



Legislation Text

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Res No. 900

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, anti-sexual harassment legislation.

By Council Members Rosenthal, Ayala, Ampry-Samuel, Gibson, Chin, Barron, Adams, Rivera and Koslowitz

Whereas, The Stop Sexual Harassment in NYC Act was enacted on May 9, 2018 and includes legislation which serves to protect all individuals against gender-based discrimination and sexual harassment in the workplace, housing, and public accommodations such as stores and restaurants; and

Whereas, In the wake of the #MeToo movement, a newly created unit within the New York City Commission on Human Rights that is focused solely on claims of sexual harassment in the workplace has reported a 43 percent increase in claims within the last two years; and

Whereas, Officials theorize the increase in reported sex crimes, which have risen steadily for 16 consecutive months since the fall of 2017, have been fueled in part by the #MeToo and #TimesUp movements; and

Whereas, The New York State Legislature held its first hearing in 27 years on the issue of sexual harassment and heard testimony from former legislative staffers who encountered sexual harassment in the work place and subsequently introduced a package of legislation aimed to combat sexual harassment in the workplace; and

Whereas, A869/S2037 sponsored by Assemblymember Aravella Simotas and Senator Alessandra Biaggi would require employers to provide a waiver to any party entering into a confidentiality agreement that explains the rights he or she would be giving up by signing the agreement; and

Whereas, A7083/S3817 sponsored by Assemblymember Simotas and Senator Biaggi, extends protections against discriminatory and retaliatory harassment to all protected classes by lowering the severe or pervasive standard, which has historically put the onus on the plaintiff to show the harassment was sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment, , allows for the collecting of attorney fees and punitive damages for all protected classes, clarifies that employers are liable for independent contractors, and eliminates the affirmative defense used by employers known as the Faragher/Ellerth defense, which has served to help employers avoid previous liability for alleged unlawful harassment; a

Whereas, A7485/S3941 sponsored by Assemblymember Nily Rozic and Senator Liz Krueger, requires the state Department of Labor to draft a model sexual harassment policy and a model sexual harassment prevention training program for employees, clearly specifies in statute that sexual harassment is an unlawful discriminatory practice, eliminates the severe or pervasive standard which in the case of sexual harassment or other sexual discrimination, and enables employers with fewer than four employees to be subject to sexual discrimination laws; and

Whereas, A849A/S5469 sponsored by Assemblymember Simotas and Senator Biaggi relates to requiring independent consideration in settlement agreements, which is defined as something of value such as a promise, or an act or an object that is offered in exchange for each confidentiality provision; and

Whereas, A1042/S2036 sponsored by Assemblymember Simotas and Senator Biaggi extends the amount of time to file a sexual harassment complaint from one year to three years; and

Whereas, A1115/S2035 sponsored by Assemblymember Simotas and Senator Biaggi requires employers to inform employees that entering into a nondisclosure agreement cannot prevent them from speaking with police, the U.S. Equal Employment Opportunity Commission, the state Division of Human Rights, or a local commission on human rights; and

Whereas, A3643/S2049 sponsored by Assemblymember Simotas and Senator Biaggi requires settlements relating to sexual harassment, sexual assault or discrimination be disclosed to the state attorney general's office, which can investigate any individual or institution that has entered into three or more settlements; and

Whereas, A7084/S3453 sponsored by Assemblymember Amy Paulin and Senator Biaggi requires the state to revisit and update the model sexual harassment prevention guidance document and sexual harassment prevention policy as needed every four years beginning in 2022; and

Whereas, A7220/S4513 sponsored by Assemblymember Catalina Cruz and Senator Krueger makes it unlawful for an employer to fail to take immediate and appropriate corrective action when he or she knows of a non-employee sexually harassing certain employees; and

Whereas, A5976/S4109 sponsored by Assemblymember Tremaine S. Wright and Senator Kevin Parker relates to the prevention of discrimination by replacing the term "sexual harassment" with "discrimination"; and

Whereas, A272/S517 sponsored by Assemblymember Rebecca A. Seawright and Senator Krueger amends the New York State Constitution to include the prohibition of discrimination on the basis of ethnicity, nationality, national origin, sex including pregnancy, sexual orientation and gender identity or expression, disability, age, or like grounds used to deprive a class of the people of New York of their equal opportunity to enjoy a full and productive life; and

Whereas, A3646-A/S3343-A sponsored by Assemblymember Rozic and Senator Jessica Ramos requires employers to provide employees written notice of their sexual harassment prevention policy and sexual harassment prevention training program in English and the employees' primary language while also requiring the commissioner of labor to create dual language templates of model sexual harassment prevention policies

and training programs; and

Whereas, Both the New York City Council and the New York State Legislature have acknowledged the need for new legislative requirements for employers aimed at combatting sexual harassment in the workplace; and

Whereas, Governor Andrew Cuomo has stated publicly that he will sign any bills that both houses of the New York state legislature pass to improve the sexual harassment laws; now therefore, be it

Resolved, That the Council of the City of New York call upon the New York State Legislature to pass, and the Governor to sign, anti-sexual harassment legislation.

CD
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