

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 389

Short Title: NCGA/Safe Workplace Policy. (Public)

Sponsors: Representatives Prather, Dahle, Rudow, and Autry (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

March 20, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A CONFIDENTIAL PROCESS FOR REPORTING AND RESOLVING
3 INCIDENTS OF SEXUAL HARASSMENT AND OTHER IMPROPER WORKPLACE
4 BEHAVIOR IN THE GENERAL ASSEMBLY, TO REQUIRE TRAINING TO PREVENT
5 WORKPLACE HARASSMENT AND OTHER IMPROPER WORKPLACE BEHAVIOR
6 IN THE GENERAL ASSEMBLY, TO ADOPT CLEAR SANCTIONS, AND TO
7 APPROPRIATE FUNDS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Chapter 120 of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 7E.

12 "Safe Workplace Act.

13 **"§ 120-36.25. Legislative findings; scope; definitions.**

14 (a) The General Assembly finds that early reporting and intervention are most effective
15 in resolving actual or perceived incidents of improper workplace behavior, and the General
16 Assembly encourages the prompt reporting of incidents or concerns so that rapid and constructive
17 action can be taken before relationships become irreparably strained and before offensive conduct
18 continues or escalates. The General Assembly encourages good-faith reporting of all perceived
19 incidents of improper workplace behavior, regardless of the offender's identity or position.

20 (b) This Article applies to legislators, regular, full-time, part-time, temporary, and
21 contractual employees of the General Assembly, as well as unpaid volunteers and pages. In
22 addition, this Article applies to the interaction of these individuals away from the legislative
23 complex at legislature-sponsored events, professional meetings and seminars, and all activities
24 that involve legislative business.

25 (c) As used in this Article, sexual harassment means unwelcome sexual advances,
26 requests for sexual favors, and other verbal, nonverbal, or physical contact of a sexual nature and
27 exists when:

28 (1) Submission to such conduct is made either explicitly or implicitly a term or
29 condition of an individual's employment.

30 (2) Submission to or rejection of such conduct by an individual is used as a basis
31 for employment decisions affecting such individual.

32 (3) Exposure to such conduct has the purpose or effect of unreasonably interfering
33 with an individual's work performance or creating an intimidating, hostile, or
34 offensive working environment, which is perceived by the victim to be
35 abusive or hostile.



"§ 120-36.26. Mandatory workplace harassment prevention policies and education.

(a) No later than December 31, 2023, the Legislative Services Commission (LSC) and the Legislative Ethics Committee (LEC) shall jointly develop, adopt, and implement "zero tolerance" policies regarding sexual harassment, abuse, misconduct, gender discrimination, and all other forms of improper workplace behaviors. The policies developed under this section shall be incorporated by reference into each chamber's permanent rules.

(b) The policies required under this section shall include all of the following:

(1) Mandatory annual ethics training for all legislators, legislative officers, and legislative employees of the General Assembly. The training will focus on the identification and prevention of sexual harassment, abuse, misconduct, gender discrimination, and all other forms of discrimination in the workplace.

(2) Effective and clear sanctions for incidents of sexual harassment, abuse, misconduct, gender discrimination, and all other forms of discrimination in the workplace. The sanctions shall be applicable to all legislators, legislative officers, and legislative employees.

(3) A complaint and investigation process as provided in G.S. 120-36.27.

"§ 120-36.27. Reporting and investigation.

(a) An individual who believes the individual has been the subject of or has witnessed improper workplace behavior should discuss the individual's concerns with any one of the following: the head of the Human Resources Office, the independent third party retained pursuant to G.S. 120-36.28, or the person designated by the majority and minority leaders of each chamber. The person who receives the report shall take steps to resolve the problem informally.

(b) If the problem is not resolved informally to the satisfaction of the individual who made the report, the person who received the report will promptly refer the matter to the independent third party retained pursuant to G.S. 120-36.28 to conduct an investigation of the complaint. All information will be maintained on a confidential basis to the greatest extent possible. Only those who need to know in order to accomplish the purpose of the investigation shall be provided with the identity of the complainant and the allegations. All parties, including the complainant and the alleged harasser, contacted in the course of an investigation shall be advised of the necessity of confidentiality and that any breach of confidentiality shall be treated as misconduct subject to disciplinary action.

(c) Adverse actions taken in retaliation against an individual for reporting sexual harassment or other unlawful discrimination or for participating in an investigation of a claim of harassment or discrimination constitute a serious violation of the Article and will be subject to disciplinary action.

"§ 120-36.28. Independent third party.

The LSC shall contract with an independent third party to provide the following services related to implementation of this Article:

(1) Confidential information and advice to individuals who report improper workplace behavior under G.S. 120-36.27(a).

(2) Investigative support and advice to the designated employee receiving and investigating reports of misconduct.

(3) Investigative actions under G.S. 120-36.27(b).

"§ 120-36.29. Resolution.

(a) In order to facilitate an appropriate resolution, any report involving a legislator or staff to a legislator will be brought to the attention of the relevant presiding officer as well as the relevant minority leader. Any report involving an employee of the LSC will be promptly brought to the attention of the Legislative Services Officer. If the investigation supports a finding of a violation of this Article, prompt and effective remedial action will be taken. Responsive action may include training, referral to counseling, or disciplinary action as determined to be appropriate under the circumstances, including referral to the LEC. Disciplinary action for a non-legislator

1 may include warning, reprimand, withholding of a promotion or pay increase, reassignment,
2 temporary suspension without pay, termination, or other punishment. Disciplinary action for a
3 legislator may include warning, reprimand, reassignment, expulsion, or other punishment in
4 accordance with Section 20 of Article II of the North Carolina Constitution.

5 (b) If the investigation does not support a finding that this policy has been violated, the
6 individual making the report and the individual against whom the allegation was made shall be
7 so advised. Both will be advised that retaliation for making the report is prohibited.

8 **"§ 120-36.30. Appeal.**

9 If a party involved in the reported incident does not agree with its resolution, that party may
10 appeal to the appropriate presiding officer within 10 days of receiving notice about resolution of
11 the complaint. Within 45 days, the presiding officer or designee will render a decision on the
12 appeal."

13 **SECTION 2.** There is appropriated from the General Fund to the General Assembly,
14 Legislative Services Commission, the sum of two hundred fifty thousand dollars (\$250,000) for
15 the 2023-2024 and 2024-2025 fiscal years to be used to implement this act. The funds shall be
16 allocated as follows:

- 17 (1) Fifty thousand dollars (\$50,000) for literature, documents, and training
18 materials required for developing an infrastructure for a mandatory yearly
19 ethics training program that focuses on the identification and prevention of
20 sexual harassment, abuse, misconduct, gender discrimination, and other forms
21 of workplace discrimination.
22 (2) Two hundred thousand dollars (\$200,000) for contractual services required
23 under Section 1 of this act.

24 **SECTION 3.** This act becomes effective July 1, 2023.