

House Bill 265

By: Representative Mobley of the 69<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial  
2 relations, so as to provide for a right of action for sexual harassment; to provide for  
3 definitions; to provide for practices, procedures, and requirements relating to such right of  
4 action; to provide for exceptions; to provide for limitation of actions for sexual harassment;  
5 to provide a maximum amount for certain damages; to require the posting of certain signs  
6 by certain employers; to provide for applicability; to provide for other matters relative to the  
7 foregoing; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
11 is amended by adding, following Chapter 5 of said title, a new Chapter 5A to read as follows:

12 "CHAPTER 5A

13 34-5A-1.

14 (a) As used in this chapter, the term:

15 (1) 'Employer' means any individual sole proprietor, organization, governmental body,  
16 corporation, limited liability company, limited liability partnership, partnership,  
17 association, trustee, estate, insurance company, or legal representative, whether domestic  
18 or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, and any  
19 common carrier doing business in or operating within this state, which has two or more  
20 but less than 15 employees in each of 20 or more calendar weeks in the current or  
21 preceding calendar year performing work for such employer; provided, however, that this  
22 definition of employer does not extend to a person who is an employee of an employer.

- 1 (2) 'Sexual harassment' is a form of sex discrimination and means unwelcome and  
2 nonconsensual sexual advances, requests for sexual favors, and other verbal or physical  
3 conduct of a sexual nature when:
- 4 (A) Submission to that conduct is made either explicitly or implicitly a term or  
5 condition of employment;
- 6 (B) Submission to or rejection of such conduct by an employee is used as a component  
7 of the basis for employment decisions affecting that employee; or
- 8 (C) The conduct has the purpose or effect of unreasonably and substantially interfering  
9 with an employee's work performance or creating a sexually intimidating, hostile, or  
10 sexually offensive work environment to a reasonable person.
- 11 (b) An employee shall have a right of action for sexual harassment against an employer  
12 who:
- 13 (1) Engages in sexual harassment as defined in paragraph (2) of subsection (a) of this  
14 Code section; or
- 15 (2) Discriminatorily terminates, demotes, transfers, reassigns, changes the work schedule  
16 or duties of, changes the terms and conditions of employment of, or otherwise retaliates  
17 or takes punitive action against any employee for the sole reason that such employee has  
18 reported sexual harassment or brought an action for sexual harassment.
- 19 (c) Any action for sexual harassment pursuant to the provisions of this Code section shall  
20 be brought within 180 days from the date of the incident.
- 21 (d) Except as otherwise provided, rights and remedies granted to an employee who brings  
22 an action for sexual harassment under this chapter shall exclude all other rights and  
23 remedies of such employee against the employer except any applicable relief under the  
24 state's workers' compensation law and the state's employment security law.
- 25 (e) Notwithstanding any other provision of law, in an action for sexual harassment  
26 pursuant to the provisions of this Code section, the sum of general or special damages,  
27 direct or consequential damages, punitive damages, and damages for other nonpecuniary  
28 losses shall not exceed, for each employee, the amount of \$50,000.00.
- 29 (f) It shall be the duty of every employer, including every department or agency of the  
30 state, county, board of education, municipal corporation, or authority, to post at each  
31 workplace a sign, not less than 11 inches by 14 inches in size, stating that sexual  
32 harassment is a violation of state law. Such signs shall be made available to employers by  
33 the Department of Labor. Such sign shall be posted in an appropriate public area as used  
34 to post workers' compensation notices.
- 35 (g) This Code section shall apply to any act of sexual harassment occurring on or after July  
36 1, 2001."

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**SECTION 2.**

2 All laws and parts of laws in conflict with this Act are repealed.