

HOUSE BILL 1984

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 50, relative to sexual harassment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 21, Part 4, is amended by adding the following new section:

(a) It is a discriminatory practice for an employer to harass an employee, an applicant, or a person providing services pursuant to a contract because of the employee's, applicant's, or person's sex. Harassment of an employee, an applicant, or a person providing services pursuant to a contract by an employee, other than an agent or supervisor, shall be deemed harassment because of a person's sex by the employer only if the employer, or its agents or supervisors, knew or should have known of this conduct and failed to take immediate and appropriate corrective action.

(b) For purposes of this section:

(1) "Employer" means:

(A) Any person regularly employing one (1) or more persons or regularly receiving the services of one (1) or more persons providing services pursuant to a contract;

(B) Any person acting as an agent of an employer, directly or indirectly;

(C) Any person employed by the employer whose scope of employment includes supervising or managing other employees;

(D) The state; or

(E) A county, including any county having a metropolitan form of government, or municipal government, or any agency or unit thereof, or any other political subdivision of the state;

(2) "Harassment because of a person's sex" includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire;

(3) "Person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance;

(B) The person is customarily engaged in an independently established business; and

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

SECTION 2. This act shall take effect July 1, 2018, the public welfare requiring it, and shall apply to all conduct that occurs on or after that date.