

# HOUSE . . . . . No. 4853

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 8, 2022.

The committee on Labor and Workforce Development to whom was referred the petition (accompanied by bill, Senate, No. 1171) of Cynthia Stone Creem, Harriette L. Chandler, Joanne M. Comerford, Jason M. Lewis and others for legislation to require policies and training to prevent unlawful harassment, including sexual harassment, the 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, and the petition (accompanied by bill, House, No. 2026) of Joseph D. McKenna, Michael J. Soter and Brian M. Ashe relative to nondiscrimination training in the workplace, reports recommending that the accompanying bill (House, No. 4853) ought to pass.

For the committee,

JOSH S. CUTLER.

**HOUSE . . . . . No. 4853**

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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 Chapter 151B of the General Laws, as appearing in the 2020 Official Edition, is hereby  
2 amended by striking out Section 3A and inserting in place thereof 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 are unlawful and will not be tolerated, and that explains that it is unlawful for a person

12 to be subject to harassment because of the person's sex or any other characteristic protected by  
13 section 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 unlawful 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, including sexual harassment;

20 (v) a description of the process for filing internal complaints about harassment and the  
21 contact information of the person or persons to whom complaints should be made; and

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

24 (2) provide to all employees an individual written copy of the employer's policy against  
25 unlawful harassment by January 1, 2023; provided, however, that an existing employee that is  
26 changing positions shall be provided a copy at such time of the change in position; provided  
27 further that a new employee shall be provided such a copy at the time of hire.

28 (c) The commission shall prepare and make available to employers subject to this section  
29 a model policy and poster consistent with federal and state statutes and regulations, which may  
30 be 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 one year after the employee is  
38 hired, promoted, or changes their position with the employer. An employer that does not use the  
39 model training developed by the Massachusetts commission against discrimination must ensure  
40 that the training that they use meets or exceeds the following minimum standards.

41 The training must:

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

45 (2) include an interactive component, whether in-person, on-line, or remote; provided that  
46 employers with 100 or more employees must conduct live trainings led by one or more qualified  
47 trainers which allows participants to ask questions;

48 (3) be a minimum of two hours;

49 (4) include an explanation and examples of unlawful harassment and unlawful retaliation  
50 consistent with guidance issued by the Massachusetts commission against discrimination;  
51 provided, however, that for employers with 100 or more employees, the examples and scenarios  
52 should be tailored to the specific type of workplace or industry;

53 (5) include information on internal and external remedies available to victims of  
54 harassment;

55 (6) include bystander intervention training consistent with guidance issued by the  
56 Massachusetts commission against discrimination; and

57 (7) include information on the responsibilities of supervisory and managerial employees  
58 to address unlawful harassment and unlawful retaliation.

59 Each employee must receive training on a biennial basis, starting January 1, 2024. An  
60 employer's or labor organization's compliance with the training requirements of this section  
61 shall not, in and of itself, protect the employer or labor organization from liability for unlawful  
62 harassment of any current or former employee or applicant. All employers shall keep a record of  
63 their employees' completion of all trainings required by this subsection (e). Such records may be  
64 electronic. Employers shall maintain such records for at least 3 years and must be made available  
65 to the Attorney General or the Massachusetts Commission Against Discrimination on request.

66 (f) The Attorney General may promulgate any rules, regulations or guidelines that are  
67 necessary and appropriate to effectuate the purposes of this section.