

House Bill 1121

By: Representatives Efstoration of the 104th, Nguyen of the 89th, Scoggins of the 14th, Gullett of the 19th, Holland of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 provide for a right of action for sexual harassment against a co-worker, supervisor, or
3 employer; to provide for definitions; to provide for elements of such right; to provide for
4 when actions may be brought; to provide for damages; to provide for defenses; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
9 a new chapter to read as follows:

10 "CHAPTER 16

11 51-16-1.

12 As used in this chapter, the term:

13 (1) 'Claimant' means a person bringing a claim under this chapter.

14 (2) 'Co-worker' means a person who works in a similar role or is at an equivalent level
15 or position as claimant.

16 (3) 'Employer' means any of the following, or their agents, which employ four or more
17 individuals who perform services within this state:

18 (A) An organization; or

19 (B) A corporation, limited liability company, limited liability partnership, partnership,
20 association, trustee, estate, insurance company, or legal representative, whether
21 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof.

22 (4) 'Sexual harassment' means conduct, including, but not limited to, unwelcome sexual
23 advances or requests for sexual favors or any other unwelcome verbal, visual, or physical

24 conduct of a sexual nature where, upon receiving a complaint, an employer fails to take
 25 corrective action.

26 (5) 'Supervisor' means:

27 (A) A manager, director, or administrator of a claimant; or

28 (B) Any person who in any capacity has supervision or authority over:

29 (i) A claimant; or

30 (ii) Any activity for which a claimant is employed or contracted to do implicitly or
 31 explicitly.

32 51-16-2.

33 (a) A claimant shall have a right of action for sexual harassment against a co-worker or
 34 supervisor who, as viewed by a reasonable person, initiates nonconsensual and unwelcome
 35 sexual advances or requests; makes commands for sexual favors; or otherwise engages in
 36 nonconsensual and unwelcome verbal, visual, or physical conduct of a sexual nature to the
 37 claimant or another and:

38 (1) The claimant's rejection of such initiation, command, or conduct; bringing an action
 39 against or reporting such initiation, command, or conduct; or assisting another in
 40 reporting such initiation, command, or conduct is used as a component of the basis for
 41 employment decisions adversely affecting the claimant, including, but not limited to,
 42 termination, demotion, transfer, or reassignment to an inferior or less desirable position,
 43 duties, work schedule, or other similarly unfavorable treatment; or

44 (2) The initiation, command, or conduct has the purpose or effect of unreasonably and
 45 substantially interfering with the claimant's work performance or creating an intimidating,
 46 hostile, or sexually offensive work environment.

47 (b) The same cause of action as provided for in subsection (a) of this Code section shall
 48 exist against the employer when the employer knew or should have known of the sexual
 49 harassment.

50 51-16-3.

51 Any action for sexual harassment pursuant to the provisions of this chapter shall be
 52 commenced within one year from the date of the incident or within one year from
 53 exhaustion of all procedures provided for by an employer, where applicable, whichever is
 54 later.

55 51-16-4.

56 It shall be an affirmative defense to liability under this chapter that the conduct forming the
 57 basis of an action under this chapter:

- 58 (1) Does not rise above the level of what a reasonable person would consider merely
59 tactless, boorish, inconsiderate, overfamiliar, or otherwise impolite, particularly with
60 regard to the totality of the circumstances, including, but not limited to, the nature of the
61 employer, the conduct at issue, and the context in which the alleged conduct occurred;
62 or
63 (2) Is consensual contact between co-workers.

64 51-16-5.

- 65 (a) Relief the court may order for a prevailing claimant includes, but is not limited to,
66 compensation for lost wages, benefits, other remuneration or compensatory damages,
67 reasonable attorney's fees, court costs, and other related expenses.
68 (b) The provisions of this chapter shall be construed as being in addition to, and in no way
69 deny, alter, or amend, any other civil or criminal rights or remedies in law or in equity, or
70 notice requirements provided under any other provision of law."

71 **SECTION 2.**

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