

The House Committee on Judiciary offers the following substitute to HB 1390:

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 against a local government for retaliation; to
3 provide for a definition; to provide for elements of such right; to provide for civil relief; to
4 provide for corrective or remedial action; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
9 is amended by adding a new chapter to read as follows:

10 "CHAPTER 5A

11 34-5A-1.

12 As used in this chapter, the term 'sexual harassment' means sexual advances, requests for
13 sexual favors, sexual or sex-based conduct, or any other unwelcome and offensive conduct
14 of a sexual nature where:

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15 (A) Submission to the conduct involved is made, implicitly or explicitly, a term or
16 condition of work;

17 (B) Submission to or rejection of the conduct is used as the basis for a personnel
18 decision affecting the individual's work; or

19 (C) Such conduct creates an intimidating, hostile, or offensive work environment,
20 provided that an intimidating, hostile, or offensive work environment is not created
21 when the conduct does not rise above the level of what a reasonable person would
22 consider merely tactless, inconsiderate, overfamiliar, or otherwise impolite, particularly
23 with regard to the totality of the circumstances.

24 34-5A-2.

25 (a) Any individual working for a county, municipality, or consolidated government as an
26 employee or in a similar capacity shall have a cause of action for retaliation against the
27 county, municipality, or consolidated government if such county, municipality, or
28 consolidated government has discharged, suspended, demoted, or taken any other adverse
29 action against the individual in the terms or conditions of the work relationship because the
30 individual has:

31 (1) Opposed sexual harassment;

32 (2) Made a report or a charge, or filed any complaint related to sexual harassment;

33 (3) Instituted or caused to be instituted, assisted, or participated in any manner in any
34 investigation, proceeding, hearing, or action related to sexual harassment; or

35 (4) Provided information, testified, or is known by the county, municipality, or
36 consolidated government to be planning to testify in any manner in any such
37 investigation, proceeding, hearing, or action related to sexual harassment.

38 (b) Such individual may institute such a civil action in accordance with the provisions of
39 paragraph (1) of subsection (e) of Code Section 45-1-4, and a court may order any or all

40 of the relief described in paragraph (2) of subsection (e) and subsection (f) of Code Section 45-1-4.
41 (c) Nothing in this Code section shall be interpreted to prohibit the county, municipality,
42 or consolidated government from taking appropriate corrective or remedial action against
43 any individual who it determines has engaged in or facilitated sexual harassment."

44

SECTION 2.

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