

Changes to Texas Sexual Harassment Laws



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Amendments to TX Labor Code Chapter 21

Texas law governing unlawful employment discrimination has been amended – specifically with regard to discrimination in the form of **SEXUAL HARASSMENT**. Effective Sept. 1, 2021, the law will:

- Apply to ALL employers
- Allow potential individual liability
- Require “immediate and appropriate” responses to claims
- Have an expanded statute of limitation

Amendments to TX Labor Code Chapter 21

The amendments:

- Apply only to SEXUAL HARASSMENT claims
- Will not apply to other protected classes such as, age, race, national origin, religion, disability, or even non-sexual gender discrimination / harassment.
- Will not apply to any type of retaliation claims

Sexual Harassment Defined by Statute (Quid Pro Quo)

An unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature when:

- Submission is made a term or condition of employment (explicitly or implicitly);
- Submission or rejection is used as the basis for a decision affecting the individual's employment; or

Sexual Harassment Now Defined by Statute (Hostile Environment)

An unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature when:

- It has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The statutory definition somewhat mirrors current caselaw, but with differences likely to be litigated.

Expansion to ALL Employers

- Like Title VII, the Texas Labor Code previously applied only to employers with 15 or more employees.
- Now, employees will be able to bring sexual harassment claims against small Texas employers, even those with only 1 employee.

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