

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Public Integrity & Ethics
2 Committee

3 Representatives Sullivan and Jacobs offered the following:
4

5 **Amendment (with title amendment)**

6 Between lines 59 and 60, insert:

7 Section 1. Section 11.255, Florida Statutes, is created to
8 read:

9 11.255 Protection from sexual harassment.-

10 (1) It is the policy of the state to prevent and prohibit
11 sexual harassment.

12 (2) The Senate and the House of Representatives shall
13 establish rules, policies, and procedures consistent with ss.
14 112.3131 and 112.3132.

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15 Section 2. Subsection (4) of section 25.382, Florida
16 Statutes, is renumbered as subsection (5), and a new subsection
17 (4) is added to that section to read:

18 25.382 State courts system.—

19 (4) The Supreme Court shall prevent and prohibit sexual
20 harassment by establishing rules, policies, and procedures
21 consistent with ss. 112.3131 and 112.3132.

22 Section 3. Section 110.1221, Florida Statutes, is amended
23 to read:

24 110.1221 Protection from sexual harassment policy;
25 ~~executive~~ agency rules.—

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

29 (2) All agency employees and private persons who interact
30 with agencies must comply with ss. 112.3131 and 112.3132 and
31 applicable rules and administrative policies.

32 (3) The department shall adopt uniform sexual harassment
33 rules and administrative policies consistent with ss. 112.3131
34 and 112.3132 that are applicable to all executive agencies. Each
35 agency shall adopt additional rules and administrative policies
36 necessary to apply the department's uniform sexual harassment
37 rules and administrative policies to specific circumstances. ~~The~~
38 rules must define the term "sexual harassment" in a manner
39 consistent with the federal definition.

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40 Section 4. Section 112.3131, Florida Statutes, is created
41 to read:

42 112.3131 Protection from sexual harassment.-

43 (1) Sexual harassment is prohibited in the public
44 workplace and in the conduct of public business. It is the
45 policy of the state to prevent, prohibit, and discipline sexual
46 harassment.

47 (2) All public employees, public officers, and private
48 persons who interact with public employees and public officers
49 must abide by this policy by complying with this section, s.
50 112.3132, and applicable rules and administrative policies.

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

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

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

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

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

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

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

66 (a) A report of sexual harassment may be made by written
67 complaint or verbal report that is provided to at least one
68 official recipient designated by the applicable agency. The term
69 "applicable agency" means the agency employing the individual
70 reporting sexual harassment and any other agency employing or
71 having regulatory or disciplinary authority over the conduct of
72 the individual accused of sexual harassment.

73 (b) A designated official recipient of reports of sexual
74 harassment is required to respond promptly and initiate such
75 actions as specified by rule and administrative policies of the
76 applicable agency.

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

82 (5) Retaliation against an individual reporting sexual
83 harassment is prohibited. Potential disciplinary actions or
84 other consequences that may result from attempted or actual
85 retaliation shall be specified by rule and administrative
86 policies of the applicable agency.

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87 (6) An individual accused of sexual harassment may not
88 violate any confidentiality requirement imposed on such
89 individual by rule or agreement.

90 (7) A complaint filed with the commission alleging a
91 violation of this section shall be processed in the same manner
92 as other types of complaints filed with the commission pursuant
93 to this part.

94 Section 5. Section 112.3132, Florida Statutes, is created
95 to read:

96 112.3132 Procedural requirements for prevention of and
97 protection from sexual harassment.—

98 (1) All agencies shall prevent and protect individuals
99 from sexual harassment by operating under administrative
100 policies and procedures consistent with s. 112.3131 and this
101 section. Each agency is authorized to adopt rules and
102 administrative policies and procedures necessary to implement
103 this section.

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

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

109 2. Policies shall provide guidelines and establish limits
110 for dating or romantic relationships when such relationships may

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111 be incompatible with supervisory responsibilities or proper
112 operations of the agency.

113 3. Employees of an agency and the public shall be afforded
114 the opportunity to review and comment on policies before they
115 are adopted. Adopted policies shall be provided to each employee
116 of an agency and made publicly available as appropriate or upon
117 request.

118 (b) Training shall be provided to employees of an agency
119 and public officers regarding requirements of federal and state
120 law and administrative rules and policies related to sexual
121 harassment. A signed acknowledgement of the receipt of such
122 training must be included in each employee's personnel record
123 and, as of January 1, 2019, in the financial disclosure form
124 filed by public officers. Information shall be made available to
125 the public regarding the application of s. 112.3131 to lobbyists
126 or persons doing business with public agencies.

127 (c) All employees of an agency and individuals subjected
128 to sexual harassment shall be notified that they may submit a
129 complaint to the commission in lieu of or in addition to other
130 reporting procedures. Agencies shall offer employees subjected
131 to sexual harassment the services of a victim advocate and make
132 reasonable accommodations to protect such employees and
133 individuals from continued sexual harassment or retaliation.

134 (d) Each agency shall conduct periodic assessments at
135 least every 2 years beginning in 2018 to determine current and

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136 prevalent attitudes and behaviors related to sexual harassment.
137 The assessment methodology shall provide an opportunity for
138 anonymous or confidential input. The results of each agency's
139 assessment shall be distributed to employees and made publicly
140 available no later than September 30.

141 (e) Verbal reports of sexual harassment shall be permitted
142 and consistent procedures shall be established for the
143 management of verbal reports. Such procedures shall require
144 reasonable inquiry and evaluation of verbal reports, the
145 remediation of specific problems and conditions described in
146 verbal reports, and the determination of an alleged victim's
147 satisfaction with the actions taken as a result of the verbal
148 report. The individual acting on the verbal report shall report
149 the matter to a designated official recipient if the victim of
150 alleged harassment indicates that the reported sexual harassment
151 has not been resolved.

152 (f) Procedures shall be established for submitting written
153 complaints and initiating official investigations. An
154 investigation initiated by a written complaint shall be
155 completed within a reasonable timeframe.

156 1. The investigation may include a brief, preliminary
157 review with the complainant and a limited number of witnesses
158 before the initiation of a full investigation and notification
159 of the complaint to the individual accused of sexual harassment.

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160 However, a complainant may not be required to participate in a
161 preliminary review.

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

165 3. An individual under investigation for alleged sexual
166 harassment shall be given an opportunity to offer evidence,
167 including, but not limited to, witnesses who may have
168 exculpatory information.

169 4. The written complaint, the identities of the
170 complainant and witnesses, and all information in the record of
171 the investigation shall be confidential until probable cause is
172 determined.

173 5. Determination of probable cause shall be documented in
174 written findings prepared by the investigator, which shall be
175 sufficiently specific to support the validity of the findings,
176 but may omit information that discloses the identity of the
177 complainant and witnesses or information that is unnecessarily
178 embarrassing. The written findings shall be made publicly
179 available upon request.

180 6. Agency policies and procedures shall provide for a
181 hearing at the request of the individual accused of sexual
182 harassment following a determination of probable cause. Such
183 policies and procedures must ensure due process for the
184 individual accused of sexual harassment, an opportunity for

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185 legal representation, and reasonable accommodations to protect
186 the complainant and witnesses from retaliation.

187 7. The type and severity of potential disciplinary actions
188 for individuals determined to have committed sexual harassment
189 shall be described in written policies, unless otherwise
190 provided by law. Disciplinary actions for employees of an agency
191 and public officers may include reassignment, fines, dismissal,
192 or removal from office, when permitted by law. Disciplinary
193 actions for private persons shall be consistent with the
194 agency's regulatory authority over such persons and may include
195 a permanent or temporary suspension of such person's right to
196 lobby or do business with the agency.

197 (2) When an investigation of a report of sexual harassment
198 produces evidence supporting a reasonable suspicion of a
199 criminal violation, the investigating agency must promptly refer
200 such evidence to the appropriate law enforcement agency.

201 (3) Each agency must maintain a record of all written
202 complaints of sexual harassment for at least as long as
203 personnel records are maintained. The record must include a copy
204 of the written complaint; the identities and positions of the
205 complainant, the witnesses involved in the investigation, and
206 the individual accused of sexual harassment; the procedures
207 followed during and after the investigation; and any specific
208 actions taken in response to the complaint. The biennial
209 assessment conducted pursuant to paragraph (1)(d) must include

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210 aggregated and de-identified data from the records for the most
211 recent 24-month period.

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

215 (5) An agreement prohibiting disclosure of any allegation
216 or report of sexual harassment and any investigation of sexual
217 harassment may not be enforced against a victim of alleged
218 sexual harassment.

219 (6) Violations of this section are not subject to the
220 jurisdiction of the commission.

221 Section 6. Section 112.3133, Florida Statutes, is created
222 to read:

223 112.3133 Task Force on the Prevention of Sexual
224 Harassment.—

225 (1) There is created the Task Force on the Prevention of
226 Sexual Harassment. The task force shall convene no later than
227 November 30, 2018, and at least every 2 years thereafter. The
228 task force shall meet as many times as necessary to complete the
229 duties prescribed in this section. The task force is created for
230 the express purpose of supporting the state's efforts to prevent
231 and prohibit sexual harassment. The Governor, the President of
232 the Senate, and the Speaker of the House of Representatives
233 shall assign staff to assist the task force in the performance
234 of its duties.

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235 (2) The Governor, the President of the Senate, and the
236 Speaker of the House of Representatives shall each appoint three
237 members of the task force. The chair of the task force shall be
238 designated by the Governor. A vacancy in the membership of the
239 task force shall be filled in the same manner as the original
240 appointment.

241 (3) The task force shall:

242 (a) Study the problem of sexual harassment;

243 (b) Review agency assessments conducted pursuant to s.
244 112.3132(1)(d);

245 (c) Evaluate the effectiveness of sexual harassment
246 policies established in state law, rule, and administrative
247 policy; and

248 (d) Examine the best practices for effective prevention of
249 sexual harassment.

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

254 (5) Members of the task force shall serve without
255 compensation, but may be reimbursed for travel expenses in
256 accordance with s. 112.061 at the discretion of the appointing
257 authority.

258 Section 7. Paragraph (a) of subsection (10) of section
259 106.011, Florida Statutes, is amended to read:

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260 106.011 Definitions.—As used in this chapter, the
261 following terms have the following meanings unless the context
262 clearly indicates otherwise:

263 (10) (a) "Expenditure" means a purchase, payment,
264 distribution, loan, advance, transfer of funds by a campaign
265 treasurer or deputy campaign treasurer between a primary
266 depository and a separate interest-bearing account or
267 certificate of deposit, or gift of money or anything of value
268 made for the purpose of influencing the results of an election
269 or making an electioneering communication. However,
270 "expenditure" does not include the following:

271 1. A purchase, payment, distribution, loan, advance, or
272 gift of money or anything of value made for the purpose of
273 influencing the results of an election when made by an
274 organization, in existence before the time during which a
275 candidate qualifies or an issue is placed on the ballot for that
276 election, for the purpose of printing or distributing such
277 organization's newsletter, containing a statement by such
278 organization in support of or opposition to a candidate or
279 issue, which newsletter is distributed only to members of such
280 organization.

281 2. Any expense related to an ethical, disciplinary, or
282 legal complaint arising out of public service.

283 Section 8. Section 106.112, Florida Statutes, is created
284 to read:

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285 106.112 Prohibition on payment of ethical, disciplinary,
286 or legal expenses related to public service.—Funds on deposit in
287 a campaign, political committee, or political party account may
288 not be used for any expense related to any ethical,
289 disciplinary, or legal complaint arising out of a public
290 officer's or candidate's public service.

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

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Remove line 2 and insert:

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An act relating to ethics reform; creating s. 11.255, F.S.;

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providing state policy relating to sexual harassment;

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requiring the Legislature to establish rules, policies, and

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procedures; amending s. 25.382, F.S.; requiring the Supreme

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Court to establish rules, policies, and procedures;

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amending s. 110.1221, F.S.; revising the state's sexual

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harassment policy; requiring certain persons to comply with

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certain rules and policies; requiring each agency to adopt

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certain rules and policies; creating s. 112.3131, F.S.;

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prohibiting sexual harassment in the public workplace and

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in the conduct of public business; providing state policy

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relating to sexual harassment; requiring certain

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individuals to comply with certain state law, rules, and

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policies; providing a definition; providing that certain

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individuals are encouraged to report sexual harassment as

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310 soon as possible; authorizing such reports to be written or
311 verbal; requiring such reports to be provided to certain
312 individuals or agencies; requiring a designated official
313 recipient of sexual harassment reports to take certain
314 actions; requiring an individual with supervisory
315 responsibility to take certain actions in certain
316 circumstances; prohibiting retaliation and violation of a
317 confidentiality requirement; requiring that certain
318 complaints be processed in a certain manner; creating s.
319 112.3132, F.S.; providing procedural requirements for
320 prevention of and protection from sexual harassment;
321 authorizing each agency to adopt rules and administrative
322 policies and procedures; providing requirements for written
323 policies and requiring specified reviews; requiring that
324 employees and public officers be provided with certain
325 training and sign an acknowledgment; requiring each agency
326 to conduct certain assessments at least biennially;
327 authorizing and providing procedural requirements for
328 verbal reports, submitting written complaints, and
329 initiating investigations of sexual harassment; authorizing
330 a preliminary review; requiring that an individual accused
331 of or under investigation for sexual harassment be provided
332 with certain information and opportunities; requiring
333 confidentiality of certain information; requiring certain
334 documentation of a probable cause determination; requiring

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335 agency policies and procedures to provide for a hearing in
336 certain circumstances; providing requirements for potential
337 disciplinary actions; requiring that certain evidence be
338 referred to the appropriate law enforcement agency;
339 requiring an agency to maintain certain records; providing
340 for discipline of certain individuals; prohibiting the
341 enforcement of a nondisclosure agreement in certain
342 circumstances; providing that certain violations are not
343 subject to the jurisdiction of the Commission on Ethics;
344 creating s. 112.3133, F.S.; creating the Task Force on the
345 Prevention of Sexual Harassment; providing for meetings,
346 membership, and duties of the task force; requiring the
347 task force to provide a report to the Governor and
348 Legislature; providing that members of the task force shall
349 serve without compensation but may be reimbursed for travel
350 expenses; amending s. 106.011, F.S.; revising a definition;
351 creating s. 106.112, F.S.; prohibiting the use of certain
352 funds to pay certain expenses; repealing s. 11.061,