

By Senator Book

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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 by a specified  
6       date; providing for the staffing and the composition  
7       of the task force; prescribing duties of and  
8       requirements for the task force; requiring the task  
9       force to report its findings and recommendations to  
10      the Governor and the Legislature before a specified  
11      date; authorizing reimbursement for per diem and  
12      travel expenses; creating s. 112.3126, F.S.; providing  
13      definitions; prohibiting public officers, qualified  
14      candidates, agency employees, and lobbyists from  
15      sexually harassing any person; providing for  
16      construction; reenacting and amending s. 112.317,  
17      F.S., relating to penalties for violations of the Code  
18      of Ethics for Public Officers and Employees; providing  
19      penalties for lobbyists who violate the prohibition  
20      against sexual harassment; amending s. 112.324, F.S.;  
21      requiring the Commission on Ethics to report its  
22      findings and recommendations to the Governor and  
23      Cabinet or the Legislature upon finding a violation of  
24      the act; providing an effective date.

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26   Be It Enacted by the Legislature of the State of Florida:

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28       Section 1. Section 11.9006, Florida Statutes, is created to  
29   read:

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30 11.9006 Task Force on the Prevention of Sexual Harassment  
31 and Misconduct.—

32 (1) There is created the Task Force on the Prevention of  
33 Sexual Harassment and Misconduct. The task force shall convene  
34 no later than September 30, 2019, and at least every 4 years  
35 thereafter. The task force shall meet as many times as is  
36 necessary in order to complete its duties prescribed under  
37 subsections (4) and (5). The task force is created for the  
38 express purpose of studying the problem of sexual harassment and  
39 misconduct and examining best practices to prevent sexual  
40 harassment and misconduct, particularly in government settings  
41 and as applied to the conduct of public officers, candidates for  
42 public office, agency employees, and lobbyists. The task force  
43 is created within the legislative branch for administrative  
44 purposes only. The Governor, the President of the Senate, and  
45 the Speaker of the House of Representatives shall assign staff  
46 to assist the task force in the performance of its duties.

47 (2) The task force is composed of the following  
48 individuals:

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

51 (b) One member of the House of Representatives and one  
52 full-time employee of the House of Representatives, appointed by  
53 the Speaker of the House of Representatives.

54 (c) One member appointed by the Governor.

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

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

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59 (f) One member representing the Florida League of Cities,  
60 appointed by the organization's president.

61 (g) One member representing the Florida Association of  
62 Professional Lobbyists, appointed by the association's chair.

63 (h) One member representing the Florida Press Association,  
64 appointed by the association's chair.

65 (i) One member representing the Florida Behavioral Health  
66 Association, appointed by the association's chair.

67

68 In selecting appointments, each appointing authority must  
69 consider the diversity of the members of the task force. Any  
70 vacancy in the membership of the task force must be filled in  
71 the same manner as the original appointment.

72 (3) The members of the task force shall designate a chair  
73 at their first meeting. Meetings of the task force may be held  
74 via teleconferences or other electronic means. A majority of the  
75 members of the task force constitutes a quorum.

76 (4) At a minimum, the task force shall examine all of the  
77 following:

78 (a) The adequacy of current methods of reporting  
79 complaints, and the investigations thereof, of sexual harassment  
80 or misconduct.

81 (b) Current procedures regarding the maintenance of the  
82 confidentiality of complaints, investigations, and the identity  
83 of victims.

84 (c) Victims' ability to obtain support, care, and  
85 assistance.

86 (d) The adequacy of measures currently available to hold  
87 offenders accountable.

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88 (e) Any training and educational programs addressing sexual  
89 harassment or misconduct currently offered by governmental  
90 entities and whether changes are needed in order to increase  
91 their effectiveness.

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

96 (5) The task force shall report its findings and  
97 recommendations, including any recommendations for proposed  
98 legislative changes, to the Governor, the President of the  
99 Senate, and the Speaker of the House of Representatives at least  
100 30 days before the convening of the next regular session of the  
101 Legislature. The terms of the members of the task force expire  
102 upon submission of the findings and recommendations.

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

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

109 112.3126 Prohibition on sexual harassment.—

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

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

116 (b) "Sexually harass" includes making unwelcome sexual

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117 advances; making requests for sexual favors; or exhibiting any  
118 other conduct of a sexual nature by a public officer, a  
119 candidate for public office, an employee of an agency, or a  
120 lobbyist which is directed toward any individual when:

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

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

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

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

133 (3) This section is intended to supplement existing law and  
134 not to supplant provisions that allow for the submission, and  
135 the disposition thereof, of complaints in accordance with the  
136 rules of either house of the Legislature or the joint rules.

137 Section 3. Section 112.317, Florida Statutes, is reenacted  
138 and amended to read:

139 112.317 Penalties.—

140 (1) Any violation of this part, including, but not limited  
141 to, failure to file disclosures required by this part or  
142 violation of any standard of conduct imposed by this part, or  
143 any violation of s. 8, Art. II of the State Constitution, in  
144 addition to any criminal penalty or other civil penalty  
145 involved, under applicable constitutional and statutory

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146 procedures, constitutes grounds for, and may be punished by, one  
147 or more of the following:

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

149 1. Impeachment.

150 2. Removal from office.

151 3. Suspension from office.

152 4. Public censure and reprimand.

153 5. Forfeiture of no more than one-third of his or her  
154 salary per month for no more than 12 months.

155 6. A civil penalty not to exceed \$10,000.

156 7. Restitution of any pecuniary benefits received because  
157 of the violation committed. The commission may recommend that  
158 the restitution penalty be paid to the agency of which the  
159 public officer was a member or to the General Revenue Fund.

160 (b) In the case of an employee or a person designated as a  
161 public officer by this part who otherwise would be deemed to be  
162 an employee:

163 1. Dismissal from employment.

164 2. Suspension from employment for not more than 90 days  
165 without pay.

166 3. Demotion.

167 4. Reduction in his or her salary level.

168 5. Forfeiture of no more than one-third salary per month  
169 for no more than 12 months.

170 6. A civil penalty not to exceed \$10,000.

171 7. Restitution of any pecuniary benefits received because  
172 of the violation committed. The commission may recommend that  
173 the restitution penalty be paid to the agency by which the  
174 public employee was employed, or of which the officer was deemed

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175 to be an employee, or to the General Revenue Fund.

176 8. Public censure and reprimand.

177 (c) In the case of a candidate who violates this part or s.

178 8(a) and (i), Art. II of the State Constitution:

179 1. Disqualification from being on the ballot.

180 2. Public censure.

181 3. Reprimand.

182 4. A civil penalty not to exceed \$10,000.

183 (d) In the case of a former public officer or employee who  
184 has violated a provision applicable to former officers or  
185 employees or whose violation occurred before the officer's or  
186 employee's leaving public office or employment:

187 1. Public censure and reprimand.

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

189 3. Restitution of any pecuniary benefits received because  
190 of the violation committed. The commission may recommend that  
191 the restitution penalty be paid to the agency of the public  
192 officer or employee or to the General Revenue Fund.

193 (e) In the case of a person who is subject to the standards  
194 of this part, other than a lobbyist or lobbying firm under s.  
195 112.3215 for a violation of s. 112.3215, but who is not a public  
196 officer or employee:

197 1. Public censure and reprimand.

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

199 3. Restitution of any pecuniary benefits received because  
200 of the violation committed. The commission may recommend that  
201 the restitution penalty be paid to the agency of the person or  
202 to the General Revenue Fund.

203 (f) In the case of an individual who is required to

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204 register as a lobbyist under s. 11.045 or s. 112.3215 and who  
205 violates s. 112.3126:

206 1. Public censure and reprimand.

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

208 3. Prohibition from lobbying the legislative and executive  
209 branches for a specified period.

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

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

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

226 (b) The power of agencies to discipline officers or  
227 employees.

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

232 (5) By order of the Governor, upon recommendation of the



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

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

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

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262 Affairs, which shall bring a civil action in a court of  
263 competent jurisdiction to recover the amount of such costs and  
264 fees awarded by the commission.

265 Section 4. Subsection (8) of section 112.324, Florida  
266 Statutes, is amended to read:

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

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

281 (a) The President of the Senate and the Speaker of the  
282 House of Representatives, jointly, in any case concerning the  
283 Public Counsel, members of the Public Service Commission,  
284 members of the Public Service Commission Nominating Council, the  
285 Auditor General, ~~or~~ the director of the Office of Program Policy  
286 Analysis and Government Accountability, or a person who is  
287 required to register as a lobbyist under s. 11.045 for a  
288 violation of s. 112.3126.

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

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291 (c) The President of the Senate, in any case concerning an  
292 employee of the Senate; the Speaker of the House of  
293 Representatives, in any case concerning an employee of the House  
294 of Representatives; or the President and the Speaker, jointly,  
295 in any case concerning an employee of a committee of the  
296 Legislature whose members are appointed solely by the President  
297 and the Speaker or in any case concerning an employee of the  
298 Public Counsel, Public Service Commission, Auditor General, or  
299 Office of Program Policy Analysis and Government Accountability.

300 (d) The Governor and the Cabinet, in any case concerning a  
301 person who is required to register as a lobbyist under s.  
302 112.3215 for a violation of s. 112.3126.

303 (e) Except as otherwise provided by this part, the  
304 Governor, in the case of any other public officer, public  
305 employee, former public officer or public employee, candidate or  
306 former candidate, or person who is not a public officer or  
307 employee, other than lobbyists and lobbying firms under s.  
308 112.3215 for violations of s. 112.3215.

309 (f) ~~(e)~~ The President of the Senate or the Speaker of the  
310 House of Representatives, whichever is applicable, in any case  
311 concerning a former member of the Legislature who has violated a  
312 provision applicable to former members or whose violation  
313 occurred while a member of the Legislature.

314 Section 5. This act shall take effect July 1, 2019.