SENATE BILL 834

By: Senator Smith
Introduced and read first time: February 9, 2021
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Harassment and Sexual Harassment – Definitions – Employment Discrimination
and Sexual Harassment Prevention Training

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

BY repealing and reenacting, without amendments,

Article – State Government
Section 20–601(a)
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government
Section 20–601(h)
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Government
Section 20–601(k)
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–203.1(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

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

Article – State Government

20–601.

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

(h) “Harassment” includes [harassment]:

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

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

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

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

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

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

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

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

(II) SUBMISSION TO OR REJECTION OF THE CONDUCT 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 A WORKING ENVIRONMENT THAT IS PERCEIVED BY THE VICTIM TO BE ABUSIVE OR HOSTILE; AND

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

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] HAS THE MEANING STATED IN § 20–601 OF THE STATE GOVERNMENT ARTICLE.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.