

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.

30 |

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

32 |

33 | Section 1. Section 11.9006, Florida Statutes, is created
 34 | to 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.

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
88 | assistance.

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

91 | (e) Any training and educational programs addressing
92 | sexual harassment or misconduct currently offered by
93 | governmental entities and whether further changes are needed to
94 | such programs 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, agency employees, and lobbyists and to protect the
98 | rights of 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.

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:

- 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
 175 s. 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
 191 | standards of this part, other than a lobbyist or lobbying firm
 192 | under s. 112.3215 for a violation of s. 112.3215, but who is not
 193 | a public 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.
- 204 2. A civil penalty not to exceed \$10,000.
- 205 3. Prohibiting the violator from lobbying the legislative
 206 and executive branches and the Constitution Revision Commission
 207 for a specified period.

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

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

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

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

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

230 (5) By order of the Governor, upon recommendation of the
231 commission, any elected municipal officer who violates this part
232 or s. 8, Art. II of the State Constitution may be suspended from
233 office and the office filled by appointment for the period of
234 suspension. The suspended officer may at any time before removal
235 be reinstated by the Governor. The Senate may, in proceedings
236 prescribed by law, remove from office, or reinstate, the
237 suspended official, and for such purpose the Senate may be
238 convened in special session by its President or by a majority of
239 its membership.

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

246 (7) In any case in which the commission determines that a
247 person has filed a complaint against a public officer or
248 employee with a malicious intent to injure the reputation of
249 such officer or employee by filing the complaint with knowledge
250 that the complaint contains one or more false allegations or

251 with reckless disregard for whether the complaint contains false
252 allegations of fact material to a violation of this part, the
253 complainant shall be liable for costs plus reasonable attorney
254 fees incurred in the defense of the person complained against,
255 including the costs and reasonable attorney fees incurred in
256 proving entitlement to and the amount of costs and fees. If the
257 complainant fails to pay such costs and fees voluntarily within
258 30 days following such finding by the commission, the commission
259 shall forward such information to the Department of Legal
260 Affairs, which shall bring a civil action in a court of
261 competent jurisdiction to recover the amount of such costs and
262 fees awarded by the commission.

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

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

270 (2)

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

276 119.071(2)(n).

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

289 (a) The President of the Senate and the Speaker of the
 290 House of Representatives, jointly, in any case concerning the
 291 Public Counsel, members of the Public Service Commission,
 292 members of the Public Service Commission Nominating Council, the
 293 Auditor General, ~~or~~ the director of the Office of Program Policy
 294 Analysis and Government Accountability, or a person who is
 295 required to register as a lobbyist under s. 11.045 for
 296 violations of s. 112.3126.

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

299 (c) The President of the Senate, in any case concerning an
 300 employee of the Senate; the Speaker of the House of

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

308 (d) The Governor and Cabinet, in any case concerning a
309 person who is required to register as a lobbyist under s.
310 112.3215 for violations of s. 112.3126.

311 (e) Except as otherwise provided by this part, the
312 Governor, in the case of any other public officer, public
313 employee, former public officer or public employee, candidate or
314 former candidate, or person who is not a public officer or
315 employee, other than lobbyists and lobbying firms under s.
316 112.3215 for violations of s. 112.3215.

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

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