

The House Special Committee on Access to the Civil Justice System offers the following substitute to HB 1121:

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 or someone who is not a supervisor.

16 (3) 'Employer' means any of the following, or their agents, which employ 15 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 or association, whether domestic or foreign.

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

24 (5) 'Supervisor' means:

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

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

27 (i) A claimant; or

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

30 51-16-2.

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

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

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

45 51-16-3.

46 Any action for sexual harassment pursuant to the provisions of this chapter shall be
 47 commenced within one year from the date of each incident or within 180 days from
 48 exhaustion of all procedures provided for by an employer, where applicable, whichever is
 49 later.

50 51-16-4.

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

53 (1) Does not rise above the level of what a reasonable person would consider merely
 54 tactless, boorish, inconsiderate, overfamiliar, or otherwise impolite, particularly with
 55 regard to the totality of the circumstances, including, but not limited to, the nature of the
 56 employer, the conduct at issue, and the context in which the alleged conduct occurred;
 57 or

58 (2) Is consensual contact between co-workers.

59 51-16-5.

60 (a) Relief the court may order for a prevailing claimant includes, but is not limited to,
61 compensation for lost wages, benefits, other remuneration or compensatory damages,
62 reasonable attorney's fees, court costs, and other related expenses.

63 (b) The provisions of this chapter shall be construed as being in addition to, and in no way
64 deny, alter, or amend, any other civil or criminal rights or remedies in law or in equity, or
65 notice requirements provided under any other provision of law."

66 **SECTION 2.**

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