

2018 Regular Session

HOUSE BILL NO. 524

BY REPRESENTATIVES CARPENTER, ABRAHAM, ABRAMSON, AMEDEE, ANDERS, ARMES, BACALA, BAGLEY, BAGNERIS, BARRAS, BERTHELOT, BILLIOT, BISHOP, BOUIE, BRASS, CHAD BROWN, TERRY BROWN, CARMODY, GARY CARTER, ROBBY CARTER, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, CREWS, DAVIS, DEVILLIER, DUPLESSIS, DWIGHT, EDMONDS, EMERSON, FOIL, FRANKLIN, GAINES, GAROFALO, GISCLAIR, GLOVER, GUINN, HALL, JIMMY HARRIS, LANCE HARRIS, HAVARD, HAZEL, HENRY, HENSGENS, HILFERTY, HILL, HODGES, HOFFMANN, HOLLIS, HORTON, HOWARD, HUNTER, HUVAL, IVEY, JACKSON, JAMES, JEFFERSON, JENKINS, JOHNSON, JONES, JORDAN, NANCY LANDRY, TERRY LANDRY, LEBAS, LEOPOLD, LYONS, MAGEE, MARCELLE, MARINO, MCFARLAND, MIGUEZ, DUSTIN MILLER, GREGORY MILLER, MORENO, JIM MORRIS, MUSCARELLO, NORTON, PEARSON, PIERRE, POPE, PUGH, PYLANT, REYNOLDS, RICHARD, SCHEXNAYDER, SEABAUGH, SIMON, SMITH, STAGNI, STEFANSKI, STOKES, TALBOT, THIBAUT, THOMAS, WHITE, WRIGHT, AND ZERINGUE AND SENATORS ALARIO, ALLAIN, APPEL, BARROW, BISHOP, BOUDREAUX, CARTER, CHABERT, CLAITOR, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LAFLEUR, LAMBERT, LONG, LUNEAU, MARTINY, MILKOVICH, MILLS, MIZELL, MORRELL, MORRISH, PEACOCK, PERRY, PETERSON, PRICE, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

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 345, 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; to provide for the duties of the  
7 Department of State Civil Service relative thereto; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 6 of Title 42 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 42:341 through 345, is hereby enacted to read as follows:

11 CHAPTER 6. PREVENTION OF SEXUAL HARASSMENT

12 §341. Definitions

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

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

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

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

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

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

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

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

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

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

16                  §342. Mandatory policy prohibiting sexual harassment

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

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

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

26                  (2) A description of the behavior the agency defines as inappropriate  
 27                  conduct, including examples.

28                  (3) An effective complaint or grievance process that includes taking  
 29                  immediate and appropriate action when a complaint of sexual harassment involving  
 30                  any public servant in the agency is received. The complaint process shall detail who

1 may make a complaint, to whom a complaint may be made, and shall provide for  
2 alternative designees to receive complaints. Actions taken on the complaint shall be  
3 documented.

4 (4) A clear prohibition against retaliation against an individual for filing a  
5 complaint or testifying or participating in any way in an investigation or other  
6 proceeding involving a complaint of sexual harassment.

7 (5) A statement apprising public servants of applicable federal and state law  
8 on sexual harassment.

9 §343. Preventing sexual harassment; mandatory training requirements

10 A.(1) Each public servant shall receive a minimum of one hour of education  
11 and training on preventing sexual harassment during each full calendar year of his  
12 public employment or term of office, as the case may be.

13 (2) An agency head shall require supervisors and any persons designated by  
14 the agency to accept or investigate a complaint of sexual harassment in his agency  
15 to receive additional education and training.

16 B. The education and training required pursuant to this Section may be  
17 received either in person or via the internet through training and education materials  
18 approved by the public servant's agency head.

19 C. Each agency head shall ensure that each public servant in the agency is  
20 notified of the agency's policy against sexual harassment and the mandatory training  
21 requirement on preventing sexual harassment. The agency head, or his designee,  
22 shall be responsible for maintaining records of the compliance of each public servant  
23 in the agency with the mandatory training requirement. Each public servant's record  
24 of compliance shall be a public record and available to the public in accordance with  
25 the Public Records Law.

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

1           §344. Mandatory reports

2                   A. Each agency head shall compile an annual report by February first of each  
3                   year containing information from the previous calendar year regarding his agency's  
4                   compliance with the requirements of this Chapter including the number and  
5                   percentage of public servants in his agency who have completed the training  
6                   requirements, the number of sexual harassment complaints received by his agency,  
7                   the number of complaints which resulted in a finding that sexual harassment  
8                   occurred, the number of complaints in which the finding of sexual harassment  
9                   resulted in discipline or corrective action, and the amount of time it took to resolve  
10                  each complaint. These reports shall be public record and available to the public in  
11                  the manner provided by the Public Records Law.

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

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

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

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

23                  C. The office of risk management, within the division of administration,  
24                  shall submit an annual report to the speaker of the House of Representatives and the  
25                  president of the Senate, related to the complaints of sexual harassment which are  
26                  filed with the office for adjustment, as follows:

27                   (1) The total number of sexual harassment cases filed with office of risk  
28                   management.

29                   (2) The number of cases which are settled and the total monetary amount  
30                   paid in settlements.

1                   (3) The number of cases for which a lawsuit is filed and the disposition of  
2                   each case.

3                   (4) The monetary amount paid for attorney fees, court costs, expert witness  
4                   fees and any other litigation costs to defend each sexual harassment complaint.

5                   §345. Department of State Civil Service; assistance

6                   A. The Department of State Civil Service shall develop and make available  
7                   education and training material at no cost to assist state agency heads and state  
8                   employees in complying with the requirements of this Chapter.

9                   B. As required by Article VII, Section 14 of the Constitution of Louisiana,  
10                  the Department of State Civil Service shall recoup the costs of copying or  
11                  reproducing the training material on a compact disc and recoup the cost of mailing  
12                  the disc to the agency, unless the agency is subject to the fees assessed for in-service  
13                  training pursuant to R.S. 42:1262(A).

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_