

# SENATE BILL 1138

P5, G2, D5

8lr3874  
CF HB 1342

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By: Senators Conway, Astle, Bates, Benson, Brochin, Cassilly, Currie, DeGrange, Eckardt, Edwards, Feldman, Ferguson, Guzzone, Hershey, Hough, Jennings, Kagan, Kasemeyer, Kelley, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Muse, Nathan-Pulliam, Norman, Oaks, Peters, Pinsky, Ramirez, Ready, Reilly, Robinson, Rosapepe, Salling, Serafini, Simonaire, Smith, Waugh, Young, Zirkin, and Zucker

Introduced and read first time: February 16, 2018

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Legislative Branch of State Government – Sexual Harassment**

3 FOR the purpose of authorizing any entity to file with the State Ethics Commission a  
4 written complaint alleging that a regulated lobbyist has sexually harassed a member  
5 of the General Assembly or a certain employee; authorizing any entity to file with  
6 the State Ethics Commission a written complaint alleging that a member of the  
7 General Assembly has sexually harassed a regulated lobbyist; requiring the Joint  
8 Committee on Legislative Ethics to refer certain complaints to an outside and  
9 independent investigator; requiring the investigator to submit its findings and  
10 recommendations to the Committee for certain further proceedings; requiring the  
11 Committee to allow a member of the public to inspect certain findings and  
12 recommendations under certain circumstances; requiring the Committee to deny  
13 inspection of the identity of certain individuals; requiring the Committee to develop  
14 a certain code of conduct for the General Assembly; requiring the Office of the  
15 Executive Director in the Department of Legislative Services to maintain certain  
16 records regarding certain individuals who take sexual harassment prevention  
17 training; requiring the Office to maintain the records for at least a certain period of  
18 time; requiring the Commission on Civil Rights to conduct a certain survey of  
19 members and employees of the General Assembly on or before certain dates;  
20 prohibiting the survey from requesting certain information or being conducted in a  
21 certain manner; requiring the Commission on Civil Rights to submit a certain report  
22 to the President of the Senate, the Speaker of the House of Delegates, and the Joint  
23 Committee on Legislative Ethics; making a conforming change; and generally  
24 relating to sexual harassment in the Legislative Branch of State government.

25 BY repealing and reenacting, without amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – General Provisions  
2 Section 5–101(a), (k), (u), and (hh)  
3 Annotated Code of Maryland  
4 (2014 Volume and 2017 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – General Provisions  
7 Section 5–401 and 5–518  
8 Annotated Code of Maryland  
9 (2014 Volume and 2017 Supplement)

10 BY adding to  
11 Article – General Provisions  
12 Section 5–518.1  
13 Annotated Code of Maryland  
14 (2014 Volume and 2017 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article – State Government  
17 Section 2–701, 2–1201, 2–1211, and 20–101(a) and (b)  
18 Annotated Code of Maryland  
19 (2014 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – State Government  
22 Section 2–706 and 2–1215  
23 Annotated Code of Maryland  
24 (2014 Replacement Volume and 2017 Supplement)

25 BY adding to  
26 Article – State Government  
27 Section 20–207.1  
28 Annotated Code of Maryland  
29 (2014 Replacement Volume and 2017 Supplement)

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

32 **Article – General Provisions**

33 5–101.

34 (a) In this title the following words have the meanings indicated unless:

35 (1) the context clearly requires a different meaning; or

36 (2) a different definition is adopted for a particular provision.

1 (k) "Ethics Commission" means the State Ethics Commission.

2 (u) "Joint Ethics Committee" means the Joint Committee on Legislative Ethics.

3 (hh) "Regulated lobbyist" means an entity that is required to register with the  
4 Ethics Commission under § 5-702(a) of this title.

5 5-401.

6 (a) (1) Any entity may file with the Ethics Commission a written complaint  
7 alleging:

8 (I) a violation of this title;

9 (II) **THAT A REGULATED LOBBYIST HAS SEXUALLY HARASSED A**  
10 **MEMBER OF THE GENERAL ASSEMBLY OR AN EMPLOYEE OF THE GENERAL**  
11 **ASSEMBLY OR THE DEPARTMENT OF LEGISLATIVE SERVICES; OR**

12 (III) **THAT A MEMBER OF THE GENERAL ASSEMBLY HAS**  
13 **SEXUALLY HARASSED A REGULATED LOBBYIST.**

14 (2) A complaint filed under this subsection shall be:

15 (i) signed; and

16 (ii) made under oath.

17 (b) The Ethics Commission on its own motion may issue a complaint alleging a  
18 violation of this title.

19 (c) The Ethics Commission shall promptly transmit a copy of the complaint to the  
20 respondent.

21 5-518.

22 (a) **[After] EXCEPT AS PROVIDED IN § 5-518.1 OF THIS SUBTITLE, AFTER** the  
23 filing or preparation of a complaint under § 5-516 of this subtitle, the Joint Ethics  
24 Committee shall review the complaint and proceed in accordance with § 5-519 of this  
25 subtitle unless, after examining the complaint and the issues raised by it, the Committee  
26 finds that further proceedings are not justified because:

27 (1) the complaint is frivolous;

28 (2) the complaint does not allege actions on the part of the accused  
29 legislator that provide reason to believe that a violation may have occurred;

1 (3) the matters alleged are not within the jurisdiction of the Joint Ethics  
2 Committee;

3 (4) the violations alleged were inadvertent, technical, or minor, or have  
4 been cured, and, after consideration of all of the circumstances then known, further  
5 proceedings would not serve the purposes of this subtitle; or

6 (5) for other reasons, after consideration of all the circumstances, further  
7 proceedings would not serve the purposes of this subtitle.

8 (b) (1) If a finding is made under subsection (a) of this section, the Joint Ethics  
9 Committee shall:

10 (i) submit a report of its conclusions to the presiding officer or to the  
11 membership of the branch of the legislature of which the accused legislator is a member,  
12 and the proceedings shall be terminated;

13 (ii) provide advice or guidance to the accused legislator; or

14 (iii) provide the accused legislator with an opportunity to cure any  
15 minor violation of ethical standards.

16 (2) (i) Subject to § 5–517 of this subtitle, notice of the Joint Ethics  
17 Committee’s action shall be provided to the accused legislator and to any person who filed  
18 the complaint.

19 (ii) On request, the accused legislator may see the complaint and the  
20 report.

21 (c) If no finding is made under subsection (a) of this section, the Joint Ethics  
22 Committee shall prepare an allegation summary, based on its examination under  
23 subsection (a) of this section, setting forth the alleged facts and the issues then known that  
24 merit further proceedings.

25 (d) After review of a complaint, the Joint Ethics Committee shall provide a  
26 statement of its findings to the accused legislator.

27 **5–518.1.**

28 **(A) THE JOINT ETHICS COMMITTEE SHALL REFER A COMPLAINT ALLEGING**  
29 **THAT A MEMBER OF THE GENERAL ASSEMBLY HAS VIOLATED THE CODE OF**  
30 **CONDUCT DEVELOPED UNDER § 2–706(A)(8) OF THE STATE GOVERNMENT ARTICLE**  
31 **TO AN OUTSIDE AND INDEPENDENT INVESTIGATOR.**

32 **(B) IF A COMPLAINT IS REFERRED TO AN OUTSIDE AND INDEPENDENT**

1 INVESTIGATOR UNDER SUBSECTION (A) OF THIS SECTION, THE INVESTIGATOR  
2 SHALL SUBMIT ITS FINDINGS AND RECOMMENDATIONS TO THE JOINT ETHICS  
3 COMMITTEE FOR FURTHER PROCEEDINGS IN ACCORDANCE WITH THIS SUBTITLE.

4 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND  
5 NOTWITHSTANDING ANY PROVISION OF LAW THAT WOULD PROHIBIT DISCLOSURE,  
6 THE JOINT ETHICS COMMITTEE SHALL ALLOW A MEMBER OF THE PUBLIC TO  
7 INSPECT THE FINDINGS AND RECOMMENDATIONS SUBMITTED UNDER SUBSECTION  
8 (B) OF THIS SECTION IF:

9 (I) THE INVESTIGATOR FOUND THAT THE CODE OF CONDUCT  
10 HAD BEEN VIOLATED; AND

11 (II) THE VICTIM CONSENTS TO THE FINDINGS AND  
12 RECOMMENDATIONS BEING MADE PUBLIC.

13 (2) THE JOINT ETHICS COMMITTEE SHALL DENY INSPECTION OF THE  
14 IDENTITY OF THE COMPLAINANT AND ANY OTHER INDIVIDUAL CONSULTED DURING  
15 THE INVESTIGATION.

#### 16 Article – State Government

17 2–701.

18 In this subtitle, “Committee” means the Joint Committee on Legislative Ethics.

19 2–706.

20 (a) The Committee shall:

21 (1) perform all duties assigned to it by law or by legislative rules;

22 (2) from time to time, recommend to the presiding officers any changes in  
23 or amendments to the rules of legislative ethics;

24 (3) on request of a member of the General Assembly, issue an advisory  
25 opinion regarding the legislative ethics of an action taken or contemplated to be taken by  
26 the member;

27 (4) on its own motion, issue advisory opinions as it deems necessary;

28 (5) at the request of the President or the Speaker, make recommendations  
29 concerning matters referred to the Committee;

30 (6) as it deems necessary, issue guidelines and establish procedures for the

1 implementation of the rules of legislative ethics; [and]

2 (7) maintain public records as the rules require; AND

3 (8) DEVELOP A CODE OF CONDUCT FOR THE GENERAL ASSEMBLY  
4 THAT INCLUDES:

5 (I) A CLEAR DEFINITION OF SEXUAL HARASSMENT;

6 (II) A CLEAR DEFINITION OF RETALIATION; AND

7 (III) A LIST OF ACTIONS THAT WILL BE TAKEN AGAINST AN  
8 INDIVIDUAL WHO VIOLATES THE CODE OF CONDUCT.

9 (b) (1) The Committee shall maintain the statements filed by members of the  
10 General Assembly under Title 15, Subtitle 5 of this article and, during normal office hours,  
11 make the statements available to the public for examination and copying.

12 (2) The Committee shall maintain a record of:

13 (i) the name and home address of each individual who examines or  
14 copies a statement filed with the Committee by a member of the General Assembly; and

15 (ii) the name of the member whose statement was examined or  
16 copied.

17 (3) On the request of the member whose statement was examined or  
18 copied, the Committee shall forward to the member a copy of the record maintained by the  
19 Committee under paragraph (2)(i) of this subsection.

20 2–1201.

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

22 (b) “Department” means the Department of Legislative Services.

23 (c) “Executive Director” means the Executive Director of the Department.

24 2–1211.

25 As used in this Part III, “Office” means the Office of the Executive Director.

26 2–1215.

27 (a) The Office shall manage all personnel activities of the Department and  
28 generally carry out the duties set forth in § 2–1205 of this subtitle.

1 (b) The Office shall manage the personnel activities of the General Assembly as  
2 assigned by the President and the Speaker.

3 (c) (1) **THE OFFICE SHALL MAINTAIN ELECTRONIC RECORDS THAT**  
4 **INCLUDE:**

5 (i) **THE NAME OF EACH MEMBER OF THE GENERAL ASSEMBLY,**  
6 **EACH EMPLOYEE OF THE GENERAL ASSEMBLY, AND EACH EMPLOYEE OF THE**  
7 **DEPARTMENT WHO TAKES WORKPLACE HARASSMENT PREVENTION TRAINING;**

8 (ii) **THE DATE THE WORKPLACE HARASSMENT PREVENTION**  
9 **TRAINING WAS COMPLETED; AND**

10 (iii) **THE NAME OF THE PERSON WHO CONDUCTED THE**  
11 **TRAINING.**

12 (2) **THE OFFICE SHALL MAINTAIN THE RECORDS REQUIRED UNDER**  
13 **PARAGRAPH (1) OF THIS SUBSECTION FOR AT LEAST 5 YEARS AFTER THE MEMBER**  
14 **OR EMPLOYEE TAKES WORKPLACE HARASSMENT PREVENTION TRAINING.**

15 20-101.

16 (a) In Subtitles 1 through 11 of this title the following words have the meanings  
17 indicated.

18 (b) "Commission" means the Commission on Civil Rights.

19 **20-207.1.**

20 (A) **ON OR BEFORE JUNE 1, 2019, AND ON OR BEFORE JUNE 1 EVERY 2**  
21 **YEARS THEREAFTER, SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE**  
22 **COMMISSION SHALL CONDUCT A SURVEY OF MEMBERS AND EMPLOYEES OF THE**  
23 **GENERAL ASSEMBLY TO DETERMINE:**

24 (1) **THE SCOPE OF SEXUAL DISCRIMINATION AND HARASSMENT IN**  
25 **THE LEGISLATIVE BRANCH OF STATE GOVERNMENT;**

26 (2) **WHETHER SEXUAL DISCRIMINATION AND HARASSMENT**  
27 **PREVENTION AND REFORM EFFORTS ARE REDUCING THE PREVALENCE OF SEXUAL**  
28 **DISCRIMINATION AND HARASSMENT IN THE LEGISLATIVE BRANCH OF STATE**  
29 **GOVERNMENT; AND**

30 (3) **WHETHER THE COMPLAINT AND REPORTING PROCESS**

1 REGARDING INSTANCES OF SEXUAL DISCRIMINATION AND HARASSMENT IN THE  
2 LEGISLATIVE BRANCH OF STATE GOVERNMENT IS SUFFICIENT.

3 (B) THE SURVEY CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION  
4 MAY NOT REQUEST ANY INFORMATION OR BE CONDUCTED BY ANY METHOD THAT  
5 WOULD MAKE THE RESPONDENT OR THE RESPONDENT'S OFFICE IDENTIFIABLE.

6 (C) THE COMMISSION SHALL SUBMIT TO THE PRESIDENT OF THE SENATE,  
7 THE SPEAKER OF THE HOUSE OF DELEGATES, AND THE JOINT COMMITTEE ON  
8 LEGISLATIVE ETHICS A REPORT THAT SUMMARIZES THE RESULTS OF THE SURVEY  
9 CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2018.