

ACT No. 270

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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____