

Chapter 791

(House Bill 1423)

AN ACT concerning

State Personnel – Sexual Harassment Prevention Training – Required

FOR the purpose of requiring each State employee to complete a certain amount of sexual harassment prevention training at certain times; requiring that the training include certain information; requiring each unit to designate a representative to coordinate with the Maryland Commission on Civil Rights to implement the training; authorizing ~~an entity~~ a unit to incorporate the training into existing employment training; requiring the Commission to train certain representatives in the prevention of sexual harassment, discrimination and retaliation, and best practices in sexual harassment prevention; providing that certain representatives are encouraged to use certain materials to prevent sexual harassment in the workplace; authorizing a unit to require an employee to retake any part or all of the training or to participate in certain additional training or classes; ~~requiring each unit to report certain information to the Commission on or before a certain date each year; requiring the Commission to report certain information to the Department of Budget and Management and the General Assembly on or before a certain date each year~~ requiring the Equal Employment Opportunity Coordinator to enforce certain requirements for certain units in the Executive Branch of State government; authorizing the ~~Commission~~ Equal Employment Opportunity Coordinator to recommend that a certain performance audit or review be ~~performed~~ conducted under certain circumstances; prohibiting a person from bringing a certain action against the State except under certain circumstances; providing that certain training is a minimum requirement; requiring the Commission to adopt regulations to implement this section; providing for the application and construction of this Act; defining certain terms; and generally relating to sexual harassment prevention training.

BY adding to

Article – State Personnel and Pensions
 Section 2–203.1
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions**2–203.1.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMISSION” MEANS THE COMMISSION ON CIVIL RIGHTS.

(3) “SEXUAL HARASSMENT” INCLUDES UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS, AND OTHER VERBAL, NONVERBAL, OR PHYSICAL CONTACT OF A SEXUAL NATURE WHEN:

(I) SUBMISSION TO THE CONDUCT IS MADE EITHER EXPLICITLY OR IMPLICITLY A TERM OR CONDITION OF AN INDIVIDUAL’S EMPLOYMENT;

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

(III) THE CONDUCT HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING WITH AN INDIVIDUAL’S WORK PERFORMANCE OR CREATING AN INTIMIDATING OR OFFENSIVE WORKING ENVIRONMENT THAT IS PERCEIVED BY THE VICTIM TO BE ABUSIVE OR HOSTILE.

(B) THIS SECTION APPLIES TO ALL UNITS IN THE EXECUTIVE, JUDICIAL, AND LEGISLATIVE BRANCHES OF STATE GOVERNMENT, INCLUDING ALL UNITS WITH INDEPENDENT PERSONNEL SYSTEMS.

(C) (1) EACH STATE EMPLOYEE SHALL COMPLETE AT LEAST A CUMULATIVE 2 HOURS OF ~~CLASSROOM OR OTHER~~ IN-PERSON OR VIRTUAL, INTERACTIVE TRAINING ON SEXUAL HARASSMENT PREVENTION WITHIN:

(I) 6 MONTHS AFTER THE EMPLOYEE’S INITIAL APPOINTMENT;
AND ~~AND ONCE~~

(II) EVERY ~~2-YEARS~~ 2-YEAR PERIOD THEREAFTER.

(2) THE TRAINING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) INFORMATION ON THE FEDERAL AND STATE ~~STATUTORY PROVISIONS~~ LAWS CONCERNING THE PROHIBITION OF SEXUAL HARASSMENT;

(II) BEST PRACTICES IN PREVENTION AND CORRECTION OF SEXUAL HARASSMENT, ABUSIVE CONDUCT, AND RETALIATION;

(III) REMEDIES AND PROCEDURES AVAILABLE TO VICTIMS OF SEXUAL HARASSMENT IN EMPLOYMENT; AND

(IV) ADDITIONAL TRAINING FOR SUPERVISORS REGARDING INFORMATION ON:

1. PROPERLY RESPONDING TO COMPLAINTS OF SEXUAL HARASSMENT AND PREVENTING FURTHER ABUSE AND RETALIATION; AND

2. CREATING AND MAINTAINING A WORKPLACE CULTURE IN WHICH SEXUAL HARASSMENT IS NOT TOLERATED.

(D) (1) (I) EACH UNIT SHALL DESIGNATE A REPRESENTATIVE TO COORDINATE WITH THE COMMISSION TO IMPLEMENT THE TRAINING STATE EMPLOYEES ARE REQUIRED TO COMPLETE UNDER SUBSECTION (C) OF THIS SECTION.

(II) ~~AN ENTITY~~ A UNIT MAY INCORPORATE THE TRAINING INTO EXISTING EMPLOYMENT TRAINING FOR NEW EMPLOYEES AND SUPERVISORS.

(2) THE COMMISSION SHALL TRAIN EACH REPRESENTATIVE DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN:

(I) THE PREVENTION OF SEXUAL HARASSMENT, DISCRIMINATION, AND RETALIATION, ~~AND; AND~~

(II) BEST PRACTICES IN SEXUAL HARASSMENT PREVENTION.

(3) ~~IN ADDITION TO THE TRAINING REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE~~ THE REPRESENTATIVES DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION ARE ENCOURAGED TO USE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION MATERIALS TO PREVENT SEXUAL HARASSMENT IN THE WORKPLACE.

(E) ~~A~~ IF DETERMINED TO BE NECESSARY BY THE APPOINTING AUTHORITY, A UNIT MAY REQUIRE AN EMPLOYEE TO RETAKE ANY PART OR ALL OF THE TRAINING, OR TO PARTICIPATE IN ADDITIONAL CLASSES OR TRAINING ~~DETERMINED TO BE NECESSARY BY THE APPOINTING AUTHORITY.~~

(F) (1) ~~ON OR BEFORE SEPTEMBER 1 EACH YEAR, EACH UNIT SHALL REPORT TO THE COMMISSION REGARDING THE UNIT'S COMPLIANCE WITH THIS SECTION, INCLUDING HOW MANY EMPLOYEES HAVE BEEN TRAINED AND THE CONTENT OF THE UNIT'S TRAINING PROGRAM.~~

~~(2) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE DEPARTMENT OF BUDGET AND MANAGEMENT AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE INFORMATION SUBMITTED TO THE COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(G) THE COMMISSION MAY RECOMMEND THAT A PERFORMANCE REVIEW BE PERFORMED BY THE OFFICE OF LEGISLATIVE AUDITS IF A UNIT DOES NOT COMPLY WITH THIS SECTION.~~

(F) FOR A UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT, THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR ESTABLISHED UNDER § 5-206 OF THIS ARTICLE:

(1) SHALL ENFORCE THE REQUIREMENTS OF THIS SECTION; AND

(2) MAY RECOMMEND TO THE LEGISLATIVE AUDITOR, THE JOINT AUDIT COMMITTEE, OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES THAT THE OFFICE OF LEGISLATIVE AUDITS CONDUCT A PERFORMANCE AUDIT OR REVIEW OF A UNIT IF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR DETERMINES THAT THE UNIT HAS NOT COMPLIED WITH THIS SECTION.

~~(H)~~ (G) UNLESS THE ACTS OR OMISSIONS OF AN EMPLOYEE WHO COMPLETED THE TRAINING REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ARE WILLFUL, WANTON, OR GROSSLY NEGLIGENT, A PERSON MAY NOT BRING AN ACTION AGAINST THE STATE FOR ANY ACT OR OMISSION RESULTING FROM:

(1) ANY TRAINING OR LACK OF TRAINING OF A STATE EMPLOYEE; OR

(2) THE IMPLEMENTATION OF THE TRAINING REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

~~(H)~~ (H) THE TRAINING REQUIRED IN THIS SECTION IS A MINIMUM REQUIREMENT AND MAY NOT BE CONSTRUED TO DISCOURAGE OR RELIEVE ANY UNIT FROM PROVIDING A LONGER, MORE FREQUENT, OR MORE INFORMATIVE TRAINING ON WORKPLACE SEXUAL HARASSMENT PREVENTION.

~~(I)~~ (I) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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

Approved by the Governor, May 15, 2018.