

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.