

By: Thompson of Harris, Collier, Harless

H.B. No. 1151

A BILL TO BE ENTITLED

AN ACT

relating to sexual harassment protection for unpaid interns.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 21, Labor Code, is amended by adding Section 21.1065 to read as follows:

Sec. 21.1065. SEXUAL HARASSMENT PROTECTIONS FOR UNPAID INTERNS. (a) In this section, "sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

(1) submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;

(2) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;

(3) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or

(4) the advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

(b) An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:

1 (1) know or should have known that the conduct
2 constituting sexual harassment was occurring; and

3 (2) fail to take immediate and appropriate corrective
4 action.

5 (c) In this section, an individual is considered to be an
6 unpaid intern of an employer if:

7 (1) the individual's internship, even though it
8 includes engagement in the employer's operations or the performance
9 of productive work for the employer, is similar to training that
10 would be given in an educational environment;

11 (2) the individual's internship experience is for the
12 individual's benefit;

13 (3) the individual does not displace the employer's
14 regular employees but works under close supervision of the
15 employer's existing staff;

16 (4) the employer does not derive any immediate
17 advantage from the individual's internship activities and on
18 occasion the employer's operations may be impeded by those
19 activities;

20 (5) the individual is not entitled to a job at the
21 conclusion of the internship; and

22 (6) the individual is not entitled to wages for the
23 time spent in the internship.

24 SECTION 2. The change in law made by this Act applies only
25 to a claim of discrimination based on conduct that occurs on or
26 after the effective date of this Act. A claim of discrimination
27 that is based on conduct that occurs before the effective date of

1 this Act is governed by the law in effect on the date the conduct
2 occurred, and the former law is continued in effect for that
3 purpose.

4 SECTION 3. This Act takes effect September 1, 2015.