, public employee and

public servant.

4. Adds reporting to the sexual harassment prevention coordinator with the commissioner of administration.
5. Adds that the an agency may relocate the victim or the offender.
6. Provides for prior employment history for unclassified employees (any prior history of sexual harassment allegations).
7. Adds additional training for a public servant who is the agency supervisor or the coordinator of sexual harassment prevention.
8. Adds annual mandatory reports relative to certain criteria from all agencies.