

116TH CONGRESS  
1ST SESSION

# S. 575

To deter, prevent, reduce, and respond to harassment in the workplace, including sexual harassment, sexual assault, and harassment based on protected categories.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2019

Ms. HARRIS (for herself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To deter, prevent, reduce, and respond to harassment in the workplace, including sexual harassment, sexual assault, and harassment based on protected categories.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending the Monopoly  
5 of Power Over Workplace harassment through Education  
6 and Reporting Act—Part 1” or the “EMPOWER Act—  
7 Part 1”.

1 **SEC. 2. PURPOSE AND AUTHORITY.**

2 It is the purpose of this Act, through the exercise by  
3 Congress of its power to regulate commerce among the  
4 several States, to deter, prevent, reduce, and respond to  
5 harassment in the workplace, including sexual harass-  
6 ment, sexual assault, and harassment based on other pro-  
7 tected categories.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) **APPLICANT.**—The term “applicant” means  
11 an applicant for employment as an employee, inde-  
12 pendent contractor, or outside worker.

13 (2) **CHARGE OF DISCRIMINATION.**—The term  
14 “Charge of Discrimination” means a charge of dis-  
15 crimination filed pursuant to section 706 of the Civil  
16 Rights Act of 1964 (42 U.S.C. 2000e–5).

17 (3) **COMMISSION.**—The term “Commission”  
18 means the Equal Employment Opportunity Commis-  
19 sion.

20 (4) **EMPLOYEE.**—The term “employee”  
21 means—

22 (A) an individual employed by an employer  
23 described in paragraph (5), including an outside  
24 worker in such individual’s office or place of  
25 employment;

1 (B) an employee to which section 703,  
2 704, or 717(a) of the Civil Rights Act of 1964  
3 (42 U.S.C. 2000e-2; 2000e-3; 2000e-16(a))  
4 applies, including an outside worker in such an  
5 employee's office or place of employment;

6 (C) a State employee to which section  
7 302(a)(1) of the Government Employee Rights  
8 Act of 1991 (42 U.S.C. 2000e-16b(a)(1)) ap-  
9 plies, including an outside worker in such a  
10 State employee's office or place of employment;  
11 or

12 (D) a covered employee, as defined in sec-  
13 tion 101 of the Congressional Accountability  
14 Act of 1995 (2 U.S.C. 1301) or section 411(c)  
15 of title 3, United States Code, including an out-  
16 side worker in such a covered employee's office  
17 or place of employment.

18 (5) EMPLOYER.—The term “employer”  
19 means—

20 (A) a person engaged in an industry affect-  
21 ing commerce, and any agent of such a person;

22 (B) an entity to which section 703, 704, or  
23 717(a) of the Civil Rights Act of 1964 applies;

1 (C) an employing authority to which sec-  
2 tion 302(a)(1) of the Government Employee  
3 Rights Act of 1991 applies; or

4 (D) an employing office, as defined in sec-  
5 tion 101 of the Congressional Accountability  
6 Act of 1995 or section 411(c) of title 3, United  
7 States Code.

8 (6) FAIR EMPLOYMENT PRACTICES AGEN-  
9 CIES.—The term “fair employment practices agen-  
10 cies” means State and local agencies with the au-  
11 thority to enforce laws or regulations to prohibit dis-  
12 crimination in employment.

13 (7) INDEPENDENT CONTRACTOR.—The term  
14 “independent contractor” means an individual who,  
15 with respect to an employer, is a contractor based on  
16 the common law of agency.

17 (8) LAW ENFORCEMENT AGENCY.—The term  
18 “law enforcement agency” means a government  
19 agency with criminal or civil law enforcement pow-  
20 ers, which may include a government agency with  
21 regulatory or licensing authority.

22 (9) NONDISCLOSURE CLAUSE.—The term “non-  
23 disclosure clause” means a provision in a contract or  
24 agreement establishing that the parties to the con-  
25 tract or agreement agree not to disclose information

1 covered by the terms and conditions of the contract  
2 or agreement.

3 (10) NONDISPARAGEMENT CLAUSE.—The term  
4 “nondisparagement clause” means a provision in a  
5 contract or agreement requiring one or more parties  
6 to the contract or agreement not to make negative  
7 statements about the other.

8 (11) OUTSIDE WORKER.—The term “outside  
9 worker” means—

10 (A) a temporary worker hired through an  
11 employment agency (as defined in section 701  
12 of the Civil Rights Act of 1964 (42 U.S.C.  
13 2000e)) to provide services to an employer pur-  
14 suant to an agreement between the employment  
15 agency and the employer;

16 (B) an independent contractor for an em-  
17 ployer or a subcontractor thereof; or

18 (C) an intern or volunteer, whether paid or  
19 unpaid, for an employer.

20 (12) SEXUAL ASSAULT.—The term “sexual as-  
21 sault” means any nonconsensual sexual act pro-  
22 scribed by Federal, tribal, or State law, including  
23 such an act that occurs when the victim lacks capac-  
24 ity to consent.

1           (13) SUBCONTRACTOR.—The term “subcon-  
 2           tractor” means any employer having a contract with  
 3           a prime contractor or another subcontractor calling  
 4           for supplies or services required for the performance  
 5           of a contract or a government contract.

6           (14) WORKPLACE HARASSMENT.—The term  
 7           “workplace harassment” means unwelcome or offen-  
 8           sive conduct based on sex (including such conduct  
 9           based on sexual orientation, gender identity, and  
 10          pregnancy), race, color, national origin, disability,  
 11          age, or religion, whether that conduct occurs in-per-  
 12          son or through an electronic medium (which may in-  
 13          clude social media), in a work or work-related con-  
 14          text, which affects any term, condition, or privilege  
 15          of employment.

16 **SEC. 4. PROHIBITING NONDISPARAGEMENT AND NON-**  
 17                                   **DISCLOSURE CLAUSES THAT COVER WORK-**  
 18                                   **PLACE HARASSMENT, INCLUDING SEXUAL**  
 19                                   **HARASSMENT.**

20           (a) UNLAWFUL PRACTICES.—

21           (1) PROHIBITION ON WORKPLACE HARASSMENT  
 22           NONDISCLOSURE CLAUSE.—Subject to subsection  
 23           (b)(1), it shall be an unlawful practice for an em-  
 24           ployer to enter into a contract or agreement with an  
 25           employee or applicant, as a condition of employment,

1 promotion, compensation, benefits, or change in em-  
2 ployment status or contractual relationship, or as a  
3 term, condition, or privilege of employment, if that  
4 contract or agreement contains a nondisparagement  
5 or nondisclosure clause that covers workplace har-  
6 assment, including sexual harassment or retaliation  
7 for reporting, resisting, opposing, or assisting in the  
8 investigation of workplace harassment.

9 (2) PROHIBITION ON ENFORCEMENT.—Not-  
10 withstanding any other provision of law, it shall be  
11 an unlawful practice and otherwise unlawful for an  
12 employer to enforce or attempt to enforce a non-  
13 disparagement clause or nondisclosure clause de-  
14 scribed in paragraph (1).

15 (b) SETTLEMENT OR SEPARATION AGREEMENTS.—

16 (1) IN GENERAL.—The provisions of subsection  
17 (a) do not apply to a nondisclosure clause or non-  
18 disparagement clause contained in a settlement  
19 agreement or separation agreement that resolves  
20 legal claims or disputes when—

21 (A) such legal claims accrued or such dis-  
22 putes arose before the settlement agreement or  
23 separation agreement was executed; and

1 (B) such clauses are mutually agreed upon  
2 and mutually benefit both the employer and em-  
3 ployee.

4 (2) UNLAWFUL PRACTICE.—It shall be an un-  
5 lawful practice for an employer to unilaterally in-  
6 clude a nondisclosure clause or a nondisparagement  
7 clause that solely benefits the employer in a separa-  
8 tion or settlement agreement.

9 (c) RIGHT TO REPORT RESERVED.—Notwithstand-  
10 ing signing (before or after the effective date of this Act)  
11 any nondisparagement or nondisclosure clause including  
12 a clause referred to in subsection (a)(1), an employee or  
13 applicant retains any right that person would otherwise  
14 have had to report a concern about workplace harassment,  
15 including sexual harassment or another violation of the  
16 law to the Commission, another Federal agency (including  
17 an office of the legislative or judicial branch), a State or  
18 local fair employment practices agency or any State or  
19 local agency, or a law enforcement agency, and any right  
20 that person would otherwise have had to bring an action  
21 in a court of the United States.

22 (d) ENFORCEMENT.—

23 (1) ENFORCEMENT POWERS.—With respect to  
24 the administration and enforcement of this section



1 in the case of a claim alleged by an employee for a  
2 violation of this section—

3 (A) the Commission shall have the same  
4 powers as the Commission has to administer  
5 and enforce—

6 (i) title VII of the Civil Rights Act of  
7 1964 (42 U.S.C. 2000e et seq.); or

8 (ii) sections 302 and 304 of the Gov-  
9 ernment Employee Rights Act of 1991 (42  
10 U.S.C. 2000e–16b and 2000e–16c),

11 in the case of a claim alleged by such employee  
12 for a violation of such title, or of section  
13 302(a)(1) of the Government Employee Rights  
14 Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), re-  
15 spectively;

16 (B) the Librarian of Congress shall have  
17 the same powers as the Librarian of Congress  
18 has to administer and enforce title VII of the  
19 Civil Rights Act of 1964 (42 U.S.C. 2000e et  
20 seq.) in the case of a claim alleged by such em-  
21 ployee for a violation of such title;

22 (C) the Board (as defined in section 101 of  
23 the Congressional Accountability Act of 1995 (2  
24 U.S.C. 1301)) shall have the same powers as  
25 the Board has to administer and enforce the

1 Congressional Accountability Act of 1995 (2  
2 U.S.C. 1301 et seq.) in the case of a claim al-  
3 leged by such employee for a violation of section  
4 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

5 (D) the Attorney General shall have the  
6 same powers as the Attorney General has to ad-  
7 minister and enforce—

8 (i) title VII of the Civil Rights Act of  
9 1964 (42 U.S.C. 2000e et seq.); or

10 (ii) sections 302 and 304 of the Gov-  
11 ernment Employee Rights Act of 1991 (42  
12 U.S.C. 2000e–16b and 2000e–16c),

13 in the case of a claim alleged by such employee  
14 for a violation of such title, or of section  
15 302(a)(1) of the Government Employee Rights  
16 Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), re-  
17 spectively;

18 (E) the President, the Commission, and  
19 the Merit Systems Protection Board shall have  
20 the same powers as the President, the Commis-  
21 sion, and the Board, respectively, have to ad-  
22 minister and enforce chapter 5 of title 3,  
23 United States Code, in the case of a claim al-  
24 leged by such employee for a violation of section  
25 411 of such title;

1 (F) the Commission shall have the same  
2 powers as described in subparagraph (A) to ad-  
3 minister and enforce a claim by any employee  
4 who is not otherwise able to seek remedy for a  
5 claim through an enforcement entity described  
6 in subparagraph (A) through (E); and

7 (G) a court of the United States shall have  
8 the same jurisdiction and powers as the court  
9 has to enforce—

10 (i) title VII of the Civil Rights Act of  
11 1964 (42 U.S.C. 2000e et seq.) in the case  
12 of a claim alleged by such employee for a  
13 violation of such title or in the case of a  
14 claim described in subparagraph (F);

15 (ii) sections 302 and 304 of the Gov-  
16 ernment Employee Rights Act of 1991 (42  
17 U.S.C. 2000e–16b and 2000e–16c) in the  
18 case of a claim alleged by such employee  
19 for a violation of section 302(a)(1) of such  
20 Act (42 U.S.C. 2000e–16b(a)(1));

21 (iii) the Congressional Accountability  
22 Act of 1995 (2 U.S.C. 1301 et seq.) in the  
23 case of a claim alleged by such employee  
24 for a violation of section 201(a)(1) of such  
25 Act (2 U.S.C. 1311(a)(1)); and

1 (iv) chapter 5 of title 3, United States  
2 Code, in the case of a claim alleged by  
3 such employee for a violation of section  
4 411 of such title.

5 (2) PROCEDURES AND REMEDIES.—The proce-  
6 dures and remedies applicable to a claim alleged by  
7 an employee for a violation of this section are—

8 (A) the procedures and remedies applicable  
9 for a violation of title VII of the Civil Rights  
10 Act of 1964 (42 U.S.C. 2000e et seq.) in the  
11 case of a claim alleged by such employee for a  
12 violation of such title or in the case of a claim  
13 described in paragraph (1)(F);

14 (B) the procedures and remedies applicable  
15 for a violation of section 302(a)(1) of the Gov-  
16 ernment Employee Rights Act of 1991 (42  
17 U.S.C. 2000e–16b(a)(1)) in the case of a claim  
18 alleged by such employee for a violation of such  
19 section;

20 (C) the procedures and remedies applicable  
21 for a violation of section 201(a)(1) of the Con-  
22 gressional Accountability Act of 1995 (2 U.S.C.  
23 1311(a)(1)) in the case of a claim alleged by  
24 such employee for a violation of such section;  
25 and

1 (D) the procedures and remedies applicable  
2 for a violation of section 411 of title 3, United  
3 States Code, in the case of a claim alleged by  
4 such employee for a violation of such section.

5 (3) OTHER APPLICABLE PROVISIONS.—With re-  
6 spect to a claim alleged by a covered employee (as  
7 defined in section 101 of the Congressional Account-  
8 ability Act of 1995 (2 U.S.C. 1301)) for a violation  
9 of this section, title III of the Congressional Ac-  
10 countability Act of 1995 (2 U.S.C. 1381 et seq.)  
11 shall apply in the same manner as such title applies  
12 with respect to a claim alleged by such a covered  
13 employee for a violation of section 201(a)(1) of such  
14 Act (2 U.S.C. 1311(a)(1)).

15 (e) REGULATIONS.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graphs (2), (3), and (4), the Commission shall have  
18 authority to issue regulations to carry out this sec-  
19 tion.

20 (2) LIBRARIAN OF CONGRESS.—The Librarian  
21 of Congress shall have authority to issue regulations  
22 to carry out this section with respect to employees  
23 and applicants for employment of the Library of  
24 Congress.

1           (3) BOARD.—The Board referred to in sub-  
2           section (d)(1)(C) shall have authority to issue regu-  
3           lations to carry out this section, in accordance with  
4           section 304 of the Congressional Accountability Act  
5           of 1995 (2 U.S.C. 1384), with respect to covered  
6           employees, as defined in section 101 of such Act (2  
7           U.S.C. 1301).

8           (4) PRESIDENT.—The President shall have au-  
9           thority to issue regulations to carry out this section  
10          with respect to covered employees, as defined in sec-  
11          tion 411(c) of title 3, United States Code, and appli-  
12          cants for employment as such employees.

13          (f) STATE AND FEDERAL IMMUNITY.—

14           (1) ABROGATION OF STATE IMMUNITY.—A  
15          State shall not be immune under the 11th Amend-  
16          ment to the Constitution from a suit brought in a  
17          Federal court of competent jurisdiction for a viola-  
18          tion of this section.

19           (2) WAIVER OF STATE IMMUNITY.—

20           (A) IN GENERAL.—

21           (i) WAIVER.—A State’s receipt or use  
22          of Federal financial assistance for any pro-  
23          gram or activity of a State shall constitute  
24          a waiver of sovereign immunity, under the  
25          11th Amendment to the Constitution or

1 otherwise, to a suit brought by an em-  
2 ployee or applicant for employment of that  
3 program or activity under this section for  
4 a remedy authorized under subsection (d).

5 (ii) DEFINITION.—In this paragraph,  
6 the term “program or activity” has the  
7 meaning given the term in section 606 of  
8 the Civil Rights Act of 1964 (42 U.S.C.  
9 2000d–4a).

10 (B) EFFECTIVE DATE.—With respect to a  
11 particular program or activity, subparagraph  
12 (A) applies to conduct occurring on or after the  
13 day, after the date of enactment of this Act, on  
14 which a State first receives or uses Federal fi-  
15 nancial assistance for that program or activity.

16 (3) REMEDIES AGAINST STATE OFFICIALS.—An  
17 official of a State may be sued in the official capac-  
18 ity of the official by any employee or applicant for  
19 employment who has complied with the applicable  
20 procedures of subsection (d), for equitable relief that  
21 is authorized under this section. In such a suit the  
22 court may award to the prevailing party those costs  
23 authorized by section 722 of the Revised Statutes  
24 (42 U.S.C. 1988).

1           (4) REMEDIES AGAINST THE UNITED STATES  
 2           AND THE STATES.—Notwithstanding any other pro-  
 3           vision of this Act, in an action or administrative pro-  
 4           ceeding against the United States or a State for a  
 5           violation of this section, remedies (including rem-  
 6           edies at law and in equity, and interest) are avail-  
 7           able for the violation to the same extent as the rem-  
 8           edies are available for a violation of title VII of the  
 9           Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)  
 10          by a private entity, except that—

11                   (A) punitive damages are not available;

12                   and

13                   (B) compensatory damages are available to  
 14                   the extent specified in section 1977A(b) of the  
 15                   Revised Statutes (42 U.S.C. 1981a(b)).

16 **SEC. 5. CONFIDENTIAL TIP-LINE ADDRESSING EMPLOYERS**  
 17                   **WITH WIDESPREAD AND SYSTEMIC WORK-**  
 18                   **PLACE HARASSMENT.**

19          (a) CONFIDENTIAL TIP-LINE ESTABLISHED.—

20                   (1) IN GENERAL.—Not later than 1 year after  
 21                   the date of enactment of this Act, the Commission  
 22                   shall establish a confidential tip-line that supple-  
 23                   ments the Commission’s existing process for submit-  
 24                   ting a Charge of Discrimination, and that has the  
 25                   characteristics described in paragraph (2), to—



1 (A) receive, log, and acknowledge the re-  
2 ceipt of reports by employees, applicants, by-  
3 standers, or other individuals who attest that  
4 they have experienced or witnessed workplace  
5 harassment, including sexual assault and other  
6 forms of sexual harassment;

7 (B) provide informational materials to re-  
8 porting individuals described in subparagraph  
9 (A); and

10 (C) make available reports described in  
11 subparagraph (A) to—

12 (i) the Commission; and

13 (ii) Commission-approved fair employ-  
14 ment practices agencies for potential inves-  
15 tigation.

16 (2) OPERATION OF THE TIP-LINE.—The Com-  
17 mission shall ensure that the tip-line established  
18 under this section will—

19 (A) explicitly notify reporting individuals  
20 that the tip-line does not allow anonymous re-  
21 porting, but does allow the submission of con-  
22 fidential reports, independent of a Charge of  
23 Discrimination or a Federal or State adminis-  
24 trative complaint, by those employees or appli-  
25 cants who have experienced workplace harass-

1 ment, including sexual assault and other forms  
2 of sexual harassment, and by those employees,  
3 applicants, bystanders, or other individuals who  
4 have witnessed such conduct;

5 (B) provide an option for reporting individ-  
6 uals to make a report that would not identify  
7 individual employees, but would identify the en-  
8 tity, employer, division, or subdivision respon-  
9 sible for the workplace harassment, including  
10 sexual assault and other forms of sexual harass-  
11 ment;

12 (C) educate reporting individuals about  
13 how to preserve the right to make any reports,  
14 complaints, or charges that the individuals  
15 would otherwise have been eligible to make,  
16 independent of any report to the tip-line, in-  
17 cluding—

18 (i) the right of the reporting indi-  
19 vidual to file a Charge of Discrimination  
20 that will result in the Commission or a  
21 Commission-approved fair employment  
22 practices agency taking action (and the  
23 risk of losing that right if the reporting in-  
24 dividual fails to file a timely Charge of  
25 Discrimination); and

1                   (ii) a clear explanation of any dead-  
2                   lines or limitations periods;

3                   (D) instruct reporting individuals about  
4                   how to file a Charge of Discrimination with the  
5                   Commission and encourage reporting individ-  
6                   uals to file a Charge of Discrimination in order  
7                   to allow the Commission to more effectively in-  
8                   vestigate the workplace harassment;

9                   (E) emphasize that reports to the confiden-  
10                  tial tip-line—

11                  (i) will not prompt individualized in-  
12                  vestigations, except in the limited cir-  
13                  cumstances described in clause (ii), sub-  
14                  paragraph (I), and subsection (b), and  
15                  such investigations will fully comport with  
16                  applicable due process requirements;

17                  (ii) will be monitored by the Commis-  
18                  sion and Commission-approved fair em-  
19                  ployment practices agencies to identify  
20                  trends and determine whether investiga-  
21                  tions should be undertaken, for instance,  
22                  when the Commission has received multiple  
23                  complaints regarding a particular employer  
24                  or there is evidence of a broader pattern or  
25                  practice of workplace harassment;

1 (iii) shall not be discoverable in civil  
2 cases, unless the reporting individual  
3 waives the confidentiality of the submitted  
4 reports; and

5 (iv) shall not be shared with other  
6 Federal agencies;

7 (F) engage fair employment practices  
8 agencies at the State and local level to apply  
9 and be thoroughly vetted and reviewed for ap-  
10 proved access to the confidential tip-line;

11 (G) share information from the tip-line, in-  
12 cluding information on opened investigations,  
13 only between and among participating approved  
14 fair employment practices agencies and the  
15 Commission to facilitate coordination and avoid  
16 conflicts in investigations and resolutions;

17 (H) offer an option to each reporting indi-  
18 vidual, at the time of reporting, to elect to be  
19 informed, to the extent practicable, if the indi-  
20 vidual's report leads to an investigation, so that  
21 the reporting individual may choose to provide  
22 further information or participate in any result-  
23 ing investigation; and

24 (I) protect the identity of individuals mak-  
25 ing reports and employers by making such re-

1 ports confidential within the tip-line and only  
2 available to the Commission and Commission-  
3 approved fair employment practices agencies,  
4 and require that information obtained can be  
5 used only for the purpose of investigation re-  
6 lated to the submitted complaint or complaints,  
7 in full compliance with applicable due process  
8 requirements.

9 (b) CHARGE OF DISCRIMINATION.—In the event that  
10 a member of the Commission determines that information  
11 received from the tip-line warrants an investigation, the  
12 member may initiate an investigation by filing a Charge  
13 of Discrimination in accordance with section 706 of the  
14 Civil Rights Act of 1964 (42 U.S.C. 2000e–5).

15 (c) EDUCATION ABOUT THE TIP-LINE.—The Com-  
16 mission shall disseminate information and educate the  
17 public about the tip-line established under this section.

18 (d) UNLAWFUL PRACTICES WITH RESPECT TO THE  
19 TIP-LINE.—

20 (1) OTHER UNLAWFUL PRACTICE.—It shall be  
21 unlawful to engage in any unlawful employment  
22 practice described in section 704 of the Civil Rights  
23 Act of 1964 (42 U.S.C. 2000e–3) with respect to the  
24 tip-line under this section, including contacting or  
25 making threats to contact law enforcement authori-

1 ties, such as the police, immigration officials, or  
2 other officials, with respect to an employee or appli-  
3 cant because that employee or applicant has made a  
4 charge, testified, assisted, or participated in any  
5 manner in an investigation, proceeding or hearing  
6 under this section.

7 (2) CONFIDENTIALITY.—It shall be unlawful  
8 for any officer or employee of the Commission, or  
9 any Commission-approved fair employment practices  
10 agencies, to make public in any manner whatever  
11 any information obtained by the Commission pursu-  
12 ant to its authority under this section, prior to insti-  
13 tution of any proceeding under section 706 of the  
14 Civil Rights Act of 1964 (42 U.S.C. 2000e–5), ex-  
15 cept that the Commission, or any Commission-ap-  
16 proved fair employment practices agency, shall offer  
17 information to reporting individuals in accordance  
18 with this section.

19 (3) ENFORCEMENT.—The enforcement provi-  
20 sions described in section 4(d) shall apply in the  
21 same manner to the enforcement of a violation de-  
22 scribed in paragraph (1) or (2).

23 (e) EFFECTIVE DATE.—This section shall first take  
24 effect on the first day of the first fiscal year for which  
25 \$1,500,000 is appropriated to carry out this section.

1 (f) ANNUAL MINIMUM.—The Commission shall not  
 2 be required to implement this section in any fiscal year  
 3 for which less than \$1,000,000 is appropriated to carry  
 4 out this section.

5 **SEC. 6. SEC FILINGS AND MATERIAL DISCLOSURES AT PUB-**  
 6 **LIC COMPANIES.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “Form 10–K” means the form de-  
 9 scribed in section 249.310 of title 17, Code of Fed-  
 10 eral Regulations, or any successor regulation; and

11 (2) the term “issuer” has the meaning given  
 12 the term in section 3(a) of the Securities Exchange  
 13 Act of 1934 (15 U.S.C. 78c(a)).

14 (b) FINDINGS.—Congress finds that—

15 (1) shareholders and the public should know  
 16 whether corporations—

17 (A) are expending company funds to re-  
 18 solve, settle, or litigate claims of workplace har-  
 19 assment, including sexual harassment; and

20 (B) along with the executives and man-  
 21 agers of those corporations—

22 (i) are complying with prohibitions  
 23 against workplace harassment, including  
 24 sexual harassment; and

1 (ii) facilitate a culture of silence, dis-  
2 respect, intimidation, and abuse that nega-  
3 tively impacts the health and safety of the  
4 workers of those corporations and the  
5 value of those corporations; and

6 (2) the requirements of this section will—

7 (A) establish necessary transparency and  
8 accountability; and

9 (B) provide an incentive for corporations  
10 to—

11 (i) promptly address workplace har-  
12 assment, including sexual harassment, as  
13 that misconduct occurs; and

14 (ii) foster a culture in which work-  
15 place harassment is not protected and does  
16 not occur.

17 (c) INFORMATION REQUIRED.—Not later than 1 year  
18 after the date of enactment of this Act, the Securities and  
19 Exchange Commission shall promulgate a regulation that  
20 requires any issuer that is required to submit an annual  
21 report using Form 10-K to include in any such submis-  
22 sion—

23 (1) during the period covered by the submis-  
24 sion—



1 (A) with respect to workplace harassment,  
2 including sexual harassment, and retaliation for  
3 reporting, resisting, opposing, or assisting in  
4 the investigation of workplace harassment—

5 (i) the number of settlements reached  
6 by the issuer as a signatory or when the  
7 issuer is a beneficiary of a release of  
8 claims; and

9 (ii) whether any judgments or awards  
10 (including awards through arbitration or  
11 administrative proceedings) were entered  
12 against the issuer in part or in whole, or  
13 any payments made in connection with a  
14 release of claims; and

15 (B) the total amount paid by the issuer or  
16 another party as a result of—

17 (i) the settlements described in sub-  
18 paragraph (A)(i); and

19 (ii) the judgments described in sub-  
20 paragraph (A)(ii); and

21 (2) information regarding whether, in the ag-  
22 gregate, including the period covered by the submis-  
23 sion, there have been three or more settlements  
24 reached by, or judgments against, the issuer with re-  
25 spect to workplace harassment, including sexual har-



1 sion employees that develop and administer any edu-  
2 cation, technical assistance, or training programs of-  
3 fered by the Commission.

4 (b) WORKPLACE TRAINING.—

5 (1) IN GENERAL.—The Commission shall pro-  
6 vide for the development and dissemination of work-  
7 place training programs and information regarding  
8 workplace harassment, including sexual harassment.

9 (2) CONTENTS OF TRAINING.—The training  
10 provided by the Commission under this subsection to  
11 managers and nonmanagers shall be consistent with  
12 the findings of the Commission, on matters includ-  
13 ing—

14 (A) what constitutes workplace harass-  
15 ment, including sexual harassment;

16 (B) the rights of individuals with respect  
17 to workplace harassment and how to report  
18 workplace harassment;

19 (C) how individuals, including bystanders,  
20 who encounter workplace harassment can inter-  
21 vene or report the harassment; and

22 (D) how employers and managers can pre-  
23 vent workplace harassment, including sexual  
24 harassment, from occurring in the workplace.

1           (3) CONTENTS OF INFORMATION.—In providing  
2 information under this subsection, the Commission  
3 shall—

4           (A) prepare and distribute information  
5 that is consistent with the findings of the Com-  
6 mission; and

7           (B) develop and disseminate a public serv-  
8 ice advertisement campaign that—

9           (i) distributes information with re-  
10 spect to the matters described in para-  
11 graph (2); and

12           (ii) advertises the confidential com-  
13 plaint database established under section  
14 5.

15       (c) EFFECTIVE DATE.—This section shall not take  
16 effect in any fiscal year for which less than \$1,500,000  
17 is appropriated to carry out this section.

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