

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 or sexual harassment of any*
7 *legislator, legislative agent, or employee of the legislative branch of state*
8 *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 and 2 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 any person, or the aiding,*
17 *abetting, inciting, coercing, or compelling of the act or practice, that is unlawful*
18 *under KRS Chapter 344; and*

19 *(2) (a) "Sexual harassment" means any sexual advance, request for sexual favors,*
20 *or other verbal or physical conduct or communication of a sexual nature if:*

21 *1. Submission to the advances, requests, conduct, or communication is*
22 *an explicit or implicit term or condition of obtaining or retaining*
23 *employment;*

24 *2. Submission to or rejection of the advances, requests, conduct, or*
25 *communication affects decisions concerning a person's employment;*

26 *3. The conduct or communication has the purpose or effect of*
27 *unreasonably interfering with a person's ability to perform his or her*

1 job functions or of creating a hostile work environment; or
2 4. The conduct or communication is sexual harassment as described in
3 KRS Chapter 344, Title VII of the Civil Rights Act of 1964, state or
4 federal case law, or enforced in policy or regulation by the federal
5 Equal Employment Opportunity Commission or the Kentucky
6 Commission on Human Rights.

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

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

24 **(c) A single incident described in this subsection may constitute sexual**
25 **harassment, if it is linked to an employment benefit or is severe.**

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

1 *If a provision of KRS 6.601 to 6.849 is designated as a misdemeanor or a felony, an*
2 *alleged violation of the provision may be adjudicated by the commission as ethical*
3 *misconduct.*

4 →Section 4. KRS 6.686 is amended to read as follows:

5 (1) (a) The commission shall have jurisdiction to investigate and proceed as to any
6 violation of this code upon the filing of a complaint. The complaint shall be a
7 written statement alleging a violation against one (1) or more named persons
8 and stating the essential facts constituting the violation charged. The
9 complaint shall be made under oath and signed by the complaining party
10 before a person who is legally empowered to administer oaths. The
11 commission shall have no jurisdiction in the absence of a complaint. A
12 member of the commission may file a complaint.

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

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

20 (d) Not later than ten (10) days after the commission receives the answer, or the
21 time expires for the filing of an answer, the commission shall initiate a
22 preliminary inquiry into any alleged violation of this code. If the commission
23 determines upon the affirmative vote of at least five (5) members, at either a
24 regularly scheduled meeting, or a teleconference meeting called upon the
25 chair's oral or written notice to all members of the commission, that the
26 complaint fails to state a claim of an ethics violation, the complaint shall be
27 dismissed.

- 1 (e) Within thirty (30) days of the commencement of the inquiry, the commission
2 shall give notice of the status of the complaint and a general statement of the
3 applicable law to the person alleged to have committed a violation.
- 4 (f) A complaint may be filed against a former legislator, a former legislative
5 agent, or a former employer of a legislative agent within one (1) year of the
6 date he or she left office or terminated lobbying registration. The one (1) year
7 limitation shall not apply if a complaint alleges a violation of KRS 6.757.
- 8 (g) The applicable criminal statutes of limitation shall not apply to ethical
9 misconduct under KRS 6.601 to 6.849.
- 10 (2) All commission proceedings, including the complaint and answer and other records
11 relating to a preliminary inquiry, shall be confidential ~~until a final determination is~~
12 ~~made by the commission~~, except:
- 13 (a) The commission may turn over to the Attorney General, the United States
14 Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in
15 which the offense allegedly occurred, evidence which may be used in criminal
16 proceedings; ~~and~~
- 17 (b) If the complainant or alleged violator publicly discloses the existence of a
18 preliminary inquiry, the commission may publicly confirm the existence of the
19 inquiry and, in its discretion, make public any documents which were issued
20 to either party; and
- 21 (c) An allegation of discrimination or sexual harassment by an employee of the
22 legislative branch of state government shall be communicated by the
23 executive director of the commission or his or her designee to the chief
24 human resources officer of the Legislative Research Commission no later
25 than one (1) business day after receipt of the allegation. Any allegation or
26 complaint referred to or received by the Legislative Research Commission
27 from the commission or directly from an individual, and any records related

1 *to an inquiry into the allegation or complaint, shall be confidential.*

- 2 (3) The commission shall afford a person who is the subject of a preliminary inquiry an
3 opportunity to appear in response to the allegations in the complaint. The person
4 shall have the right to be represented by counsel, to appear and be heard under oath,
5 and to offer evidence in response to the allegations in the complaint.
- 6 (4) If the commission determines by the answer or in the preliminary inquiry that the
7 complaint does not allege facts sufficient to constitute a violation of this code, the
8 commission shall immediately terminate the matter and notify in writing the
9 complainant and the person alleged to have committed a violation. The commission
10 may confidentially inform the alleged violator of potential violations and provide
11 information to ensure future compliance with the law. If the alleged violator
12 publicly discloses the existence of such action by the commission, the commission
13 may confirm the existence of the action and, in its discretion, make public any
14 documents that were issued to the alleged violator.
- 15 (5) If the commission, during the course of the preliminary inquiry, finds probable
16 cause to believe that a violation of this code has occurred, the commission shall
17 notify the alleged violator of the finding, and the commission may, upon majority
18 vote:
- 19 (a) Due to mitigating circumstances such as lack of significant economic
20 advantage or gain by the alleged violator, lack of significant economic loss to
21 the state, or lack of significant impact on public confidence in government,
22 confidentially reprimand, in writing, the alleged violator for potential
23 violations of the law and provide a copy of the reprimand to the presiding
24 officer of the house in which the alleged violator serves, or the alleged
25 violator's employer, if the alleged violator is a legislative agent. The
26 proceedings leading to a confidential reprimand and the reprimand itself shall
27 remain confidential except that, if the alleged violator publicly discloses the

1 existence of such an action, the commission may confirm the existence of the
2 action and, in its discretion, make public any documents which were issued to
3 the alleged violator; or

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

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

9 **(7) Notwithstanding any other provision of KRS 61.805 to 61.850 or 61.870 to**
10 **61.884, proceedings conducted and documents created by the commission or the**
11 **Legislative Research Commission under or related to this section or Sections 1 or**
12 **2 of this Act shall be confidential.**

13 ➔Section 5. KRS 6.716 is amended to read as follows:

14 (1) The commission shall design the general curriculum of a current issues seminar,
15 which shall include, but not be limited to, discussion of changes in the ethics laws
16 and administrative regulations, new advisory opinions, current ethical issues
17 confronting public servants, practical application of ethics laws and principles to
18 specific issues and situations, and development of problem-solving skills. The
19 commission shall prepare the methods and materials necessary to implement the
20 curriculum.

21 (2) The commission shall:

22 (a) Administer the current issues seminars for legislators and training for
23 employees of the legislative branch of state government;

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

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

27 (3) The current issues seminars for legislators shall be conducted in January of each

1 year. Each course shall be at least two (2) hours in length and shall be designed for
2 approval by the Kentucky Bar Association for continuing legal education~~[-ethics]~~
3 credits which the bar association may require.

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

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