

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Sullivan offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 110.1221, Florida Statutes, is amended to read:

110.1221 Protection from sexual harassment ~~policy;~~
~~executive~~ agency rules.-

(1) It is the policy of the state to prevent and prohibit sexual harassment. ~~that~~ Sexual harassment is a form of discrimination.

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12 (2) All agency employees and private persons who interact
13 with agencies must comply with ss. 112.3131 and 112.3132 and
14 applicable rules and administrative policies.

15 (3) The department shall adopt uniform sexual harassment
16 rules and administrative policies consistent with ss. 112.3131
17 and 112.3132 that are applicable to all executive agencies. Each
18 agency shall adopt additional rules and administrative policies
19 necessary to apply the department's uniform sexual harassment
20 rules and administrative policies to specific circumstances ~~The~~
21 ~~rules must define the term "sexual harassment" in a manner~~
22 ~~consistent with the federal definition.~~

23 Section 2. Section 112.3131, Florida Statutes, is created
24 to read:

25 112.3131 Protection from sexual harassment.—

26 (1) Sexual harassment is prohibited in the public
27 workplace and in the conduct of public business. It is the
28 policy of the state to prevent, prohibit, and discipline sexual
29 harassment.

30 (2) All public employees, public officers, and private
31 persons who interact with public employees and public officers
32 must abide by this policy by complying with this section, s.
33 112.3132, and applicable rules and administrative policies.

34 (3) The term "sexual harassment" means:

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35 (a) An unwelcome sexual advance, request for sexual
36 favours, or other verbal, nonverbal, or physical conduct of a
37 sexual nature directed at an individual when:

38 1. Submission to such conduct is explicitly or implicitly
39 made a condition of employment;

40 2. Submission to or rejection of such conduct is used as
41 the basis for an official action; or

42 3. Such conduct has the purpose or effect of creating a
43 persistently intimidating and hostile environment, as that term
44 is defined in state and federal law.

45 (b) Any conduct defined as sexual harassment under
46 applicable state and federal law.

47 (4) An individual subjected to sexual harassment is
48 encouraged to report such misconduct as soon as possible.

49 (a) A report of sexual harassment may be made by written
50 complaint or verbal report that is provided to at least one
51 official recipient designated by the applicable agency. The term
52 "applicable agency" means the agency employing the individual
53 reporting sexual harassment and any other agency employing or
54 having regulatory or disciplinary authority over the conduct of
55 the individual accused of sexual harassment.

56 (b) A designated official recipient of reports of sexual
57 harassment is required to respond promptly and initiate such
58 actions as specified by rule and administrative policies of the
59 applicable agency.

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60 (c) An individual with supervisory responsibility for an
61 employee who is subjected to alleged sexual harassment and who
62 observes or has direct knowledge of such misconduct is required
63 to respond promptly and initiate such actions as specified by
64 rule and administrative policies of the applicable agency.

65 (5) Retaliation against an individual reporting sexual
66 harassment is prohibited. Potential disciplinary actions or
67 other consequences that may result from attempted or actual
68 retaliation shall be specified by rule and administrative
69 policies of the applicable agency.

70 (6) An individual accused of sexual harassment may not
71 violate any confidentiality requirement imposed on such
72 individual by rule or agreement.

73 (7) A complaint filed with the commission alleging a
74 violation of this section shall be processed in the same manner
75 as other types of complaints filed with the commission pursuant
76 to this part.

77 (8) An individual who makes a report of sexual harassment
78 to an agency that he or she knows to be materially false or that
79 is maliciously made with reckless disregard for the truth, for
80 the identity of an alleged victim, or for the identity of the
81 individual accused of sexual harassment commits a misdemeanor of
82 the second degree, punishable as provided in s. 775.082 or s.
83 775.083.

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84 Section 3. Section 112.3132, Florida Statutes, is created
85 to read:

86 112.3132 Procedural requirements for prevention of and
87 protection from sexual harassment.-

88 (1) All agencies shall prevent and protect individuals
89 from sexual harassment by operating under administrative
90 policies and procedures consistent with s. 112.3131 and this
91 section. Each agency is authorized to adopt rules and
92 administrative policies and procedures necessary to implement
93 this section.

94 (a) Written policies shall be established, reviewed at
95 least every 2 years, and revised as necessary.

96 1. Policies shall designate, in addition to an employee's
97 immediate supervisor, at least two individuals as official
98 recipients who may receive reports of sexual harassment.

99 2. Employees of an agency and the public shall be afforded
100 the opportunity to review and comment on policies before they
101 are adopted. Adopted policies shall be provided to each employee
102 of an agency and made publicly available as appropriate or upon
103 request.

104 (b) Training shall be provided to employees of an agency
105 and public officers regarding requirements of federal and state
106 law and administrative rules and policies related to sexual
107 harassment. A signed acknowledgement of the receipt of such
108 training must be included in each employee's personnel record

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109 and, as of January 1, 2019, in the financial disclosure form
110 filed by public officers. Information shall be made available to
111 the public regarding the application of s. 112.3131 to lobbyists
112 or persons doing business with public agencies.

113 (c) All employees of an agency and individuals subjected
114 to sexual harassment shall be notified that they may submit a
115 complaint to the commission in lieu of or in addition to other
116 reporting procedures. Agencies shall offer employees subjected
117 to sexual harassment the services of a victim advocate and make
118 reasonable accommodations to protect such employees and
119 individuals from continued sexual harassment or retaliation.

120 (d) Each agency shall conduct periodic assessments at
121 least every 2 years beginning in 2018 to determine current and
122 prevalent attitudes and behaviors related to sexual harassment.
123 The assessment methodology shall provide an opportunity for
124 anonymous or confidential input. The results of each agency's
125 assessment shall be distributed to employees and made publicly
126 available no later than September 30.

127 (e) Verbal reports of sexual harassment shall be permitted
128 and consistent procedures shall be established for the
129 management of verbal reports. Such procedures shall require
130 reasonable inquiry and evaluation of verbal reports, the
131 remediation of specific problems and conditions described in
132 verbal reports, and the determination of an alleged victim's
133 satisfaction with the actions taken as a result of the verbal

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134 report. The individual acting on the verbal report shall report
135 the matter to a designated official recipient if the victim of
136 alleged harassment indicates that the reported sexual harassment
137 has not been resolved.

138 (f) Procedures shall be established for submitting written
139 complaints and initiating official investigations. An
140 investigation initiated by a written complaint shall be
141 completed within a reasonable timeframe.

142 1. The investigation may include a brief, preliminary
143 review with the complainant and a limited number of witnesses
144 before the initiation of a full investigation and notification
145 of the complaint to the individual accused of sexual harassment.
146 However, a complainant may not be required to participate in a
147 preliminary review.

148 2. As soon as possible after completing a preliminary
149 review, the individual accused of sexual harassment shall be
150 provided with a copy of the written complaint.

151 3. An individual under investigation for alleged sexual
152 harassment shall be given an opportunity to offer evidence,
153 including, but not limited to, witnesses who may have
154 exculpatory information.

155 4. Determination of probable cause shall be documented in
156 written findings prepared by the investigator, which shall be
157 sufficiently specific to support the validity of the findings.
158 The written findings may not contain gratuitous details of a

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159 sexually explicit nature unless such details are indispensable
160 to the determination of probable cause. To the extent that such
161 details are indispensable to the determination of probable
162 cause, the written findings shall state such details as plain,
163 unadorned statements of fact.

164 5. Agency policies and procedures shall provide for a
165 hearing at the request of the individual accused of sexual
166 harassment following a determination of probable cause. Such
167 policies and procedures must ensure due process for the
168 individual accused of sexual harassment, an opportunity for
169 legal representation, and reasonable accommodations to protect
170 the complainant and witnesses from retaliation.

171 6. The type and severity of potential disciplinary actions
172 for individuals determined to have committed sexual harassment
173 shall be described in written policies, unless otherwise
174 provided by law. Disciplinary actions for employees of an agency
175 and public officers may include reassignment, fines, dismissal,
176 or removal from office, when permitted by law. Disciplinary
177 actions for private persons shall be consistent with the
178 agency's regulatory authority over such persons and may include
179 a permanent or temporary suspension of such person's right to
180 lobby or do business with the agency.

181 (2) When an investigation of a report of sexual harassment
182 produces evidence supporting a reasonable suspicion of a

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183 criminal violation, the investigating agency must promptly refer
184 such evidence to the appropriate law enforcement agency.

185 (3) Each agency must maintain a record of all written
186 complaints of sexual harassment for at least as long as
187 personnel records are maintained. The record must include a copy
188 of the written complaint; the identities and positions of the
189 complainant, the witnesses involved in the investigation, and
190 the individual accused of sexual harassment; the procedures
191 followed during and after the investigation; and any specific
192 actions taken in response to the complaint. The biennial
193 assessment conducted pursuant to paragraph (1)(d) must include
194 aggregated and de-identified data from the records for the most
195 recent 24-month period.

196 (4) An individual who knowingly makes a written complaint
197 of sexual harassment that is materially false is subject to
198 discipline up to and including fines, suspension, or dismissal.

199 (5) An agreement prohibiting disclosure of any allegation
200 or report of sexual harassment and any investigation of sexual
201 harassment may not be enforced against a victim of alleged
202 sexual harassment.

203 (6) Violations of this section are not subject to the
204 jurisdiction of the commission.

205 Section 4. Section 112.3133, Florida Statutes, is created
206 to read:

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207 112.3133 Task Force on the Prevention of Sexual
208 Harassment.—

209 (1) There is created the Task Force on the Prevention of
210 Sexual Harassment. The task force shall convene no later than
211 November 30, 2018, and at least every 2 years thereafter. The
212 task force shall meet as many times as necessary to complete the
213 duties prescribed in this section. The task force is created for
214 the express purpose of supporting the state's efforts to prevent
215 and prohibit sexual harassment. The Governor, the President of
216 the Senate, and the Speaker of the House of Representatives
217 shall assign staff to assist the task force in the performance
218 of its duties.

219 (2) The Governor, the President of the Senate, and the
220 Speaker of the House of Representatives shall each appoint three
221 members of the task force. The chair of the task force shall be
222 designated by the Governor. A vacancy in the membership of the
223 task force shall be filled in the same manner as the original
224 appointment.

225 (3) The task force shall:

226 (a) Study the problem of sexual harassment;

227 (b) Review agency assessments conducted pursuant to s.
228 112.3132(1)(d);

229 (c) Evaluate the effectiveness of sexual harassment
230 policies established in state law, rule, and administrative
231 policy; and

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232 (d) Examine the best practices for effective prevention of
233 sexual harassment.

234 (4) The task force shall report its findings and
235 recommendations to the Governor, the President of the Senate,
236 and the Speaker of the House of Representatives at least 30 days
237 before the beginning of the next legislative session.

238 (5) Members of the task force shall serve without
239 compensation, but may be reimbursed for travel expenses in
240 accordance with s. 112.061 at the discretion of the appointing
241 authority.

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

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245 **T I T L E A M E N D M E N T**

246 Remove everything before the enacting clause and insert:

247 A bill to be entitled

248 An act relating to sexual harassment; amending s.
249 110.1221, F.S.; revising the state's sexual harassment
250 policy; requiring certain persons to comply with
251 certain rules and policies; requiring agencies to
252 adopt certain rules and policies; creating s.
253 112.3131, F.S.; prohibiting sexual harassment in the
254 public workplace and in the conduct of public
255 business; providing state policy relating to sexual
256 harassment; requiring certain individuals to comply

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257 with certain state law, rules, and policies; providing
258 a definition; providing that certain individuals are
259 encouraged to report sexual harassment as soon as
260 possible; authorizing such reports to be written or
261 verbal; requiring such reports to be provided to
262 certain individuals or agencies; requiring a
263 designated official recipient of sexual harassment
264 reports to take certain actions; requiring an
265 individual with supervisory responsibility to take
266 certain actions in certain circumstances; prohibiting
267 retaliation and violation of a confidentiality
268 requirement; requiring that certain complaints be
269 processed in a certain manner; providing criminal
270 penalties for making false reports; creating s.
271 112.3132, F.S.; providing procedural requirements for
272 prevention of and protection from sexual harassment;
273 authorizing agencies to adopt rules and administrative
274 policies and procedures; providing requirements for
275 written policies and requiring specified reviews;
276 requiring that employees and public officers be
277 provided with certain training and sign an
278 acknowledgment; requiring agencies to conduct certain
279 assessments at least biennially; authorizing and
280 providing procedural requirements for verbal reports,
281 submitting written complaints, and initiating

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282 investigations of sexual harassment; authorizing a
283 preliminary review; requiring an individual accused of
284 or under investigation for sexual harassment to be
285 provided with certain information and opportunities;
286 requiring confidentiality of certain information;
287 requiring certain documentation of a probable cause
288 determination; requiring agency policies and
289 procedures to provide for a hearing in certain
290 circumstances; providing requirements for potential
291 disciplinary actions; requiring that certain evidence
292 be referred to the appropriate law enforcement agency;
293 requiring agencies to maintain certain records;
294 providing for discipline of certain individuals;
295 prohibiting the enforcement of a nondisclosure
296 agreement in certain circumstances; providing that
297 certain violations are not subject to the jurisdiction
298 of the commission; creating s. 112.3133, F.S.;
299 creating the Task Force on the Prevention of Sexual
300 Harassment; providing for meetings, membership, and
301 duties of the task force; requiring the task force to
302 provide a report to the Governor and Legislature;
303 providing that members of the task force shall serve
304 without compensation but may be reimbursed for travel
305 expenses; providing an effective date.

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