

SENATE BILL 834

D5, P4

1lr1785

By: **Senator Smith**

Introduced and read first time: February 9, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2021

CHAPTER _____

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

15 BY repealing and reenacting, without amendments,
16 Article – State Government
17 Section 20–601(a)
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2014 Replacement Volume and 2020 Supplement)

2 BY adding to

3 Article – State Government

4 Section 20–601(k)

5 Annotated Code of Maryland

6 (2014 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – State Personnel and Pensions

9 Section 2–203.1(a)

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2020 Supplement)

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

14 **Article – State Government**

15 20–601.

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

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

18 **(1) ~~ORAL, WRITTEN, OR PHYSICAL UNWELCOME AND OFFENSIVE~~**
19 **~~CONDUCT, WHETHER OR NOT THE CONDUCT WOULD BE CONSIDERED SUFFICIENTLY~~**
20 **~~SEVERE OR PERVASIVE UNDER PRECEDENT APPLIED TO HARASSMENT CLAIMS~~**
21 **~~WHICH NEED NOT BE SEVERE OR PERVASIVE, WHEN:~~**

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

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

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

31 **3. BASED ON THE TOTALITY OF THE CIRCUMSTANCES,**
32 **~~THE CONDUCT HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING~~**
33 **~~WITH AN INDIVIDUAL’S WORK PERFORMANCE OR CREATING~~ CREATES A WORKING**

1 ENVIRONMENT THAT ~~IS PERCEIVED BY THE VICTIM~~ A REASONABLE PERSON WOULD
 2 PERCEIVE TO BE ABUSIVE OR HOSTILE; AND

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

6 (2) SEXUAL HARASSMENT.

7 (K) "SEXUAL HARASSMENT" INCLUDES ~~ORAL, WRITTEN, OR PHYSICAL~~
 8 ~~CONDUCT, WHETHER OR NOT THE CONDUCT WOULD BE CONSIDERED SUFFICIENTLY~~
 9 ~~SEVERE OR PERVASIVE UNDER PRECEDENT APPLIED TO SEXUAL HARASSMENT~~
 10 ~~CLAIMS WHICH NEED NOT BE SEVERE OR PERVASIVE, THAT CONSISTS OF~~
 11 UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL FAVORS, OR OTHER
 12 ~~VERBAL, WRITTEN, OR PHYSICAL~~ CONDUCT OF A SEXUAL NATURE WHEN:

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

15 ~~(H)~~ (2) SUBMISSION TO OR REJECTION OF THE CONDUCT IS
 16 USED AS A BASIS FOR EMPLOYMENT DECISIONS AFFECTING THE INDIVIDUAL; OR

17 ~~(H)~~ (3) BASED ON THE TOTALITY OF THE CIRCUMSTANCES,
 18 ~~THE CONDUCT HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING~~
 19 ~~WITH AN INDIVIDUAL'S WORK PERFORMANCE OR CREATING~~ CREATES A WORKING
 20 ENVIRONMENT THAT ~~IS PERCEIVED BY THE VICTIM~~ A REASONABLE PERSON WOULD
 21 PERCEIVE TO BE ABUSIVE OR HOSTILE; AND.

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

25 Article – State Personnel and Pensions

26 2–203.1.

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

28 (2) "Commission" means the Commission on Civil Rights.

29 (3) "Sexual harassment" [includes unwelcome sexual advances, requests
 30 for sexual favors, and other verbal, nonverbal, or physical contact of a sexual nature when:

31 (i) submission to the conduct is made either explicitly or implicitly
 32 a term or condition of an individual's employment;

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.