

# SENATE BILL 834

D5, P4

1lr1785

---

By: **Senator Smith**

Introduced and read first time: February 9, 2021

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Harassment and Sexual Harassment – Definitions – Employment Discrimination**  
3 **and Sexual Harassment Prevention Training**

4 FOR the purpose of altering the definition of “harassment” for purposes of certain  
5 provisions relating to discrimination in employment to include certain conduct,  
6 whether or not the conduct would be considered sufficiently severe or pervasive  
7 under precedent applied to harassment claims; defining “sexual harassment” for  
8 purposes of certain provisions relating to discrimination in employment to include  
9 certain conduct, whether or not the conduct would be considered sufficiently severe  
10 or pervasive under precedent applied to sexual harassment claims; altering the  
11 definition of “sexual harassment” for certain provisions relating to State government  
12 sexual harassment prevention training; and generally relating to the definitions of  
13 harassment and sexual harassment.

14 BY repealing and reenacting, without amendments,  
15 Article – State Government  
16 Section 20–601(a)  
17 Annotated Code of Maryland  
18 (2014 Replacement Volume and 2020 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – State Government  
21 Section 20–601(h)  
22 Annotated Code of Maryland  
23 (2014 Replacement Volume and 2020 Supplement)

24 BY adding to  
25 Article – State Government  
26 Section 20–601(k)  
27 Annotated Code of Maryland  
28 (2014 Replacement Volume and 2020 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – State Personnel and Pensions  
3 Section 2–203.1(a)  
4 Annotated Code of Maryland  
5 (2015 Replacement Volume and 2020 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
7 That the Laws of Maryland read as follows:

8 **Article – State Government**

9 20–601.

10 (a) In this subtitle the following words have the meanings indicated.

11 (h) “Harassment” includes [harassment]:

12 **(1) ORAL, WRITTEN, OR PHYSICAL CONDUCT, WHETHER OR NOT THE**  
13 **CONDUCT WOULD BE CONSIDERED SUFFICIENTLY SEVERE OR PERVASIVE UNDER**  
14 **PRECEDENT APPLIED TO HARASSMENT CLAIMS, WHEN:**

15 **(I) THE CONDUCT IS** based on race, color, religion, ancestry or  
16 national origin, sex, age, marital status, sexual orientation, gender identity, or disability[,  
17 and retains its judicially determined meaning, except to the extent it is expressly or  
18 impliedly changed in this subtitle];

19 **(II) 1. SUBMISSION TO THE CONDUCT IS MADE EITHER**  
20 **EXPLICITLY OR IMPLICITLY A TERM OR CONDITION OF EMPLOYMENT OF AN**  
21 **INDIVIDUAL;**

22 **2. SUBMISSION TO OR REJECTION OF THE CONDUCT IS**  
23 **USED AS A BASIS FOR EMPLOYMENT DECISIONS AFFECTING THE INDIVIDUAL; OR**

24 **3. THE CONDUCT HAS THE PURPOSE OR EFFECT OF**  
25 **UNREASONABLY INTERFERING WITH AN INDIVIDUAL’S WORK PERFORMANCE OR**  
26 **CREATING A WORKING ENVIRONMENT THAT IS PERCEIVED BY THE VICTIM TO BE**  
27 **ABUSIVE OR HOSTILE; AND**

28 **(III) A REASONABLE VICTIM OF DISCRIMINATION WOULD**  
29 **CONSIDER THE CONDUCT TO BE MORE THAN A PETTY SLIGHT, TRIVIAL**  
30 **INCONVENIENCE, OR MINOR ANNOYANCE; AND**

31 **(2) SEXUAL HARASSMENT.**

1           **(K) “SEXUAL HARASSMENT” INCLUDES ORAL, WRITTEN, OR PHYSICAL**  
2 **CONDUCT, WHETHER OR NOT THE CONDUCT WOULD BE CONSIDERED SUFFICIENTLY**  
3 **SEVERE OR PERVASIVE UNDER PRECEDENT APPLIED TO SEXUAL HARASSMENT**  
4 **CLAIMS, THAT CONSISTS OF UNWELCOME SEXUAL ADVANCES, REQUESTS FOR**  
5 **SEXUAL FAVORS, OR OTHER VERBAL, WRITTEN, OR PHYSICAL CONDUCT OF A**  
6 **SEXUAL NATURE WHEN:**

7           **(1) (I) SUBMISSION TO THE CONDUCT IS MADE EITHER EXPLICITLY**  
8 **OR IMPLICITLY A TERM OR CONDITION OF EMPLOYMENT OF AN INDIVIDUAL;**

9                       **(II) SUBMISSION TO OR REJECTION OF THE CONDUCT IS USED**  
10 **AS A BASIS FOR EMPLOYMENT DECISIONS AFFECTING THE INDIVIDUAL; OR**

11                      **(III) THE CONDUCT HAS THE PURPOSE OR EFFECT OF**  
12 **UNREASONABLY INTERFERING WITH AN INDIVIDUAL’S WORK PERFORMANCE OR**  
13 **CREATING A WORKING ENVIRONMENT THAT IS PERCEIVED BY THE VICTIM TO BE**  
14 **ABUSIVE OR HOSTILE; AND**

15           **(2) A REASONABLE VICTIM OF DISCRIMINATION WOULD CONSIDER**  
16 **THE CONDUCT TO BE MORE THAN A PETTY SLIGHT, TRIVIAL INCONVENIENCE, OR**  
17 **MINOR ANNOYANCE.**

#### 18                               **Article – State Personnel and Pensions**

19   2–203.1.

20           (a) (1) In this section the following words have the meanings indicated.

21                       (2) “Commission” means the Commission on Civil Rights.

22                       (3) “Sexual harassment” [includes unwelcome sexual advances, requests  
23 for sexual favors, and other verbal, nonverbal, or physical contact of a sexual nature when:

24                               (i) submission to the conduct is made either explicitly or implicitly  
25 a term or condition of an individual’s employment;

26                               (ii) submission to or rejection of the conduct by an individual is used  
27 as a basis for employment decisions affecting the individual; or

28                               (iii) the conduct has the purpose or effect of unreasonably interfering  
29 with an individual’s work performance or creating an intimidating or offensive working  
30 environment that is perceived by the victim to be abusive or hostile] **HAS THE MEANING**  
31 **STATED IN § 20–601 OF THE STATE GOVERNMENT ARTICLE.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2021.