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HOUSE BILL NO. 1053

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 13.1, consisting of sections numbered 30-129.4 through 30-129.8, relating to workplace harassment; legislative branch policies.

Patrons—Watts, Adams, D.M., Aird, Ayala, Bagby, Bell, John J., Bourne, Boysko, Bulova, Carr, Carroll Foy, Carter, Convirs-Fowler, Delaney, Filler-Corn, Gooditis, Guzman, Hayes, Heretick, Herring, Hope, Hurst, James, Jones, J.C., Keam, Kory, Krizek, Levine, Lindsey, Lopez, McQuinn, Mullin, Murphy, Plum, Price, Rasoul, Reid, Rodman, Roem, Sickles, Simon, Sullivan, Torian, Toscano, Tran, Turpin, Tyler, VanValkenburg and Ward

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 13.1, consisting of sections numbered 30-129.4 through 30-129.8, as follows:

CHAPTER 13.1.**LEGISLATIVE POLICY RELATING TO WORKPLACE HARASSMENT.****§ 30-129.4. Workplace harassment policy; legislative branch.**

A. As used in this chapter, unless the context requires a different meaning:

"Commonwealth Workplace Harassment Policy" means the DHRM human resources policy on workplace harassment, as may be amended, which includes measures to help ensure a workplace free from workplace harassment.

"DHRM" means the Department of Human Resource Management.

"Learning Center" means the Commonwealth of Virginia Learning Center.

"Legislative branch employee" means (i) a General Assembly member or member-elect; (ii) a General Assembly member's or member-elect's legislative assistant or other legislative staff compensated in whole, or in part, with state appropriations; and (iii) all other employees, including contract employees, of each agency in the legislative branch of state government.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

"Workplace harassment" means any unwelcome verbal, written, or physical conduct that either denigrates or shows hostility or aversion toward a person on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, or disability that (i) has the purpose or effect of creating an environment that a reasonable person would consider intimidating, hostile, or abusive; (ii) has the purpose or effect of unreasonably interfering with an employee's work performance; or (iii) affects an employee's employment opportunities or compensation.

B. Every agency in the legislative branch of state government shall adopt and implement the Commonwealth Workplace Harassment Policy. The Commonwealth Workplace Harassment Policy shall apply to legislative branch employees in buildings or property owned or leased by the Commonwealth within the Capitol District as defined in § 2.2-620 or performing official duties elsewhere. Such duties include meetings, communications, or actions undertaken with other state employees, contract employees, applicants for employment, customers, vendors, members of the media, members of the public, volunteers, or lobbyists. Official duties shall include any activities of General Assembly members covered as official duties under the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) and activities related to election to the General Assembly. Managers, supervisors, members, and members-elect who participate in or tolerate workplace harassment or who knowingly fail to take appropriate corrective action regarding allegations of such behavior shall be in violation of the Commonwealth Workplace Harassment Policy.

C. In addition to the remedies available under the Commonwealth Workplace Harassment Policy, any employee or other person may file a complaint of workplace harassment against a legislative branch employee other than a member of the General Assembly with the Division of Human Rights established under Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2. The Division of Human Rights may investigate the complaint and use such other powers with regard to the complaint as authorized to

55 *the Division of Human Rights under law.*

56 *D. Each house of the General Assembly shall adopt rules governing procedures and disciplinary*
57 *sanctions for General Assembly members and members-elect who are alleged to have committed*
58 *violations of this chapter.*

59 *Such rules shall require that (i) any legislative branch employee informed of potential workplace*
60 *harassment by a claimant or who observes workplace harassment shall report the incident immediately*
61 *to the Clerk with all pertinent information; (ii) in investigating reports, all parties involved shall be*
62 *given every opportunity to relate their facts, perceptions, and observations; (iii) preserving*
63 *confidentiality to the extent feasible, the Clerk shall keep the presiding officer, the Chair of the*
64 *Committee on Rules, the majority leader, and the minority leader of the respective house informed of the*
65 *status of any investigation undertaken, may request authorization to engage outside investigative*
66 *resources, and shall make written findings of any actions of a member or member-elect that constituted*
67 *workplace harassment; (iv) the Clerk with the presiding officer, majority leader, and minority leader of*
68 *the respective house shall determine when disclosure to law enforcement of information, including*
69 *personally identifiable information, is necessary to protect public safety; and (v) disciplinary action shall*
70 *include public reprimand, censure, or expulsion with any such disciplinary action taken recorded in the*
71 *records of the Clerk. The rules regarding members and members-elect shall be in addition to the*
72 *requirements of each Clerk as manager of the Office of the Clerk regarding other employees. Each*
73 *Clerk shall annually publish summary information, in a manner that protects the confidentiality of all*
74 *claimants, about workplace harassment claims.*

75 *E. The remedies available under this chapter and the Commonwealth Workplace Harassment Policy*
76 *shall be in addition to any other civil remedies and criminal sanctions provided under law. A*
77 *complaining party may recover punitive damages in addition to compensatory damages if the*
78 *complaining party demonstrates that the offender engaged in a discriminatory practice or discriminatory*
79 *practices with malice or with reckless indifference to the protected rights of an aggrieved individual.*

80 **§ 30-129.5. Workplace harassment training required; legislative branch.**

81 *A. Every full-time legislative branch employee, including members of the General Assembly, shall*
82 *once every two calendar years successfully complete a workplace harassment training course offered*
83 *through the Learning Center, administered by DHRM. Successful completion shall be defined by DHRM*
84 *and requires that the employee or member exhibit a comprehensive understanding of the training*
85 *material. A primary component of the course shall include sexual harassment training. DHRM shall*
86 *ensure that a workplace harassment training course as described in this subsection is continuously*
87 *offered through the Learning Center. Managers and supervisors shall complete any workplace*
88 *harassment training prevention course offered through the Learning Center that is specifically designed*
89 *for managers and supervisors.*

90 *B. The workplace harassment training course shall also address the importance of bystanders in*
91 *reducing workplace harassment.*

92 *C. DHRM shall evaluate the impact of the workplace harassment training course, which, at a*
93 *minimum, shall include conducting a pre-course and post-course measurement of knowledge about what*
94 *workplace harassment is and how to prevent it.*

95 *D. 1. DHRM shall maintain electronic records for each person completing a workplace harassment*
96 *training course through the Learning Center. Each record at a minimum shall include the name of the*
97 *person completing the training, the name of the state agency that employs the person, the date the*
98 *training was successfully completed, and the name of the training course. DHRM shall keep such*
99 *records for at least five years for public inspection.*

100 *2. DHRM shall ensure that upon a person's successfully completing a workplace harassment training*
101 *course, the Learning Center shall provide a means for the person to print a certificate of course*
102 *completion that includes the name of the person completing the training, the name of the state agency*
103 *that employs the person, the date the training was successfully completed, the name of the training*
104 *course, and a unique serial number or other unique identifying information for each certificate.*

105 **§ 30-129.6. Agencies to provide notice of Commonwealth Workplace Harassment Policy.**

106 *Each agency in the legislative branch of state government shall post a copy of the Commonwealth*
107 *Workplace Harassment Policy on the premises of the agency at a prominent place where it can be read*
108 *conveniently and shall post at least one notice accessible to the public on each floor of the agency that*
109 *is open to the public that includes procedures by which a person can file a complaint of or report*
110 *workplace harassment. The Commonwealth Workplace Harassment Policy and the notice of procedures*
111 *for filing a workplace harassment complaint shall also be posted on each agency's website.*

112 **§ 30-129.7. Workplace harassment training for new employees and new General Assembly**
113 **members.**

114 *In addition to partaking in discussion of workplace harassment provided by the Clerk as a*
115 *component of in-person orientation sessions, a (i) full-time legislative branch employee commencing or*
116 *recommencing employment or (ii) new member of the General Assembly elected after January 1, 2019,*

shall complete workplace harassment training through the Learning Center within 90 days of commencing or recommencing employment or such election, unless the person completed such training in the calendar year (a) preceding the year in which the person commenced or recommenced employment as a full-time legislative branch employee or was elected to the General Assembly or (b) in which the person commenced or recommenced employment as a full-time legislative branch employee or was elected to the General Assembly. Thereafter, the full-time legislative branch employee or new member of the General Assembly shall complete workplace harassment training once every two calendar years.

§ 30-129.8. Responsibility of agency heads for workplace harassment training.

The head of each agency in the legislative branch of state government shall be responsible for ensuring that the agency's full-time legislative branch employees comply with the workplace harassment training requirements established under this chapter.

2. That the provisions of this act shall become effective on January 1, 2019.