

1 AN ACT relating to legislative ethics.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) A legislator, legislative agent, or the director of the Legislative Research*
6 *Commission shall not engage in discrimination, harassment, or sexual*
7 *harassment of any legislator, legislative agent, or employee of the legislative*
8 *branch of state government.*

9 *(2) Violation of this section by a legislator, legislative agent, or the director of the*
10 *Legislative Research Commission is ethical misconduct.*

11 ➔SECTION 2. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
12 READ AS FOLLOWS:

13 *As used in Sections 1 to 3 of this Act:*

14 *(1) "Discrimination" means any direct or indirect act or practice of exclusion,*
15 *distinction, restriction, segregation, limitation, refusal, denial, or any other act or*
16 *practice of differentiation or preference in treatment of a person or persons, or*
17 *the aiding, abetting, inciting, coercing, or compelling that is unlawful under KRS*
18 *Chapter 344;*

19 *(2) "Harassment" means any action taken with the intention of intimidating,*
20 *harassing, threatening, or physically or verbally abusing another person at work,*
21 *or in a work-related setting;*

22 *(3) (a) "Sexual harassment" means any unwelcome sexual advance, request for*
23 *sexual favors, or other verbal or physical conduct or communication of a sexual*
24 *nature if:*

25 *1. Submission to the advances, requests, conduct, or communication is*
26 *an explicit or implicit term or condition of obtaining or retaining*
27 *employment;*

- 1 2. Submission to or rejection of the advances, requests, conduct, or
2 communication affects decisions concerning a person's employment;
- 3 3. The conduct or communication has the purpose or effect of
4 unreasonably interfering with the person's ability to perform his or
5 her job functions or of creating a hostile work environment; or
- 6 4. The conduct or communication is sexual harassment as defined in
7 KRS Chapter 344, Title VII of the Civil Rights Act of 1964, state or
8 federal case law, or enforced in policy or regulation by the federal
9 Equal Employment Opportunity Commission or the Kentucky
10 Commission on Human Rights.

11 (b) "Sexual harassment" includes such conduct or communication as:

- 12 1. Unwanted sexual contact or conduct of any kind, including sexual
13 flirtations, touching, advances, actions, or propositions, intercourse,
14 or assault;
- 15 2. Unwelcome verbal communication of a sexual nature, including lewd
16 comments or innuendo, sexual jokes or references, or offensive
17 personal references;
- 18 3. Demeaning, insulting, intimidating, or sexually suggestive comments
19 or behavior directed at a person or in the presence of any person in a
20 public or private setting;
- 21 4. The display in the workplace of demeaning, insulting, intimidating, or
22 sexually suggestive objects, pictures, or photographs;
- 23 5. Demeaning, insulting, intimidating, or sexually suggestive written,
24 recorded, or electronically transmitted messages; or
- 25 6. Other conduct or communication not specifically described but which
26 is substantially similar to the conduct or communication described in
27 this subsection.

1 (c) A single incident described in this subsection may constitute sexual
 2 harassment and whether the incident is welcomed by the person to whom
 3 the incident is directed shall be a factor in determining whether sexual
 4 harassment has occurred; and

5 (4) "Workplace complaint" means a verbal or written allegation of discrimination,
 6 harassment, or sexual harassment submitted by a legislator, employee of the
 7 legislative branch of state government, or legislative agent, concerning an act or
 8 acts allegedly committed by a legislator, legislative agent, or director of the
 9 Legislative Research Commission.

10 ➔SECTION 3. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
 11 READ AS FOLLOWS:

12 (1) The Legislative Ethics Commission shall have jurisdiction to investigate and
 13 proceed upon receipt of a written or oral workplace complaint from a legislator,
 14 legislative agent, or an employee of the legislative branch of state government
 15 regarding discrimination, harassment, or sexual harassment allegedly committed
 16 by:

17 (a) A legislator;

18 (b) A legislative agent; or

19 (c) The director of the Legislative Research Commission.

20 (2) An allegation of discrimination, harassment, or sexual harassment by an
 21 employee of the legislative branch of state government shall be communicated by
 22 the executive director of the commission or his or her designee to the chief
 23 human resources officer of the Legislative Research Commission no later than
 24 one (1) business day after receipt of the allegation, unless the allegation is
 25 against the chief human resources officer of the Legislative Research
 26 Commission, in which case the allegation shall be communicated to the director
 27 of the Legislative Research Commission. Except as provided in subsection (1)(c)

1 of this section, the Legislative Ethics Commission shall not have jurisdiction
2 under this section in cases concerning an allegation of discrimination,
3 harassment, or sexual harassment by an employee of the legislative branch of
4 state government.

5 (3) The commission shall establish a legislative ethics telephone tip line to allow
6 employees of the legislative branch of state government, legislators, or legislative
7 agents to report workplace complaints of discrimination, harassment, or sexual
8 harassment.

9 (4) The commission and the Legislative Research Commission shall ensure that the
10 telephone number for the legislative ethics telephone tip line is available to
11 employees of the legislative branch of state government, legislators, and
12 legislative agents by multiple methods, including:

13 (a) The Legislative Research Commission shall print the legislative ethics
14 telephone tip line number on posters to be placed on bulletin boards or
15 other prominent locations in any building where staff of the legislative
16 branch of state government are stationed, and where legislative agents and
17 legislators are present, including the Capitol Building and Capitol Annex;

18 (b) The Legislative Research Commission shall include the legislative ethics
19 telephone tip line number in any employment manual developed and
20 printed by the Legislative Research Commission for use by legislators,
21 legislative agents, or employees of the legislative branch of state
22 government;

23 (c) The Legislative Research Commission shall include information about the
24 legislative ethics telephone tip line in any form of training for legislators,
25 legislative agents, or employees of the legislative branch of state
26 government;

27 (d) The Legislative Research Commission shall inform legislators, legislative

- 1 agents, and employees of the legislative branch of state government of the
2 existence of the legislative ethics telephone tip line number through periodic
3 electronic mail messages; and
- 4 (e) The Legislative Research Commission shall place the legislative ethics
5 telephone tip line number on its staff and public Web pages.
- 6 (5) The legislative ethics telephone tip line shall be operational twenty-four (24)
7 hours a day, seven (7) days a week. The commission shall provide staff for the
8 legislative ethics telephone tip line during business hours and provide for a
9 recorded line to receive messages at all other times. If a workplace complaint is
10 received on the tip line or by other means, commission staff shall make telephone
11 or electronic mail contact with the complainant no later than the first business
12 day after receipt of the workplace complaint to confirm receipt and details of the
13 workplace complaint. Workplace complaints may also be made in person to the
14 commission staff at the commission's office during regular business hours, or
15 may be sent to commission staff via electronic mail.
- 16 (6) Within two (2) hours of receipt of a workplace complaint, or the confirmation
17 required by subsection (5) of this section, a commission staff person shall
18 forward the workplace complaint received to the executive director of the
19 commission or his or her designee in writing on a form approved by the
20 commission.
- 21 (7) Within twenty-four (24) hours of receipt of a workplace complaint or
22 confirmation required in subsection (5) of this section, the executive director of
23 the commission or his or her designee shall either:
- 24 (a) Make an initial determination as to whether the workplace complaint meets
25 the criteria for consideration by the commission under this section, and if it
26 does not, shall inform the complainant that the commission does not have
27 jurisdiction and shall not notify the alleged violator; or

- 1 (b) If the initial determination is that the workplace complaint meets the
2 criteria for consideration by the commission under this section, notify the
3 alleged violator of the receipt of the workplace complaint and provide the
4 alleged violator with a written statement setting forth the allegations
5 provided by the complainant. Within seven (7) business days of the
6 executive director's or his or her designee's notification under this
7 paragraph, the alleged violator may file a written response to the allegations
8 with the executive director or his or her designee.
- 9 (8) No later than seven (7) business days after the executive director or his or her
10 designee receives the response or the time expires for the filing of the response,
11 the commission chair, vice chair, executive director, or the designee of the chair,
12 vice chair, or executive director shall interview the complainant, the alleged
13 violator, and any other person with knowledge or information relevant to the
14 workplace complaint.
- 15 (9) No later than fourteen (14) business days after the completion of the interviews,
16 the commission shall give notice of the status of the workplace complaint and a
17 general statement of the applicable law to the complainant and the alleged
18 violator.
- 19 (10) Within thirty (30) business days of receipt of a workplace complaint or the
20 confirmation required in subsection (5) of this section, after consultation with the
21 complainant, the workplace complaint file shall be closed if the commission chair
22 and vice chair agree the workplace complaint is resolved, or agree that there is no
23 credible allegation of discrimination, harassment, or sexual harassment. The
24 commission chair and vice chair may refer a workplace complaint to another
25 federal or state agency if they determine it does not fall under the jurisdiction of
26 the commission.
- 27 (11) If the commission chair and vice chair do not agree that a workplace complaint

1 of discrimination, harassment, or sexual harassment is resolved, and they agree
2 that there is a credible allegation of discrimination, harassment, or sexual
3 harassment, the commission's enforcement counsel shall file a complaint as
4 provided in subsection (1)(a) of Section 6 of this Act. A legislator, legislative
5 agent, or an employee of the legislative branch of state government may file a
6 complaint of discrimination, harassment, or sexual harassment against a person
7 listed in subsection (1) of this section under Section 6 of this Act at any time.

8 (12) The provisions of KRS 61.805 to 61.850 or 61.870 to 61.884 notwithstanding, the
9 testimony, records, and work products of the staff, investigators, complainants,
10 alleged violators, witnesses, and meetings and other activities relating to the
11 commission's or the Legislative Research Commission's duties and
12 responsibilities under this section and relating to workplace complaints generally
13 shall be privileged and confidential, and shall not be subject to discovery,
14 disclosure, or production except upon the order or subpoena of a court of law or
15 any other federal or state agency with subpoena power, and shall not be disclosed
16 by the Legislative Research Commission or commission staff, commission
17 members, or any other person. The name of any person making a workplace
18 complaint and any witnesses providing information to the Legislative Research
19 Commission or the commission shall remain confidential and shall not be
20 disclosed without the express written permission of the complainant or the
21 witness, except:

22 (a) To the extent disclosure is necessary to gather information from the alleged
23 violation or any other person with knowledge of information relevant to the
24 workplace complaint;

25 (b) If a workplace complaint is filed pursuant to Section 6 of this Act, the
26 confidentiality provisions of Section 6 of this Act and KRS 6.691 shall
27 apply. The commission may refer any evidence to the proper prosecutorial

1 authorities pursuant to KRS 6.691(6); or

2 (c) As provided in the summary statistical report required under subsection (14)
3 of this section.

4 (13) A legislator, legislative agent, or employee of the legislative branch of state
5 government shall not subject to reprisal any person who files a workplace
6 complaint of discrimination, harassment, or sexual harassment under this
7 section or use or threaten to use authority or influence that would discourage or
8 interfere with any workplace complaint made to the commission under this
9 section. Violation of this subsection shall be ethical misconduct.

10 (14) No later than August 1 of each year, the commission shall compile and publish
11 an annual summary statistical report of workplace complaints of discrimination,
12 harassment, or sexual harassment received during the previous fiscal year. The
13 summary statistical report shall be distributed to each member of the commission,
14 each member of the Legislative Research Commission, and the director of the
15 Legislative Research Commission. The summary statistical report shall include:

16 (a) A synopsis of each incident reported, including:

17 1. The date the initial workplace complaint was made;

18 2. The date each case was resolved; or

19 3. The date on which a workplace complaint was filed under subsection
20 (11) of this section, or under which a matter was referred under
21 subsection (12)(b) of this section;

22 (b) The status of each incident reported, if not resolved as of the date of
23 publication of the annual summary; and

24 (c) The total number of workplace complaints of discrimination, harassment,
25 or sexual harassment received, categorized by status of the case, and
26 method of resolution. No individually identifiable information shall be
27 included in the summary statistical report unless the commission previously

1 released the information subject to Section 6 of this Act or KRS 6.691.

2 (15) Nothing in this section shall preclude a legislator, legislative agent, or an
 3 employee of the legislative branch of state government from pursuing other
 4 methods of addressing alleged incidents of discrimination, harassment, or sexual
 5 harassment, including reporting incidents to management staff of the legislative
 6 branch of state government or of filing a complaint with the commission under
 7 Section 6 of this Act.

8 (16) Employees of the legislative branch of state government who report
 9 discrimination, harassment, or sexual harassment in the workplace may seek
 10 assistance from the Kentucky Employee Assistance Program established under
 11 KRS Chapter 18A or from private health professionals of their choice for matters
 12 related to workplace complaints.

13 ➔SECTION 4. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
 14 READ AS FOLLOWS:

15 If a provision of KRS 6.601 to 6.849 is designated as a misdemeanor or a felony, an
 16 alleged violation of the provision may be adjudicated by the commission as ethical
 17 misconduct.

18 ➔Section 5. KRS 6.661 is amended to read as follows:

19 (1) The commission may employ an executive director who shall serve at the pleasure
 20 of the commission.

21 (2) The executive director shall:

22 (a) Administer the daily business of the commission and perform the duties
 23 assigned by the commission; ~~and~~

24 (b) Employ and remove other personnel as necessary to carry out the provisions
 25 of this code; and

26 (c) Ensure that any person investigating or prosecuting discrimination,
 27 harassment, or sexual harassment workplace complaints, as provided in

1 **Section 3 of this Act, shall have sufficient training and experience in the**
 2 **conduct of workplace complaint investigations.**

3 (3) The commission shall fix the compensation of its staff, and the compensation shall
 4 be commensurate with that paid to executive branch officials with a similar level of
 5 responsibilities.

6 (4) The staff of the commission shall be exempt from the provisions of KRS 18A.005
 7 to 18A.202.

8 (5) A member of the staff of the commission during his **or her** term of employment
 9 shall be subject to the provisions of KRS 6.651~~(7)~~~~(8)~~.

10 ➔Section 6. KRS 6.686 is amended to read as follows:

11 (1) (a) The commission shall have jurisdiction to investigate and proceed as to any
 12 violation of this code upon the filing of a complaint. The complaint shall be a
 13 written statement alleging a violation against one (1) or more named persons and
 14 stating the essential facts constituting the violation charged. The complaint shall be
 15 made under oath and signed by the complaining party before a person who is legally
 16 empowered to administer oaths. **Except as provided in Sections 1 to 3 of this Act,**
 17 the commission shall have no jurisdiction in **the** absence of a complaint. A member
 18 of the commission may file a complaint.

19 (b) Within ten (10) days of the filing of a complaint, the commission shall cause a
 20 copy of the complaint to be served by certified mail upon the person alleged to
 21 have committed the violation.

22 (c) Within twenty (20) days of service of the complaint the person alleged to have
 23 committed the violation may file an answer with the commission. The filing
 24 of an answer is wholly permissive, and no inferences shall be drawn from the
 25 failure to file an answer.

26 (d) Not later than ten (10) days after the commission receives the answer, or the
 27 time expires for the filing of an answer, the commission shall initiate a

1 preliminary inquiry into any alleged violation of this code. **The commission**
 2 **may hold a teleconference meeting and, based upon the affirmative vote of**
 3 **at least five (5) members that the preliminary inquiry demonstrates**~~[If the~~
 4 ~~commission determines]~~ that the complaint fails to state a claim of an ethics
 5 violation, the complaint shall be dismissed.

6 (e) Within thirty (30) days of the commencement of the inquiry, the commission
 7 shall give notice of the status of the complaint and a general statement of the
 8 applicable law to the person alleged to have committed a violation.

9 **(f) A complaint may be filed against a former legislator, a former legislative**
 10 **agent, or former employer of a legislative agent within one (1) year of the**
 11 **date he or she left office or terminated lobbying registration, if the alleged**
 12 **violation occurred within one (1) year prior to the date he or she left office**
 13 **or terminated lobbying registration. These limitations of one (1) year do not**
 14 **apply if a complaint alleges a violation of KRS 6.757 or of Sections 1 to 3 of**
 15 **this Act. The commission may consider the dates of alleged violations of**
 16 **Sections 1 to 3 of this Act for purposes of determining whether conduct**
 17 **constitutes discrimination, harassment, or sexual harassment as defined in**
 18 **Section 2 of this Act. The applicable statutes of limitation shall not apply to**
 19 **ethical misconduct under KRS 6.601 to 6.849.**

20 (2) All commission proceedings, including the complaint and answer and other records
 21 relating to a preliminary inquiry, shall be confidential until a final determination is
 22 made by the commission, except:

23 (a) The commission may turn over to the Attorney General, the United States
 24 Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in
 25 which the offense allegedly occurred, evidence which may be used in criminal
 26 proceedings; ~~and]~~

27 (b) If the complainant or alleged violator publicly discloses the existence of a

1 preliminary inquiry, the commission may publicly confirm the existence of the
2 inquiry and, in its discretion, make public any documents which were issued
3 to either party; and

4 (c) If the complainant publicly discloses or comments on the complaint or
5 preliminary inquiry, the commission may dismiss the complaint without
6 prejudice during a meeting.

7 (3) The commission shall afford a person who is the subject of a preliminary inquiry an
8 opportunity to appear in response to the allegations in the complaint. The person
9 shall have the right to be represented by counsel, to appear and be heard under oath,
10 and to offer evidence in response to the allegations in the complaint.

11 (4) If the commission determines by the answer or in the preliminary inquiry that the
12 complaint does not allege facts sufficient to constitute a violation of this code, the
13 commission shall immediately terminate the matter and notify in writing the
14 complainant and the person alleged to have committed a violation. The commission
15 may confidentially inform the alleged violator of potential violations and provide
16 information to ensure future compliance with the law. If the alleged violator
17 publicly discloses the existence of such action by the commission, the commission
18 may confirm the existence of the action and, in its discretion, make public any
19 documents that were issued to the alleged violator.

20 (5) If the commission, during the course of the preliminary inquiry, finds probable
21 cause to believe that a violation of this code has occurred, the commission shall
22 notify the alleged violator of the finding, and the commission may, upon majority
23 vote:

24 (a) Due to mitigating circumstances such as lack of significant economic
25 advantage or gain by the alleged violator, lack of significant economic loss to
26 the state, or lack of significant impact on public confidence in government,
27 confidentially reprimand, in writing, the alleged violator for potential

1 violations of the law and provide a copy of the reprimand to the presiding
 2 officer of the house in which the alleged violator serves, or the alleged
 3 violator's employer, if the alleged violator is a legislative agent. The
 4 proceedings leading to a confidential reprimand and the reprimand itself shall
 5 remain confidential except that, if the alleged violator publicly discloses the
 6 existence of such an action, the commission may confirm the existence of the
 7 action and, in its discretion, make public any documents which were issued to
 8 the alleged violator; or

9 (b) Initiate an adjudicatory proceeding to determine whether there has been a
 10 violation.

11 (6) Any person who knowingly files with the commission a false complaint of
 12 misconduct on the part of any legislator or other person shall be guilty of a Class A
 13 misdemeanor.

14 ➔Section 7. KRS 6.701 is amended to read as follows:

15 (1) The commission shall establish and supervise a program of ethics education and
 16 training, including~~[-]~~ but not limited to:~~[-]~~

17 (a) Preparing and publishing an ethics education manual;~~[-]~~

18 (b) Designing and supervising orientation courses for new legislators;~~[-]~~ and

19 (c) Designing and supervising current issues seminars for legislators, and
 20 *employees of the legislative branch of state government.*

21 (2) The commission shall establish, supervise, and conduct a program of ethics
 22 education and training designed specifically for and made available to legislative
 23 agents.

24 ➔Section 8. KRS 6.716 is amended to read as follows:

25 (1) The commission shall design the general curriculum of a current issues seminar,
 26 which shall include, but not be limited to, discussion of changes in the ethics laws
 27 and administrative regulations, new advisory opinions, current ethical issues

1 confronting public servants, practical application of ethics laws and principles to
2 specific issues and situations, and development of problem-solving skills. The
3 commission shall prepare the methods and materials necessary to implement the
4 curriculum.

5 (2) The commission shall:

6 (a) Administer the current issues seminars for legislators and employees of the
7 legislative branch of state government;

8 (b) Designate instructors to conduct their current issues courses who shall be
9 trained by the commission; and

10 (c) Notify legislators regarding attendance in these seminars.

11 (3) The current issues seminars for legislators shall be conducted in January of each
12 year. Each course shall be at least two (2)~~three (3)~~ hours in length and shall be
13 designed for approval by the Kentucky Bar Association for continuing legal
14 education ~~[ethics]~~ credits which the bar association may require.

15 (4) To facilitate participant interaction, those portions of the seminars dedicated to
16 group participation may be closed to the public.

17 (5) Each legislator, after completion of an orientation training course, shall complete
18 one (1) current issues seminar annually.

19 ➔Section 9. KRS 6.787 is amended to read as follows:

20 (1) The statement of financial interests required by KRS 6.781 shall be filed on a form
21 prescribed by the commission. The commission shall provide copies of the form
22 without charge to any person required to file.

23 (2) The statement shall include the following information for the preceding calendar
24 year:

25 (a) Name, business address, business telephone number, and home address of the
26 filer;

27 (b) Title of the filer's public position or office sought;

- 1 (c) Any other occupations of filer and spouse;
- 2 (d) Positions held by the filer or his or her spouse in any business, partnership,
3 corporation for profit, or corporation not for profit from which the filer
4 receives compensation, and the name of that business, partnership, or
5 corporation;
- 6 (e) Names and addresses of all businesses, investments, or securities in which the
7 filer, his or her spouse, or children has or had at any time during the preceding
8 year an interest of ten thousand dollars (\$10,000) at fair market value or five
9 percent (5%) ownership interest or more;
- 10 (f) Sources of gross income of the filer and his or her spouse, information
11 concerning the source, and the form of the income;
- 12 (g) All positions of a fiduciary nature in a business;
- 13 (h) A designation as commercial, residential, or rural, and the location of all real
14 property, other than the filer's primary residence, in which there is an interest
15 of ten thousand dollars (\$10,000) or more held by the filer, his or her spouse,
16 or children;
- 17 (i) Sources of gifts of money or property with a retail value of more than two
18 hundred dollars (\$200) to the filer or the filer's immediate family, except those
19 from a member of the filer's family;
- 20 (j) Information regarding all out-of-state travel associated with the
21 performance of legislative duties, including the dates of each trip, travel
22 destination, the name of any person or organization who paid for
23 transportation, food, lodging, or other travel expenses, and the value of the
24 travel expenses paid by each person or organization;
- 25 (k) The name of any creditor owed more than ten thousand dollars (\$10,000),
26 except debts arising from the purchase of consumer goods. As used in this
27 paragraph, the term "consumer goods" has the same meaning as in KRS

1 355.9-102;

2 ~~(l)~~~~(k)~~ The name of any legislative agent who is:

- 3 1. A member of the filer's immediate family;
- 4 2. A partner of the filer, or a partner of a member of the filer's immediate
- 5 family;
- 6 3. An officer or director of the filer's employer;
- 7 4. An employer of the filer or an employer of a member of the filer's
- 8 immediate family; or
- 9 5. A business associate of the filer or a business associate of a member of
- 10 the filer's immediate family;

11 ~~(m)~~~~(l)~~ The names of any of the filer's clients who are legislative agents or

12 employers; and

13 ~~(n)~~~~(m)~~ An answer to the question, "If you have held a professional license

14 during the filing period, has a properly licensed partner of yours engaged in

15 the practice of cases or other matters which you are prohibited from practicing

16 under KRS 6.744?" If the filer responds affirmatively, he shall also list the

17 names of the clients represented and list the agencies before which the partner

18 made an appearance. These lists shall be separate and need not identify which

19 client was represented before a specific agency.

20 (3) Paragraphs (a) to ~~(k)~~~~(j)~~ of subsection (2) of this section shall not require disclosure

21 of specific dollar amounts. Paragraph (f) shall not require the disclosure of the

22 names of clients or customers of business entities listed as sources of income.

23 ➔Section 10. KRS 7.101 is amended to read as follows:

24 The Legislative Research Commission shall require all members of the General Assembly

25 to attend a sexual and workplace harassment training course to be held at the beginning of

26 each session of the General Assembly. **The Legislative Research Commission shall**

27 **coordinate the development and presentation of the training course, with the assistance**

1 *of the Legislative Ethics Commission.*