



Addressing Sexual Harassment in Pennsylvania

2019 – 2020

Sexual harassment encompasses a broad range of behaviors which, at their worst, involve felonious sexual assault in the workplace, but also include offensive and humiliating words and gestures.

Sexual harassment violates civil laws that apply to the workplace and it could also violate criminal laws. For example, a sexual assault committed by a co-worker that an employer knew or should have known about and ignored violates Title VII of the Civil Rights Act of 1964; it also may be a crime.

There are many differences between civil and criminal laws. How a person reports the sexual harassment, the enforcement and the remedies (how the harassment gets addressed) are different. It is important to note that if the harassment violates both civil and criminal laws, as in the case of sexual assault, the victim does not have to report the violation to police in order to obtain civil remedies.

The legal definition of sexual harassment was established in 1979. However, the #MeToo movement has helped expose the many gaps, loopholes, and shortcomings of current policy protections.

In Pennsylvania, we know sexual harassment is a pervasive problem, and that current policy protections are woefully adequate. In Fiscal Year 2018, 469 charges of sexual harassment were filed with the Equal Employment Opportunity Commission and state anti-discrimination agencies in Pennsylvania.

The good news is that legislation has already been drafted and introduced that can be advanced today in order to better protect workers.

Many of these policy proposals are simple and already overdue. For example, we have known for years that the [Pennsylvania Human Relations Act](#) (PHRA) only applies to employers with 4 or more employees. The employee thresholds for coverage by local anti-discrimination laws in Pennsylvania vary from 1 to 5. Independent contractors, interns, and volunteers are not protected. This means some people have no statutory remedy for harassment because of geography and/or size of or relationship to the employer. As the state law that covers all Pennsylvanians, the PHRA's employee threshold should be reduced to one and coverage expanded.

Additional barriers and limitations should be removed.

We urge our General Assembly to promptly vote these bills into law:

House Bill 392 (Shusterman) requires employers to post fair practices notices in the workplace that include descriptions and examples of unlawful acts of discrimination, harassment, and retaliation.

House Bill 849 (Klunk & Cephas) prohibits employers from mandating non-disclosure agreements as a condition of employment.

House Bill 1000 (Krueger) will provide protection from harassment for employees in the Pennsylvania General Assembly.

House Bill 1025 (Madden) will extend Pennsylvania Human Relations Act (PHRA) coverage to employees of employers with fewer than 4 employees, independent contractors, and agricultural workers. It expands protections for domestic workers (but not far enough). All of these individuals have been excluded from the protection offered by the PHRA and are equally vulnerable to sexual harassment and all forms of discrimination.

House Bill 1027 (Galloway) expands the PHRA to cover domestic and agricultural workers and requires employers to adopt written policies and procedures to prevent and address harassment, discrimination, and retaliation. It would also extend coverage to employees of employers with fewer than 4 employees.

House Bill 1040 (Rabb) will protect agricultural and domestic workers from discrimination and harassment and require training of employees on discrimination, harassment, and retaliation.

House Bill 1054/Senate Bill 529 (Snyder/Brewster) amends state lobbying laws to ban harassment by lobbyists and require training.

Senate Bill 461 (Schwank) prohibits requiring non-disclosure agreements that would ban disclosure of harassment, abuse, or discrimination, or interfere with victims making civil or criminal allegations of such conduct as a condition of employment. Prohibits non-disclosure agreements in legal settlements unless the individual who brought the claim voluntarily and with full knowledge of the consequences agrees to it.

Senate Bill 498 (Fontana) amends the PHRA to add fair practice notices and mandate training.

Senate Bill 503 (Tartaglione) will extend PHRA coverage to domestic workers, agricultural workers, and independent contractors.

Addressing Sexual Harassment is Essential for Workplace Equality

Despite holding multiple hearings on the importance of improving sexual harassment protections in Pennsylvania, the state Legislature has not yet passed legislative solutions. The Legislature has also refused to advance bills that would help rectify pay discrimination, raise the minimum wage, and address discrimination against pregnant workers. This refusal to support working women harms Pennsylvania's children and their families.