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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2313 Session of  
2018

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INTRODUCED BY DAVIDSON, TOOHIL, DONATUCCI, DEAN, CALTAGIRONE,  
KULIK, MURT, DAVIS, HELM, ROZZI, DRISCOLL, YOUNGBLOOD,  
GAINNEY, SCHLOSSBERG, DERMODY, THOMAS, KINSEY, SOLOMON,  
KIRKLAND, FRANKEL, MADDEN, DeLUCA, CONKLIN, HILL-EVANS,  
A. DAVIS, FITZGERALD, J. McNEILL AND SIMS, JULY 3, 2018

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 3, 2018

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AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania  
2 Consolidated Statutes, in ethics standards and financial  
3 disclosure, further providing for purpose, for definitions,  
4 for restricted activities, for powers and duties of  
5 commission, for investigations by commission and for  
6 penalties.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 1101.1(a) of Title 65 of the Pennsylvania  
10 Consolidated Statutes is amended to read:

11 § 1101.1. Purpose.

12 (a) Declarations.--The Legislature hereby declares that  
13 public office is a public trust and that any effort to realize  
14 personal financial gain through public office other than  
15 compensation provided by law is a violation of that trust. In  
16 order to strengthen the faith and confidence of the people of  
17 this Commonwealth in their government, the Legislature further  
18 declares that the people have a right to be assured that the

1 financial interests of holders of or nominees or candidates for  
2 public office do not conflict with the public trust.  
3 Furthermore, the Legislature recognizes that public workplaces  
4 that are free from harassment create a more productive  
5 employment environment in which to carry out the public's  
6 business. Because public confidence in government can best be  
7 sustained by assuring the people of the impartiality and honesty  
8 of public officials, this chapter shall be liberally construed  
9 to promote complete financial disclosure and a hospitable work  
10 environment as specified in this chapter. Furthermore, it is  
11 recognized that clear guidelines are needed in order to guide  
12 public officials and employees in their actions. Thus, the  
13 General Assembly by this chapter intends to define as clearly as  
14 possible those areas which represent conflict with the public  
15 trust.

16 \* \* \*

17 Section 2. The definition of "public employee" in section  
18 1102 of Title 65 is amended and the section is amended by adding  
19 a definition to read:

20 § 1102. Definitions.

21 The following words and phrases when used in this chapter  
22 shall have, unless the context clearly indicates otherwise, the  
23 meanings given to them in this section:

24 \* \* \*

25 "Public employee." Any individual employed by the  
26 Commonwealth or a political subdivision who is responsible for  
27 taking or recommending official action of a nonministerial  
28 nature with regard to:

29 (1) contracting or procurement;

30 (2) administering or monitoring grants or subsidies;

- 1 (3) planning or zoning;
- 2 (4) inspecting, licensing, regulating or auditing any
- 3 person; or
- 4 (5) any other activity where the official action has an
- 5 economic impact of greater than a de minimis nature on the
- 6 interests of any person.

7 The term shall not include individuals who are employed by this

8 Commonwealth or any political subdivision thereof in teaching as

9 distinguished from administrative duties. In cases involving

10 complaints of sexual harassment, the term shall include all

11 individuals employed by the Commonwealth or a political

12 subdivision.

13 \* \* \*

14 "Sexual harassment." Unwelcome sexual advances, requests for

15 sexual favors and other verbal, visual or physical conduct of a

16 sexual nature that explicitly or implicitly affects an

17 individual's employment and unreasonably interferes with an

18 individual's work performance.

19 \* \* \*

20 Section 3. Section 1103 of Title 65 is amended by adding a

21 subsection to read:

22 § 1103. Restricted activities.

23 \* \* \*

24 (k) Sexual harassment.--No public official, public employee

25 or nominee or candidate for public office shall engage in the

26 following conduct:

27 (1) Using the submission to or rejection by a public

28 employee of conduct constituting sexual harassment as a basis

29 for an employment decision affecting the public employee.

30 (2) Making submission to conduct constituting sexual

1 harassment, either explicitly or implicitly, a term or  
2 condition of a public employee's employment.

3 (3) Engaging in conduct constituting sexual harassment  
4 that is so frequent or severe that it creates a hostile or  
5 offensive work environment.

6 Section 4. Sections 1107(13) and 1108(h) of Title 65 are  
7 amended to read:

8 § 1107. Powers and duties of commission.

9 In addition to other powers and duties prescribed by law, the  
10 commission shall:

11 \* \* \*

12 (13) Issue findings, reports and orders relating to  
13 investigations initiated pursuant to section 1108 which set  
14 forth the alleged violation, findings of fact and conclusions  
15 of law. The following shall apply:

16 (i) An order may include recommendations to law  
17 enforcement officials.

18 (ii) Any order resulting from a finding that a  
19 public official or public employee has obtained a  
20 financial gain in violation of this chapter may require  
21 the restitution plus interest of that gain to the  
22 appropriate governmental body. The commission or the  
23 Office of Attorney General shall have standing to apply  
24 to the Commonwealth Court to seek enforcement of an order  
25 requiring such restitution. This restitution requirement  
26 shall be in addition to any other penalties provided for  
27 in this chapter.

28 (iii) An order which contains a finding that a  
29 member of the Senate or House of Representatives violated  
30 the provisions of this chapter may contain a

1 recommendation for additional disciplinary action or  
2 sanction against the member by the Senate or House of  
3 Representatives consistent with the rules of the  
4 respective chamber.

5 \* \* \*

6 § 1108. Investigations by commission.

7 \* \* \*

8 (h) Availability of final orders, files and records.--Orders  
9 which become final in accordance with the provisions of this  
10 section shall be available as public documents, but the files  
11 and records of the commission relating to the case shall remain  
12 confidential. The name of an individual alleging sexual  
13 harassment under this chapter may be redacted from a final order  
14 issued by the commission, upon request by the individual prior  
15 to the release of the order.

16 \* \* \*

17 Section 5. Section 1109(b) of Title 65 is amended and the  
18 section is amended by adding a subsection to read:

19 § 1109. Penalties.

20 \* \* \*

21 (b) [Financial interests statement violation] Violations  
22 regarding certain restricted activities.--Any person who  
23 violates the provisions of section 1103(d) through [(j)] (k),  
24 1104 (relating to statement of financial interests required to  
25 be filed) or 1105(a) (relating to statement of financial  
26 interests) commits a misdemeanor and shall, upon conviction, be  
27 sentenced to pay a fine of not more than \$1,000 or to  
28 imprisonment for not more than one year, or both.

29 (b.1) Emotional distress.--In addition to other penalties  
30 under this section, a person who violates the provisions of

1 section 1103(k) shall pay a sum of money to the victim, as  
2 determined by the commission, for emotional distress.

3 \* \* \*

4 Section 6. This act shall take effect in 60 days.