

HOUSE BILL REPORT

HB 2018

As Reported by House Committee On: State Government & Tribal Relations

Title: An act relating to harassment and discrimination by legislators and legislative branch employees.

Brief Description: Concerning harassment and discrimination by legislators and legislative branch employees.

Sponsors: Representatives Morgan, Jenkins, Harris, Bergquist, Appleton, Cody, Tharinger, Pollet, Fey, Tarleton, Goodman, Pettigrew, Doglio, Senn, Lovick, Dolan, Kilduff, Ryu, Thai, Stanford, Lekanoff, Wylie, Slatter, Hansen, Shewmake, Robinson, Chapman, Santos, Walen, Chopp, Fitzgibbon, Hudgins, Leavitt, Macri, Valdez, Irwin, Reeves, Pellicciotti, Frame and Ormsby.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/20/19, 2/22/19 [DPS].

Brief Summary of Substitute Bill

- Makes it a violation of the Ethics in Public Service Act for legislators or legislative branch employees to harass or discriminate against coworkers and people with whom they interact on state property or on official state business.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Ethics in Public Service Act (Ethics Act) prohibits state officers and state employees from using their public employment for personal gain or private advantage, or creating the appearance of such impropriety. Some prohibited activities include:

- having financial interests or engaging in business activity that conflicts with the proper discharge of official duties;
- using public resources for private gain;
- receiving gifts or outside compensation for official duties;
- receiving compensation for certain activity outside one's official duties;
- using public resources for private benefit or political campaigns; and
- using one's position to secure special privileges or exemptions for oneself or others, except as required to perform duties within the scope of employment.

The Ethics Act is enforced by the state ethics boards. Any person may initiate a complaint, and state employees who file complaints have whistleblower protections. Each branch of government has its own board that investigates, conducts hearings, and—if necessary—issues civil sanctions for its respective employees' violations of these ethics rules. The Attorney General may investigate people not under the jurisdiction of an ethics board who were involved in unlawful transactions.

In January 2019 the Legislative Ethics Board issued an opinion that concluded that engaging in inappropriate and harassing communications with a staff person does not constitute using one's position to secure special privileges under the Ethics Act.

State agencies are required to develop and disseminate their own policies to define and prohibit sexual harassment in the workplace. Agencies must also include procedures that describe how the agency will address concerns, including appropriate sanctions and disciplinary action. Employees must also receive training and education to prevent and eliminate sexual harassment. Although the Legislature is not subject to that requirement, each chamber has a policy for respectful or appropriate workplace behavior that prohibits discrimination and harassment based on a person's protected status, abusive or offensive behavior and bullying regardless of the basis for the conduct, and retaliation.

Summary of Substitute Bill:

A new section is added to the Ethics Act to prohibit legislators and legislative branch employees from unlawfully harassing or discriminating against other legislative branch employees or people with whom they interact on state property or on official state business.

Unlawful harassment is defined as an intentional act or series of acts that harms a person or damages their property, interferes with their work, creates an intimidating or threatening environment, disrupts the orderly operation of the workplace, or constitutes sexual harassment.

Sexual harassment is defined as unwelcome or coercive sexual conduct or requests to which submission is required to obtain employment, that factor into decisions affecting an

individual's employment, that have the purpose or effect of interfering with a person's work performance, or that create an intimidating, hostile, or offensive work environment.

Unlawful discrimination is defined as discrimination on the basis of:

- race, color, or national origin;
- religion;
- gender, gender expression or identity, or sexual orientation;
- marital status, family status, or pregnancy;
- age, genetic status, disability, or use of a service animal;
- military or veteran status; or
- any other status protected by federal or state law.

Substitute Bill Compared to Original Bill:

The substitute bill modifies the definition of harassment and sexual harassment to include behavior that results in less substantial or severe disruptions or interference with the workplace environment. The substitute bill also adds coercive behavior, sexually motivated bullying, and psychological conduct of a sexual nature to the definition of sexual harassment. It further specifies that official state business includes work-related receptions, dinners, or other events. Finally, it removes creed as a protected class but retains religion.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The #MeToo movement has revealed how pervasive discrimination and harassment are, even in our own Legislature. While the Legislature has made big strides, more work remains to be done. There is no provision in the Ethics Act to prohibit harassment, sexual harassment, and discrimination, and that is a glaring omission that puts staff and anyone we interact with at risk. The Legislature's meetings have been extensive, and the Code of Conduct is a good step. But staff members need a place to report sexual harassment that is independent from their superiors, who are often connected to the abuser. This bill is a critical piece to advancing the work to end sexual harassment in the workplace by allowing the Ethics Board to issue sanctions.

(Opposed) None.

Persons Testifying: Representative Morgan, prime sponsor; Lindsey Grad; Rebecca Johnson; Carrie Tellefson; and Negheen Kamkar.

Persons Signed In To Testify But Not Testifying: Christine Brewer.