

By: Zaffirini

S.B. No. 46

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition against sexual harassment in the workplace.

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

SECTION 1. Chapter 21, Labor Code, is amended by adding Subchapter C-1, and a heading is added to that subchapter to read as follows:

SUBCHAPTER C-1. SEXUAL HARASSMENT

SECTION 2. Section 21.1065, Labor Code, is transferred to Subchapter C-1, Chapter 21, Labor Code, as added by this Act, redesignated as Sections 21.141, 21.142, and 21.143, Labor Code, and amended to read as follows:

Sec. 21.141. DEFINITIONS. [~~21.1065. SEXUAL HARASSMENT PROTECTIONS FOR UNPAID INTERNS. (a)~~] In this subchapter:

(1) "Employer" means a person who:

(A) employs one or more employees; or

(B) acts directly or indirectly in the interests of an employer in relation to an employee.

(2) "Sexual [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:

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

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

4            (C) [~~(3)~~] the advance, request, or conduct has  
5 the purpose or effect of unreasonably interfering with an  
6 individual's work performance [~~at the individual's internship~~]; or

7            (D) [~~(4)~~] the advance, request, or conduct has  
8 the purpose or effect of creating an intimidating, hostile, or  
9 offensive working environment.

10            Sec. 21.142. UNLAWFUL EMPLOYMENT PRACTICE. [~~(b)~~] An

11 employer commits an unlawful employment practice if sexual  
12 harassment of an employee or unpaid intern occurs and the employer  
13 or the employer's agents or supervisors:

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

16            (2) fail to take immediate and appropriate corrective  
17 action.

18            Sec. 21.143. UNPAID INTERNS. [~~(c)~~] In this subchapter

19 [~~section~~], an individual is considered to be an unpaid intern of an  
20 employer if:

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

25            (2) the individual's internship experience is for the  
26 individual's benefit;

27            (3) the individual does not displace the employer's

1 regular employees but works under close supervision of the  
2 employer's existing staff;

3           (4) the employer does not derive any immediate  
4 advantage from the individual's internship activities and on  
5 occasion the employer's operations may be impeded by those  
6 activities;

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

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

11           SECTION 3. The change in law made by this Act applies only  
12 to a claim based on conduct that occurs on or after the effective  
13 date of this Act. A claim that is based on conduct that occurs  
14 before the effective date of this Act is governed by the law in  
15 effect on the date the conduct occurred, and the former law is  
16 continued in effect for that purpose.

17           SECTION 4. This Act takes effect September 1, 2019.