

**SENATE, No. 3077**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED OCTOBER 22, 2020

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Pou, Gill and Ruiz**

**SYNOPSIS**

Requires revision of State Legislature's anti-harassment policy; specifies investigation of discrimination and harassment complaint process.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/17/2020)**

1 AN ACT concerning the Legislature's anti-harassment policy and  
2 amending and supplementing P.L.2019, c.475 (C.52:11-85).

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.2019, c.475 (C.52:11-85) is amended to read  
8 as follows:

9 1. a. Each House of the Legislature and the Office of  
10 Legislative Services shall adopt and maintain a policy that:  
11 prohibits sexual harassment by members, officers, and employees of  
12 the Legislature, and third parties; requires compliance with the  
13 policy; requires that appropriate measures be taken to ensure that  
14 prohibited conduct does not occur; and provides procedures for the  
15 reporting, investigation, final determination, remediation, and  
16 discipline of prohibited conduct. The policy shall include  
17 provisions regarding confidentiality, retaliation, conflict of interest,  
18 and false accusations. The conflict of interest provision shall, at a  
19 minimum, describe the procedure pursuant to which a supervisor or  
20 investigating officer or other individual who would participate in  
21 any investigation of a sexual harassment complaint shall recuse  
22 himself or herself due to a conflict of interest.

23 The policy shall be adopted in any manner deemed appropriate  
24 by the presiding officer of each House and the executive director of  
25 the Office of Legislative Services, as appropriate.

26 The policy, whether a separate policy adopted independently by  
27 each House and the Office of Legislative Services, or as one policy  
28 adopted jointly thereby, shall apply to all members of the  
29 Legislature, and all officers and employees, including supervisors  
30 and managers, of the partisan staff offices, district offices, Office of  
31 Legislative Services, Office of Clerk of the General Assembly, and  
32 Office of the Secretary of the Senate, as appropriate, and third  
33 parties. The policy adopted by the Office of Legislative Services  
34 shall apply to any agency, board, bureau, or commission within or  
35 created by the Legislative Branch.

36 For the purposes of this section and section 2 of P.L. , c. (C. )  
37 (pending before the Legislature of this bill), "third parties" means  
38 any intern, volunteer, lobbyist, governmental affairs agent,  
39 newspersons, and members of the public who have business at the  
40 State capitol or who are doing business with the New Jersey  
41 Legislature.

42 b. The policy shall be distributed to all members, officers,  
43 interns, volunteers, and employees to whom it applies. Initially, the  
44 policy shall be distributed to current members, officers, interns,  
45 volunteers, and employees within 60 calendar days of the effective

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 date of this section, unless a policy that conforms with subsection a.  
2 of this section was distributed within 180 days preceding enactment  
3 of this act, P.L.2019, c.475. Thereafter, the policy shall be  
4 distributed to a member, officer, intern, volunteer, or employee  
5 within five business days of taking office, commencing intern or  
6 volunteer activities, or commencing employment. Any member,  
7 officer, intern, volunteer, or employee to whom the policy is  
8 distributed shall acknowledge receipt thereof in writing to the  
9 presiding officer of each House or to the executive director of the  
10 Office of Legislative Services, as appropriate, or a designee thereof,  
11 within 10 business days of receipt.

12 c. The policy shall be reviewed at least once every two years.  
13 Modifications shall be adopted in the same manner as provided for  
14 the adoption of the policy. The policy as modified shall be  
15 distributed to all members, officers, interns, volunteers, and  
16 employees to whom it applies within 30 calendar days of  
17 modification. Members, officers, interns, volunteers, and  
18 employees shall acknowledge in writing to the presiding officer of  
19 each House or to the executive director of the Office of Legislative  
20 Services, as appropriate, or a designee thereof, the receipt of the  
21 modified policy within 10 business days of receipt.

22 d. The director of human resources of the Office of Legislative  
23 Services shall prepare and maintain an online training program on  
24 any policy adopted. Each member, officer, intern, volunteer, and  
25 employee to whom the policy applies shall complete the online or  
26 another approved training program, as determined by the presiding  
27 officer of each House and by the executive director of the Office of  
28 Legislative Services, as appropriate, **[no less than once]** no later  
29 than 30 calendar days after the member, officer, intern, volunteer,  
30 or employee's appointment date and at least once every two years,  
31 thereafter, and shall submit a certification denoting completion  
32 thereof. A member of the Legislature shall submit the certification  
33 of completion for the member and the member's district office staff  
34 to the executive director, or a designee thereof, in the partisan staff  
35 office of the member's House and political party. Officers, interns,  
36 volunteers, and employees of a partisan staff office shall submit the  
37 certification of completion to the executive director of that office,  
38 or a designee thereof. Officers, interns, volunteers, and employees  
39 of the Secretary of the Senate and of the Clerk of the General  
40 Assembly shall submit the certification of completion to the  
41 Secretary and Clerk, as appropriate. Officers, interns, volunteers,  
42 and employees of the Office of Legislative Services shall submit the  
43 certification of completion to the director of human resources of  
44 that office. Members, officers, interns, volunteers, and employees  
45 of any agency, board, bureau, or commission within or created by  
46 the Legislative Branch for whom a person has not already been  
47 designated to receive the certification of completion pursuant to this

1 subsection shall submit the certification to the director of human  
2 resources of the Office of Legislative Services.

3 All certifications of completion shall be public information.

4 e. The Office of Legislative Services shall publish any adopted  
5 policy on the official website of the Legislature, along with the  
6 contact information for its human resources office.

7 (cf: P.L.2019, c.475, s.1)

8

9 2. (New section) a. Any members, officers, and employees of  
10 the Legislature, and third parties who has been subjected to any  
11 form of prohibited discrimination or harassment, including sexual  
12 harassment, or who witnesses others being subjected to such  
13 discrimination or harassment, may promptly report the incident to a  
14 supervisor or directly to the presiding officer of the House or the  
15 executive director of the Office of Legislative Services. If a  
16 discrimination or harassment complaint is reported to a supervisor,  
17 the presiding officer of the House, or the executive director of the  
18 Office of Legislative Services, the complaint shall be submitted to  
19 the investigating officer or the director of human resources in the  
20 Office of Legislative Services, as appropriate. A person who  
21 wishes to take action about prohibited discrimination or harassment  
22 may file a criminal complaint with the law enforcement agency of  
23 the municipality where the incident occurred. A person may make  
24 both a report to a law enforcement agency and a report to the  
25 individual's supervisor, the presiding officer of the House, or the  
26 executive director of the Office of Legislative Services.

27 Nothing in this section shall prevent any members, officers, and  
28 employees of the Legislature, or third parties from filing a  
29 complaint directly with external agencies that investigate  
30 discrimination or harassment complaints, including, but not limited  
31 to, the New Jersey Division on Civil Rights, the United States Equal  
32 Employment Opportunity Commission, or any court of this State.

33 Upon the receipt of a discrimination or harassment complaint,  
34 the investigating officer or the director of human resources of the  
35 Office of Legislative Services, as appropriate, shall provide a  
36 written copy of the Legislature's anti-harassment policy to the  
37 complainant, including any additional information and options  
38 available to individuals who have experienced discrimination or  
39 harassment. Any complainant to whom the written copy of the  
40 Legislature's anti-harassment policy is distributed to, including any  
41 additional information on options available to the complainant,  
42 shall acknowledge receipt thereof in writing to the investigating  
43 officer or the director of human resources of the Office of  
44 Legislative Services, as appropriate, within 10 business days of  
45 receipt.

46 b. Each House of the Legislature and the Office of Legislative  
47 Services shall investigate all reasonable and good faith complaints  
48 that implicate the policy adopted and maintained pursuant to section

1 1 of P.L.2019, c. 475 (C.52:11-85). All members, officers, and  
2 employees of the Legislature, or third parties shall cooperate with  
3 investigations undertaken pursuant to this act. Failure to cooperate  
4 in an investigation may result in administrative and disciplinary  
5 action, up to and including the termination of employment. A  
6 complainant may withdraw from a discrimination or harassment  
7 complaint at any time and shall not face any disciplinary actions for  
8 that withdrawal.

9 All persons interviewed, including complainants and witnesses,  
10 shall be asked to use discretion in communicating any aspect of the  
11 investigation to avoid interfering with the investigation. All  
12 complainants shall be permitted to be accompanied by a support  
13 person or advisor of their choice to any meeting or interview that is  
14 conducted under the policy. A support person or advisor shall not  
15 represent a complainant in a meeting or interview or otherwise  
16 interfere in the investigation process.

17 Nothing in this subsection shall be interpreted as imposing any  
18 restriction upon the rights of any member, officer, employee, or  
19 third parties under State or federal law, including their right of free  
20 speech or to communicate any allegations to another person.

21 c. When the investigating officer or the director of human  
22 resources of the Office of Legislative Services, as appropriate, finds  
23 that a violation of the policy has occurred, the presiding officer of  
24 the House or the executive director of the Office of Legislative  
25 Services shall take prompt and corrective action to stop the  
26 behavior and deter its reoccurrence. The presiding officer of the  
27 House or the executive director of the Office of Legislative Services  
28 shall have the authority to take such action before a final  
29 determination has been made regarding whether a violation of the  
30 policy has occurred. The corrective action taken may include  
31 counseling, training, intervention, mediation, the separation of  
32 persons involved, the initiation of disciplinary action up to and  
33 including the termination of employment, or the involvement of law  
34 enforcement, when appropriate, for instances involving bodily harm  
35 or serious bodily harm. Any corrective action that requires the  
36 participation of the complainant shall not be implemented without  
37 the consent of that complainant. The case may also be referred to  
38 any other appropriate authority for review for possible violations of  
39 State and federal statutes.

40 d. The investigation of a discrimination or harassment,  
41 including sexual harassment, complaint shall be completed and a  
42 final letter of determination shall be issued as soon as practicable,  
43 but no later than 60 days following the initial intake of the  
44 complaint is completed. The policy shall require the investigating  
45 officer or the director of human resources of the Office of  
46 Legislative Services, as appropriate, to make a final determination  
47 based on the investigation and notify the respective parties and the  
48 presiding officer of the House or the executive director of the

1 Office of Legislative Services. The presiding officer of the House  
2 or the executive director of the Office of Legislative Services, a  
3 member of the Legislature, or a supervisor shall promptly carry out  
4 the appropriate disciplinary action as recommended by the  
5 investigating officer or the director of human resources and confirm  
6 the action to the investigating officer or the director of human  
7 resources, in writing, to document these actions.

8 If any third parties, as defined in section 1 of P.L.2019, c.475  
9 (C.52:11-85), are found to have violated the policy, the presiding  
10 officer of the House or the executive director of the Office of  
11 Legislative Services shall take other appropriate actions, including  
12 the provision of notice to the persons employer and prohibiting the  
13 person from the workplace or worksite.

14 e. The presiding officer of the House or the executive director  
15 of the Office of Legislative Services shall notify in writing any  
16 member, officer, employee, or third parties who has signed or signs  
17 confidentiality forms related to, or as a party to a contract or  
18 settlement agreement which has the purpose or effect of concealing  
19 the details relating to a claim of discrimination or harassment,  
20 including sexual harassment, or retaliation that such forms,  
21 contracts, and agreements are deemed to be against public policy  
22 and unenforceable pursuant to sections 1 and 2 of P.L.2019, c.39  
23 (C.10:5-12.7 and C.10:45-12.8).

24 f. The Legislature shall issue an annual report, which shall  
25 include, but need not be limited to, information on the total number  
26 of discrimination or harassment complaints filed at the Legislature,  
27 the number of complaints that were substantiated, the number of  
28 disciplinary or corrective actions taken, and the number of  
29 complaints that resulted in any legal actions against Legislature.  
30 The Legislature shall make the report available to the public  
31 through the Internet site of that State agency.

32 g. Notwithstanding the provision of P.L.1963, c.73 (C.47:1A-1  
33 et seq.), commonly known as the open public records act,  
34 investigatory reports shall be public information with the consent of  
35 the complainant and shall apply retroactively to all complaints  
36 reported and investigated prior to the effective date of this act,  
37 P.L. , c. (C. ) (pending before the Legislature of this bill).

38  
39 3. This act shall take effect 30 days following the date of  
40 enactment.

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#### STATEMENT

44

45 This bill requires a revision of the New Jersey Legislature's anti-  
46 harassment policy. The bill also clarifies that interns and volunteers  
47 and other third parties are subject to the policy.

1 Under the bill, any members, officers, and employees of the  
2 Legislature, and third parties who has been subjected to any form of  
3 prohibited discrimination or harassment, including sexual  
4 harassment, or who witnesses others being subjected to such  
5 discrimination or harassment, may promptly report the incident to a  
6 supervisor or directly to the presiding officer of the House or the  
7 executive director of the Office of Legislative Services (OLS).  
8 Nothing in the bill would prevent any members, officers, and  
9 employees of the Legislature, or third parties from filing a  
10 complaint directly with external agencies that investigate  
11 discrimination or harassment complaints, including, but not limited  
12 to, the New Jersey Division on Civil Rights, the United States Equal  
13 Employment Opportunity Commission, or any court of this State.

14 The bill also requires each House of the Legislature and OLS to  
15 investigate all reasonable and good faith complaints that implicate  
16 the Legislature's anti-harassment policy. The bill requires, upon  
17 the receipt of a discrimination or harassment complaint, the  
18 investigating officer or the director of human resources of the  
19 Office of Legislative Services to provide a written copy of the  
20 Legislature's anti-harassment policy to the complainant, including  
21 any additional information and options available to individuals who  
22 have experienced discrimination or harassment.

23 All members, officers, and employees of the Legislature, or third  
24 parties are required to cooperate with investigations undertaken  
25 under the policy. All persons interviewed, including complainants  
26 and witnesses, are required to use discretion in communicating any  
27 aspect of the investigation to avoid interfering with the  
28 investigation. However, nothing in this bill would impose any  
29 restriction upon the rights of any member, officer, employee, or  
30 third parties under State or federal law, including their right of free  
31 speech or to communicate any allegations to another person.

32 The bill also permits all complainants to be accompanied by a  
33 support person or advisor of their choice to any meeting or  
34 interview that is conducted under the policy. Under the bill, a  
35 support person or advisor is prohibited from representing a  
36 complainant in a meeting or interview or otherwise interfere in the  
37 investigation process.

38 The bill would also require the presiding officer of the House or  
39 the executive director of OLS to take prompt and corrective action  
40 to stop any prohibited behavior and deter its reoccurrence once the  
41 investigating officer or the director of human resources of OLS  
42 finds that a violation of the policy has occurred. The presiding  
43 officer of the House or the executive director would have the  
44 authority to take such action before a final determination has been  
45 made regarding whether a violation of this bill has occurred. Under  
46 the bill, the corrective action taken may include counseling,  
47 training, intervention, mediation, the separation of persons  
48 involved, the initiation of disciplinary action up to and including the

1 termination of employment, or the involvement of law enforcement,  
2 when appropriate, for instances involving bodily harm or serious  
3 bodily harm. The bill also prohibits any corrective action that  
4 requires the participation of the complainant from being  
5 implemented without the consent of that complainant.

6 Under the bill, the investigation of a discrimination or  
7 harassment, including sexual harassment, complaint must be  
8 completed and a final letter of determination must be issued as soon  
9 as practicable, but no later than 60 days following the initial intake  
10 of the complaint is completed. The bill requires the investigating  
11 officer or the director of human resources of OLS, as appropriate, to  
12 make a final determination and notify the respective parties and  
13 presiding officer of the House or the executive director of OLS.  
14 This bill also requires the presiding officer of the House or the  
15 executive director of the OLS, a member of the Legislature, or a  
16 supervisor to promptly carry out the appropriate disciplinary action  
17 as recommended by the investigating officer or director of human  
18 resources and confirm the action to the director, in writing, to  
19 document these actions.

20 The bill also requires the presiding officer of the House or the  
21 executive director to notify in writing any member, officer,  
22 employee, or third parties who has signed or signs confidentiality  
23 forms related to, or as a party to a contract or settlement agreement  
24 which has the purpose or effect of concealing the details relating to  
25 a claim of discrimination or harassment, including sexual  
26 harassment, or retaliation that such forms, contracts, and  
27 agreements are deemed to be against public policy and  
28 unenforceable.