

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 29, 1985.

The committee on Taxation, to whom were referred the petition (accompanied by bill, Senate, No. 742) of George Bachrach, John W. Olver and Royal L. Bolling, Sr., for legislation to establish that resignation from employment due to sexual, racial and other harassment or discrimination is not a voluntary quit within the meaning of the Massachusetts General Laws, the petition (accompanied by bill, House, No. 2143) of Thomas M. Gallagher and other members of the House relative to sexual, racial and other harassment or discrimination in employment, the petition (accompanied by bill, House, No. 2891) of Barbara E. Gray relative to sex discrimination by business, trade and professional organizations and others, the petition (accompanied by bill, House, No. 2892) of Barbara E. Gray for legislation to prohibit discrimination by reason of marital status, the petition (accompanied by bill, House, No. 3247) of Barbara E. Gray, other members of the General Court and another for legislation to prohibit sexual harassment in employment, the petition (accompanied by bill, House, No. 4741) of Barbara E. Gray and other members of the House for legislation to define sexual harassment in educational institutions and in employment, and the petition (accompanied by bill, House, No. 4815) of Alfred E. Saggese, Jr., for legislation to prohibit sexual harassment in employment, reports recommending that the accompanying bill (House, No. 3963) ought to pass.

For the committee,

KENNETH M. LEMANSKI.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Five.

AN ACT PROHIBITING SEXUAL HARASSMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (e) of Section 25 of Chapter 151A of
2 the General Laws, as most recently amended by section 5 of Chap-
3 ter 489 of the Acts of 1982, is hereby further amended by adding,
4 after the third paragraph the following three new paragraphs: —

5 An individual shall not be disqualified from receiving benefits
6 under the provisions of this subsection, if it is established to the
7 satisfaction of the Director that the individual became separated
8 from employment due to sexual, racial, or other unreasonable
9 harassment where the employer, its supervisory personnel or
10 agents knew or should have known of the harassment.

11 For the purpose of this subsection, the term "sexual harassment"
12 shall mean sexual advances, requests for sexual favors and other
13 verbal or physical conduct of a sexual nature when: — (i) submis-
14 sion to or rejection of such advances, requests or conduct is made
15 either explicitly or implicitly a term or condition of employment or
16 as a basis for employment decisions;

17 (ii) such advances, requests or conduct have the purpose or
18 effect of unreasonably interfering with an individual's work per-
19 formance; or (iii) such advances, requests or conduct have the
20 purpose or effect of creating an intimidating, hostile, humiliating
21 or offensive work environment.

22 The Division shall promulgate regulations pursuant to the above
23 provisions.

1 SECTION 2. Section I of Chapter 151B of the General Laws is
2 hereby amended by adding at the end thereof the following
3 paragraph: —

4 17. The term "sexual harassment" means sexual advances,

5 requests for sexual favors and other verbal or physical conduct of a
6 sexual nature when: —

7 (1) submission to or rejection of such advances, requests or
8 conduct is made either explicitly or implicitly a term or condition
9 of employment or as a basis for employment decisions; or (2) such
10 advances, requests or conduct have the purpose or effect of unrea-
11 sonably interfering with an individual's work performance by
12 creating an intimidating or frightening working environment. Dis-
13 crimination on the basis of sex shall include, but not be limited to,
14 sexual harassment. It shall be an affirmative defense to any claim
15 of sexual harassment under this section that the employer neither
16 knew nor should have known of the harassment.

1 SECTION 3. Said chapter 151B is hereby further amended by
2 striking out Section 2 and inserting in place thereof the following
3 section: —

4 Section 2. The commission, as established by section fifty-six of
5 chapter six, shall formulate policies to effectuate the purposes of
6 this chapter and shall make recommendations to agencies and
7 officers of the commonwealth and its political subdivisions to take
8 all steps necessary to prevent discrimination from occurring, such
9 as affirmatively raising the subject, expressing strong disapproval
10 of apparently discriminatory behavior, developing appropriate
11 sanctions, and informing employees of their rights under this
12 chapter.

1 SECTION 4. Section I of Chapter 151C of the General Laws is
2 hereby amended by adding at the end thereof the following
3 paragraph: —

4 (e) The term "sexual harassment" means sexual advances,
5 requests for sexual favors and other verbal or physical conduct of a
6 sexual nature when: — (1) submission to or rejection of such
7 advances, requests or conduct is made either explicitly or implicitly
8 a term or condition of the provision of benefits, privileges or
9 placement services or as a basis for the evaluation of academic
10 achievement; or (2) such advances, requests or conduct have the
11 purpose or effect of unreasonably interfering with an individual's
12 education by creating an intimidating or frightening educational
13 environment.

1 SECTION 5. Section 2 of Chapter 151C of the General Laws is
2 hereby amended by adding after subsection (f) the following
3 subsection: —

4 (g) To sexually harass students in any program or course of
5 study in any educational institution.

1 SECTION 6. Paragraph (i) of Section 3 of Chapter 151C is
2 hereby amended by adding at the end thereof the following: —

3 The commission may, in addition to any other action which it
4 may take under this Section, award the petitioner damages, not
5 including attorney's fees, of an amount not less than three hundred
6 dollars.

1 SECTION 7. Chapter 214 of the General Laws, as most
2 recently amended by chapter 495 of the Acts of 1979, is hereby
3 further amended by adding after section 1B the following
4 section: —

5 Section 1C. A person shall have the right to be free from sexual
6 harassment as defined in chapter 151B and 151C. The superior
7 court shall have jurisdiction in equity to enforce this right and to
8 award damages.