

By Senator Book

32-01075-18

20181628__

1 A bill to be entitled
2 An act relating to sexual harassment; creating s.
3 11.9006, F.S.; creating the Task Force on the
4 Prevention of Sexual Harassment and Misconduct;
5 requiring that the task force meet at 4-year intervals
6 beginning on a specified date; providing for the
7 staffing and the composition of the task force;
8 prescribing duties of and requirements for the task
9 force; requiring the task force to report its findings
10 and recommendations to the Governor and the
11 Legislature before a specified date; authorizing
12 reimbursement for per diem and travel expenses;
13 creating s. 112.3126, F.S.; providing definitions;
14 prohibiting public officers, qualified candidates,
15 agency employees, and lobbyists from sexually
16 harassing any person; reenacting and amending s.
17 112.317, F.S., relating to penalties for violations of
18 the Code of Ethics for Public Officers and Employees;
19 providing penalties for lobbyists who violate the
20 prohibition against sexual harassment; amending s.
21 112.324, F.S.; specifying that the personal
22 identifying information of an alleged victim of sexual
23 harassment contained in a complaint or referral and in
24 related materials remains confidential and exempt from
25 public records requirements; requiring the Commission
26 on Ethics to report its findings and recommendations
27 to the Governor and Cabinet or the Legislature upon
28 finding a violation of the act; providing an effective
29 date.

32-01075-18

20181628__

30
31 Be It Enacted by the Legislature of the State of Florida:

32
33 Section 1. Section 11.9006, Florida Statutes, is created to
34 read:

35 11.9006 Task Force on the Prevention of Sexual Harassment
36 and Misconduct.-

37 (1) There is created the Task Force on the Prevention of
38 Sexual Harassment and Misconduct. The task force shall convene
39 no later than July 2018, and at least every 4 years thereafter.
40 The task force shall meet as many times as is necessary in order
41 to complete its duties prescribed under subsections (4) and (5).
42 The task force is created for the express purpose of studying
43 the problem of sexual harassment and misconduct and examining
44 best practices to prevent sexual harassment and misconduct,
45 particularly in government settings and as applied to the
46 conduct of public officers, candidates for public office, agency
47 employees, and lobbyists. The task force is created within the
48 legislative branch for administrative purposes only. The
49 Governor, the President of the Senate, and the Speaker of the
50 House of Representatives shall assign staff to assist the task
51 force in the performance of its duties.

52 (2) The task force is composed of the following
53 individuals:

54 (a) One member of the Senate and one full-time employee of
55 the Senate, appointed by the President of the Senate.

56 (b) One member of the House of Representatives and one
57 full-time employee of the House of Representatives, appointed by
58 the Speaker of the House of Representatives.

32-01075-18

20181628__

59 (c) One member appointed by the Governor.

60 (d) One member representing the Florida Council Against
61 Sexual Violence, appointed by the council's executive director.

62 (e) One member representing the Florida Association of
63 Counties, appointed by the association's president.

64 (f) One representative representing the Florida League of
65 Cities, appointed by the organization's president.

66 (g) One representative of the Florida Association of
67 Professional Lobbyists, appointed by the association's chair.

68 (h) One representative of the Florida Press Association,
69 appointed by the association's chair.

70 (i) One representative of the Florida Behavioral Health
71 Association, appointed by the association's chair.

72
73 In selecting appointments, each appointing authority must
74 consider the diversity of the members of the task force. Any
75 vacancy in the membership of the task force shall be filled in
76 the same manner as the original appointment.

77 (3) The members of the task force shall designate a chair
78 at their first meeting. Meetings of the task force may be held
79 via teleconferences or other electronic means.

80 (4) At a minimum, the task force shall examine:

81 (a) The adequacy of current methods of reporting
82 complaints, and the investigations thereof, of sexual harassment
83 or misconduct.

84 (b) Current procedures regarding the maintenance of the
85 confidentiality of complaints, investigations, and the identity
86 of victims.

87 (c) Victims' ability to obtain support, care, and

32-01075-18

20181628__

88 assistance.

89 (d) The adequacy of measures currently available to hold
90 offenders accountable.

91 (e) Any training and educational programs addressing sexual
92 harassment or misconduct currently offered by governmental
93 entities and whether further changes are needed to such programs
94 to increase their effectiveness.

95 (f) Measures taken in other states to reduce the incidence
96 of sexual harassment or misconduct involving public officers,
97 candidates, and agency employees and to protect the rights of
98 victims.

99 (5) The task force shall report its findings and
100 recommendations, including any recommendations for proposed
101 legislative changes, to the Governor, the President of the
102 Senate, and the Speaker of the House of Representatives by
103 January 15 before the next regular session of the Legislature.

104 (6) Members of the task force shall serve without
105 compensation, but members are entitled to reimbursement for per
106 diem and travel expenses in accordance with s. 112.061 to be
107 paid by the appointing authority.

108 Section 2. Section 112.3126, Florida Statutes, is created
109 to read:

110 112.3126 Prohibition on sexual harassment.-

111 (1) As used in this section, the term:

112 (a) "Lobbyist" means a person who is either required to
113 register to lobby before the legislative branch pursuant to s.
114 11.045 or required to register to lobby before the executive
115 branch or the Constitution Revision Commission pursuant to s.
116 112.3215.

32-01075-18

20181628__

117 (b) "Sexually harass" includes unwelcome sexual advances;
118 requests for sexual favors; or any other conduct of a sexual
119 nature by a public officer, a candidate for public office, an
120 employee of an agency, or a lobbyist which is directed toward
121 any individual when:

122 1. Submission to such conduct is made either explicitly or
123 implicitly a term or condition of the individual's employment;

124 2. Submission to or rejection of such conduct by an
125 individual is used as the basis for how the public officer,
126 candidate, agency employee, or lobbyist makes decisions relating
127 to his or her position which affect such individual; or

128 3. Such conduct has the purpose or effect of creating an
129 intimidating, a hostile, or an offensive working environment.

130 (2) A public officer, a candidate who has qualified to run
131 for public office, an agency employee, or a lobbyist may not
132 sexually harass any individual, regardless of whether an
133 employment relationship exists.

134 Section 3. Section 112.317, Florida Statutes, is reenacted
135 and amended to read:

136 112.317 Penalties.—

137 (1) Any violation of this part, including, but not limited
138 to, failure to file disclosures required by this part or
139 violation of any standard of conduct imposed by this part, or
140 any violation of s. 8, Art. II of the State Constitution, in
141 addition to any criminal penalty or other civil penalty
142 involved, under applicable constitutional and statutory
143 procedures, constitutes grounds for, and may be punished by, one
144 or more of the following:

145 (a) In the case of a public officer:

32-01075-18

20181628__

- 146 1. Impeachment.
- 147 2. Removal from office.
- 148 3. Suspension from office.
- 149 4. Public censure and reprimand.
- 150 5. Forfeiture of no more than one-third of his or her
- 151 salary per month for no more than 12 months.
- 152 6. A civil penalty not to exceed \$10,000.
- 153 7. Restitution of any pecuniary benefits received because
- 154 of the violation committed. The commission may recommend that
- 155 the restitution penalty be paid to the agency of which the
- 156 public officer was a member or to the General Revenue Fund.
- 157 (b) In the case of an employee or a person designated as a
- 158 public officer by this part who otherwise would be deemed to be
- 159 an employee:
- 160 1. Dismissal from employment.
- 161 2. Suspension from employment for not more than 90 days
- 162 without pay.
- 163 3. Demotion.
- 164 4. Reduction in his or her salary level.
- 165 5. Forfeiture of no more than one-third salary per month
- 166 for no more than 12 months.
- 167 6. A civil penalty not to exceed \$10,000.
- 168 7. Restitution of any pecuniary benefits received because
- 169 of the violation committed. The commission may recommend that
- 170 the restitution penalty be paid to the agency by which the
- 171 public employee was employed, or of which the officer was deemed
- 172 to be an employee, or to the General Revenue Fund.
- 173 8. Public censure and reprimand.
- 174 (c) In the case of a candidate who violates this part or s.

32-01075-18

20181628__

- 175 8(a) and (i), Art. II of the State Constitution:
- 176 1. Disqualification from being on the ballot.
- 177 2. Public censure.
- 178 3. Reprimand.
- 179 4. A civil penalty not to exceed \$10,000.
- 180 (d) In the case of a former public officer or employee who
- 181 has violated a provision applicable to former officers or
- 182 employees or whose violation occurred before the officer's or
- 183 employee's leaving public office or employment:
- 184 1. Public censure and reprimand.
- 185 2. A civil penalty not to exceed \$10,000.
- 186 3. Restitution of any pecuniary benefits received because
- 187 of the violation committed. The commission may recommend that
- 188 the restitution penalty be paid to the agency of the public
- 189 officer or employee or to the General Revenue Fund.
- 190 (e) In the case of a person who is subject to the standards
- 191 of this part, other than a lobbyist or lobbying firm under s.
- 192 112.3215 for a violation of s. 112.3215, but who is not a public
- 193 officer or employee:
- 194 1. Public censure and reprimand.
- 195 2. A civil penalty not to exceed \$10,000.
- 196 3. Restitution of any pecuniary benefits received because
- 197 of the violation committed. The commission may recommend that
- 198 the restitution penalty be paid to the agency of the person or
- 199 to the General Revenue Fund.
- 200 (f) In the case of an individual who is required to
- 201 register as a lobbyist under s. 11.045 or s. 112.3215 and who
- 202 violates s. 112.3126:
- 203 1. Public censure and reprimand.

32-01075-18

20181628__

204 2. A civil penalty not to exceed \$10,000.

205 3. Prohibiting the violator from lobbying the legislative
206 and executive branches for a specified period.

207 (2) In any case in which the commission finds a violation
208 of this part or of s. 8, Art. II of the State Constitution and
209 the proper disciplinary official or body under s. 112.324
210 imposes a civil penalty or restitution penalty, the Attorney
211 General shall bring a civil action to recover such penalty. No
212 defense may be raised in the civil action to enforce the civil
213 penalty or order of restitution that could have been raised by
214 judicial review of the administrative findings and
215 recommendations of the commission by certiorari to the district
216 court of appeal. The Attorney General shall collect any costs,
217 attorney fees, expert witness fees, or other costs of collection
218 incurred in bringing the action.

219 (3) The penalties prescribed in this part shall not be
220 construed to limit or to conflict with:

221 (a) The power of either house of the Legislature to
222 discipline its own members or impeach a public officer.

223 (b) The power of agencies to discipline officers or
224 employees.

225 (4) Any violation of this part or of s. 8, Art. II of the
226 State Constitution by a public officer constitutes malfeasance,
227 misfeasance, or neglect of duty in office within the meaning of
228 s. 7, Art. IV of the State Constitution.

229 (5) By order of the Governor, upon recommendation of the
230 commission, any elected municipal officer who violates this part
231 or s. 8, Art. II of the State Constitution may be suspended from
232 office and the office filled by appointment for the period of

32-01075-18

20181628__

233 suspension. The suspended officer may at any time before removal
234 be reinstated by the Governor. The Senate may, in proceedings
235 prescribed by law, remove from office, or reinstate, the
236 suspended official, and for such purpose the Senate may be
237 convened in special session by its President or by a majority of
238 its membership.

239 (6) In any case in which the commission finds probable
240 cause to believe that a complainant has committed perjury in
241 regard to any document filed with, or any testimony given
242 before, the commission, it shall refer such evidence to the
243 appropriate law enforcement agency for prosecution and taxation
244 of costs.

245 (7) In any case in which the commission determines that a
246 person has filed a complaint against a public officer or
247 employee with a malicious intent to injure the reputation of
248 such officer or employee by filing the complaint with knowledge
249 that the complaint contains one or more false allegations or
250 with reckless disregard for whether the complaint contains false
251 allegations of fact material to a violation of this part, the
252 complainant shall be liable for costs plus reasonable attorney
253 fees incurred in the defense of the person complained against,
254 including the costs and reasonable attorney fees incurred in
255 proving entitlement to and the amount of costs and fees. If the
256 complainant fails to pay such costs and fees voluntarily within
257 30 days following such finding by the commission, the commission
258 shall forward such information to the Department of Legal
259 Affairs, which shall bring a civil action in a court of
260 competent jurisdiction to recover the amount of such costs and
261 fees awarded by the commission.

32-01075-18

20181628__

262 Section 4. Present paragraphs (f) and (g) of subsection (2)
263 of section 112.324, Florida Statutes, are redesignated as
264 paragraphs (g) and (h), respectively, a new paragraph (f) is
265 added to that subsection, and subsection (8) of that section is
266 amended, to read:

267 112.324 Procedures on complaints of violations and
268 referrals; public records and meeting exemptions.—

269 (2)

270 (f) The personal identifying information of an alleged
271 victim of a violation of s. 112.3126 contained in a complaint or
272 referral and all materials relating to the complaint or referral
273 shall remain confidential and exempt from s. 119.07(1) and s.
274 24(a), Art. I of the State Constitution as provided under s.
275 119.071(2) (n).

276 (8) If, in cases other than complaints or referrals against
277 impeachable officers or members of the Legislature, upon
278 completion of a full and final investigation by the commission,
279 the commission finds that there has been a violation of this
280 part or of s. 8, Art. II of the State Constitution, it is the
281 duty of the commission to report its findings and recommend
282 appropriate action to the proper disciplinary official or body
283 as follows, and such official or body has the power to invoke
284 the penalty provisions of this part, including the power to
285 order the appropriate elections official to remove a candidate
286 from the ballot for a violation of s. 112.3145 or s. 8(a) and
287 (i), Art. II of the State Constitution:

288 (a) The President of the Senate and the Speaker of the
289 House of Representatives, jointly, in any case concerning the
290 Public Counsel, members of the Public Service Commission,

32-01075-18

20181628__

291 members of the Public Service Commission Nominating Council, the
292 Auditor General, ~~or~~ the director of the Office of Program Policy
293 Analysis and Government Accountability, or a person who is
294 required to register as a lobbyist under s. 11.045 for
295 violations of s. 112.3126.

296 (b) The Supreme Court, in any case concerning an employee
297 of the judicial branch.

298 (c) The President of the Senate, in any case concerning an
299 employee of the Senate; the Speaker of the House of
300 Representatives, in any case concerning an employee of the House
301 of Representatives; or the President and the Speaker, jointly,
302 in any case concerning an employee of a committee of the
303 Legislature whose members are appointed solely by the President
304 and the Speaker or in any case concerning an employee of the
305 Public Counsel, Public Service Commission, Auditor General, or
306 Office of Program Policy Analysis and Government Accountability.

307 (d) The Governor and the Cabinet, in any case concerning a
308 person who is required to register as a lobbyist under s.
309 112.3215 for violations of s. 112.3126.

310 (e) Except as otherwise provided by this part, the
311 Governor, in the case of any other public officer, public
312 employee, former public officer or public employee, candidate or
313 former candidate, or person who is not a public officer or
314 employee, other than lobbyists and lobbying firms under s.
315 112.3215 for violations of s. 112.3215.

316 (f) ~~(e)~~ The President of the Senate or the Speaker of the
317 House of Representatives, whichever is applicable, in any case
318 concerning a former member of the Legislature who has violated a
319 provision applicable to former members or whose violation

32-01075-18

20181628__

320 occurred while a member of the Legislature.

321 Section 5. This act shall take effect upon becoming a law.