

**HOUSE . . . . . No. 1935**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Christine P. Barber***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to require policies and training to prevent unlawful harassment, including sexual harassment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/29/2021</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>2/24/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/26/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/26/2021</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>3/16/2021</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/16/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>3/18/2021</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>3/18/2021</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/18/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>3/18/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>3/25/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>4/1/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>4/8/2021</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>4/8/2021</i>

**HOUSE . . . . . No. 1935**

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By Ms. Barber of Somerville, a petition (accompanied by bill, House, No. 1935) of Christine P. Barber and others for legislation to require employer policies and training to prevent unlawful harassment, including sexual harassment. Labor and Workforce Development.

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**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
\_\_\_\_\_

An Act to require policies and training to prevent unlawful harassment, including sexual harassment.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 151B, Section 3A of the General Laws, as appearing in the 2016  
2 Official Edition, is hereby amended by substituting the following section:

3 Section 3A: Employers' policies against harassment; preparation of model policy;  
4 education and training programs

5 (a) All employers, employment agencies and labor organizations shall promote a  
6 workplace free of all forms of unlawful harassment including sexual harassment.

7 (b) Every employer shall:

8 (1) adopt a policy against unlawful harassment including sexual harassment which shall  
9 include:

10 (i) a statement that all forms of unlawful harassment including sexual harassment in the  
11 workplace is unlawful and will not be tolerated, that explains that it is unlawful for a person to be  
12 subject to harassment because of the person's sex or any other characteristic protected by section  
13 4 of this chapter;

14 (ii) a statement that it is unlawful to retaliate against an employee for filing a complaint  
15 of unlawful harassment, including sexual harassment, or for cooperating in an investigation of a  
16 complaint for harassment;

17 (iii) a description and examples of unlawful harassment, including sexual harassment;

18 (iv) a statement of the range of consequences for employees who are found to have  
19 committed unlawful harassment or sexual harassment;

20 (v) a description of the process for filing internal complaints about harassment and the  
21 work addresses and telephone numbers of the person or persons to whom complaints should be  
22 made; and

23 (vi) the identity of the appropriate state and federal employment discrimination  
24 enforcement agencies, and directions as to how to contact such agencies.

25 (2) provide annually to all employees an individual written copy of the employer's policy  
26 against unlawful harassment; provided, however, that a new employee shall be provided such a  
27 copy at the time of hire.

28 (c) The commission shall prepare and provide to employers subject to this section a  
29 model policy and poster consistent with federal and state statutes and regulations, which may be  
30 used by employers for the purposes of this section.

31 (d) An employer's failure to provide the information required to be provided by this  
32 section shall not, in and of itself, result in the liability of said employer to any current or former  
33 employee or applicant in any action alleging unlawful harassment. An employer's compliance  
34 with the notice requirements of this section shall not, in and of itself, protect the employer from  
35 liability for unlawful harassment of any current or former employee or applicant.

36 (e) Employers and labor organizations are required to provide employees with training to  
37 prevent unlawful harassment including sexual harassment within six months after the employee  
38 is hired, and on an annual basis thereafter. An employer that does not use the model training  
39 developed by the Massachusetts commission against discrimination must ensure that the training  
40 that they use meets or exceeds the following minimum standards.

41 The training must:(1) be focused on compliance with the legal requirements of  
42 employment non-discrimination law and on preventing unlawful harassment, including sexual  
43 harassment in the workplace;

44 (2) be interactive meaning that it must be participatory though participation can be  
45 remote; for employers with 50 or more employees it must be conducted by qualified, live,  
46 interactive trainers, where participants can ask questions, and for employers with less than 50  
47 employees, it can be on-line, video-based as long as it has an interactive component;

48 (3) for employers with 50 or more employees, it must be tailored to the specific type of  
49 workplace, using examples and scenarios related to that workplace;

50 (4) be a minimum of two hours;

51 (5) include an explanation of unlawful harassment consistent with guidance issued by the  
52 Massachusetts commission against discrimination;

53 (6) include examples of conduct that would constitute unlawful harassment, including  
54 sexual harassment as well as conduct that, if left unchecked, might rise to the level of unlawful  
55 harassment;

56 (7) include examples of conduct that would constitute unlawful retaliation;

57 (8) include the consequences of engaging in conduct that is unacceptable in the  
58 workplace, including that corrective action will be proportionate to the severity of the conduct;

59 (9) include information concerning the federal and state statutory provisions concerning  
60 unlawful harassment, including sexual harassment, and remedies available to victims of  
61 harassment;

62 (10) include bystander intervention training to enable bystanders to recognize potentially  
63 problematic behaviors, to provide bystanders with skills to intervene as appropriate, and to  
64 explain how an employee who witnesses potentially harassing behavior can report that  
65 information;

66 (11) include training that is geared toward preventing unlawful harassment, including  
67 sexual harassment before it happens, such as training that promotes a respectful workplace;

68 (12) include information concerning employees' rights of redress internally and  
69 externally and all available forums for adjudicating complaints;

70 (13) include the specific responsibilities of supervisory and managerial employees  
71 regarding prohibitions of harassment and the methods that such employees should take to ensure

72 immediate and appropriate corrective action in addressing harassment complaints and in ending  
73 any ongoing unlawful harassment including sexual harassment;

74 (14) include the specific responsibilities of supervisory and managerial employees  
75 regarding prohibitions against retaliation and addressing complaints of retaliation; and

76 (15) include a climate survey (in a form provided by the commission or consistent with  
77 the commission's model form) for employers with 50 or more employees, which must be  
78 completed every five years to identify risk factors and ongoing problems, and gauge the  
79 effectiveness of the employer's anti-harassment and sexual harassment prevention training.

80 Each employee must receive training on an annual basis, starting January 1, 2023. An  
81 employer's or labor organization's compliance with the training requirements of this section  
82 shall not, in and of itself, protect the employer or labor organization from liability for unlawful  
83 harassment of any current or former employee or applicant. All employers shall keep a record of  
84 their employees' completion of all trainings required by this subsection (e). Such records may be  
85 electronic. Employers shall maintain such records for at least 3 years and must be made available  
86 to the Attorney General or the Massachusetts Commission Against Discrimination.

87 (f) Employers and labor organizations are required annually to file a certification  
88 statement with the Attorney General and signed by the chief executive, president, general  
89 counsel or other senior executive certifying that all employees have received anti-harassment  
90 training, including sexual harassment prevention training during the previous year. The Attorney  
91 General shall conduct audits of employers' and labor organizations' certification statements to  
92 ensure compliance with the training requirements of this statute.