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SENATE BILL 24

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO HUMAN RIGHTS; CREATING THE WORKPLACE HARASSMENT  
PREVENTION AND EDUCATION SECTION OF THE HUMAN RIGHTS BUREAU OF  
THE LABOR RELATIONS DIVISION OF THE WORKFORCE SOLUTIONS  
DEPARTMENT; PROVIDING DUTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 9-26-4 NMSA 1978 (being Laws 2007,  
Chapter 200, Section 4) is amended to read:

"9-26-4. WORKFORCE SOLUTIONS DEPARTMENT CREATED.--The  
"workforce solutions department" is created in the executive  
branch pursuant to the Executive Reorganization Act. The  
department is a cabinet department that includes:

- A. the office of the secretary;
- B. the administrative services division;
- C. the business services division;

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1 D. the labor relations division, which includes the  
2 human rights bureau and the workplace harassment prevention and  
3 education section of that bureau;

4 E. the workforce technology division; and

5 F. the workforce transition services division."

6 SECTION 2. A new section of the Human Rights Act is  
7 enacted to read:

8 "[NEW MATERIAL] HUMAN RIGHTS BUREAU--WORKPLACE HARASSMENT  
9 PREVENTION AND EDUCATION SECTION--PURPOSE--PUBLICATIONS AND  
10 OTHER NOTIFICATIONS TO EMPLOYERS AND EMPLOYEES--DEFINITIONS.--

11 A. As used in this section:

12 (1) "retaliation" means any adverse action  
13 taken against a job candidate or an employee for filing a  
14 discrimination charge, testifying or participating in any way  
15 in an investigation, proceeding or lawsuit related to  
16 discriminatory employment practices based on unlawful workplace  
17 harassment or sexual harassment;

18 (2) "sexual harassment" means a type of  
19 unlawful workplace harassment on the basis of sex, sexual  
20 orientation or gender identity and includes unwelcome sexual  
21 advances, requests for sexual favors and other verbal or  
22 physical conduct of a sexual nature when:

23 (a) submission to such conduct is made  
24 either explicitly or implicitly a term or condition of a  
25 person's employment;

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1 (b) submission to or rejection of such  
2 conduct by an employee is used as the basis for employment  
3 decisions affecting that employee; or

4 (c) such conduct has the purpose or  
5 effect of unreasonably interfering with an employee's work  
6 performance or creates an intimidating, hostile or offensive  
7 working environment; and

8 (3) "unlawful workplace harassment" means  
9 unsolicited and unwelcomed speech or conduct based on race,  
10 sex, sexual orientation, gender identity, religion, national  
11 origin, age, color, disability, genetic information or  
12 political affiliation when:

13 (a) enduring the offensive conduct  
14 becomes a condition of continued employment; or

15 (b) the conduct is severe or pervasive  
16 enough to create a work environment that a reasonable person  
17 would consider intimidating, hostile or abusive.

18 B. The "workplace harassment prevention and  
19 education section" of the bureau is created. The secretary  
20 shall hire a "supervisor" of the section who shall be  
21 knowledgeable about federal and state laws and court decisions  
22 on workplace discrimination, with particular emphasis on forms  
23 of workplace harassment and hostile workplaces. The supervisor  
24 and any subordinate staff shall be classified employees.

25 C. The section shall:

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1 (1) design and implement a workplace  
2 harassment prevention and education campaign to inform  
3 employers and employees about federal and state laws related to  
4 unlawful workplace harassment, including sexual harassment;  
5 what constitutes an intimidating, hostile or abusive workplace  
6 environment; and retaliation;

7 (2) issue policy exemplars, guidelines, quick  
8 guides and other publications, public service announcements and  
9 other communications focused on employer and employee roles in  
10 preventing unlawful workplace harassment and procedures for  
11 documenting and reporting unlawful workplace harassment;

12 (3) serve as a clearinghouse for federal and  
13 state laws and court cases having to do with unlawful workplace  
14 harassment;

15 (4) assist the human rights division and the  
16 human rights commission in the taking of reports from employees  
17 complaining of unlawful workplace harassment and investigating  
18 such complaints; and

19 (5) issue an annual report to the governor and  
20 the legislature on the section's activities, including:

21 (a) statistics on the number and types  
22 of unlawful workplace harassment complaints filed, investigated  
23 and resolved by the human rights commission in the report year;

24 (b) the section's efforts to prevent  
25 unlawful workplace harassment and to educate employers and

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1 employees in the state on the nature of unlawful workplace  
2 harassment, remedies available to employees subject to unlawful  
3 workplace harassment or retaliation; and

4 (c) other information useful to the  
5 governor, the legislature and other state and local  
6 policymakers to improve conditions for all working New  
7 Mexicans."

8 SECTION 3. APPROPRIATION.--Five hundred thousand dollars  
9 (\$500,000) is appropriated from the general fund to the  
10 workforce solutions department for expenditure in fiscal year  
11 2020 to carry out the purposes of this act. Any unexpended or  
12 unencumbered balance remaining at the end of fiscal year 2020  
13 shall revert to the general fund.