

SENATE BILL NO. 51—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE DIVISION OF HUMAN
RESOURCE MANAGEMENT OF THE
DEPARTMENT OF ADMINISTRATION)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to sex- or gender-based harassment in the Executive Department of the State Government. (BDR 23-243)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to state employees; prohibiting an employee of the Executive Department of the State Government from engaging in sex- or gender-based harassment; providing for the adoption and annual review of a policy for such employees concerning sex- or gender-based harassment; prescribing certain duties of an appointing authority relating to sex- or gender-based harassment; creating the Sex- or Gender-Based Harassment and Discrimination Investigation Unit within the Division of Human Resource Management of the Department of Administration; providing for the investigation of a complaint by the Investigation Unit; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law: (1) creates the Division of Human Resource Management of the
2 Department of Administration; and (2) requires the Division to administer
3 provisions governing employees of the Executive Department of the State
4 Government. (NRS 284.025) **Section 2** of this bill: (1) declares that it is the policy
5 of this State to ensure that its employees do not engage in sex- or gender-based
6 harassment; and (2) prohibits such employees from engaging in such behavior



7 against another employee, an applicant for employment or any other person in the
8 workplace.

9 **Section 3** of this bill requires the Administrator of the Division to adopt,
10 maintain and annually review and update a policy for employees of the Executive
11 Department concerning sex- or gender-based harassment. **Section 3** also requires an
12 appointing authority to provide each employee with a copy of the policy upon
13 employment and any update of the policy.

14 **Section 5** of this bill creates the Sex- or Gender-Based Harassment and
15 Discrimination Investigation Unit within the Division. **Section 4** of this bill
16 requires an appointing authority to notify the Investigation Unit upon receipt of a
17 complaint filed by an employee concerning sex- or gender-based harassment or
18 discrimination. **Section 4** additionally requires an appointing authority to notify
19 certain other persons responsible for providing legal advice to the agency upon
20 receipt of a complaint.

21 **Section 5** requires the Investigation Unit to appoint an investigator to
22 investigate any complaint regarding suspected harassment or discrimination based
23 on sex or gender filed by an employee. **Section 5** requires an investigator to prepare
24 a written report of his or her findings at the conclusion of an investigation and
25 submit the report to the Investigation Unit for transmission to the appointing
26 authority of the agency in which the complaint arose and certain other persons.
27 **Section 5** requires the appointing authority to: (1) review the report; (2) determine
28 the appropriate resolution of the complaint; (3) notify the Investigation Unit in
29 writing that a complaint has been resolved; and (4) retain a copy of the written
30 report prepared by the investigator and the written notification of the resolution of
31 the complaint. Finally, **section 5** makes certain information obtained by the
32 investigator in the investigation of a complaint, contained in a written report of a
33 complaint or contained in a written resolution of a complaint confidential and
34 prohibits its disclosure unless so ordered by the Administrator or his or her
35 designee or a court of competent jurisdiction. **Sections 5, 5.3 and 5.5** of this bill
36 make this information confidential regardless of whether the provisions of a
37 collective bargaining agreement requires the disclosure of such information.
38 **Section 6** of this bill makes a conforming change to indicate the exception of such
39 information from disclosure as a public record.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 284 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2. 1.** *It is the policy of this State to ensure that its*
5 *employees do not engage in sex- or gender-based harassment.*

6 **2.** *Sex- or gender-based harassment violates the policy of this*
7 *State and is a form of unlawful discrimination based on sex or*
8 *gender under state and federal law. An employee shall not engage*
9 *in sex- or gender-based harassment against another employee, an*
10 *applicant for employment or any other person in the workplace.*

11 **Sec. 3. 1.** *The Administrator shall adopt and maintain a*
12 *policy concerning sex- or gender-based harassment. Such a policy*
13 *must include, without limitation:*



1 (a) A definition of behavior that constitutes illegal sex- or
2 gender-based harassment;

3 (b) Training requirements for employees concerning sex- or
4 gender-based harassment;

5 (c) Training requirements for managerial or supervisory
6 employees concerning equal employment opportunity; and

7 (d) A procedure for filing a complaint to report suspected
8 harassment or discrimination based on sex or gender.

9 2. At least annually, the Administrator shall review the policy
10 adopted pursuant to subsection 1 for compliance with relevant
11 state and federal law and make any necessary updates to the
12 policy.

13 3. An appointing authority shall provide each employee of the
14 appointing authority with a copy of the policy adopted pursuant to
15 subsection 1 upon commencement of employment and any update
16 of the policy.

17 **Sec. 4.** Upon receipt of a complaint filed by an employee
18 alleging he or she is being harassed or discriminated against
19 based on his or her sex or gender or has witnessed an employee
20 being harassed or discriminated against based on his or her sex or
21 gender, an appointing authority shall promptly notify the Sex- or
22 Gender-Based Harassment and Discrimination Investigation Unit
23 created by section 5 of this act and:

24 1. A person designated by the appointing authority to handle
25 issues relating to sex- or gender-based harassment and
26 discrimination; or

27 2. The deputy attorney general or other counsel designated to
28 act as an attorney for the agency.

29 **Sec. 5. 1.** The Sex- or Gender-Based Harassment and
30 Discrimination Investigation Unit is hereby created within the
31 Division.

32 2. The Sex- or Gender-Based Harassment and
33 Discrimination Investigation Unit shall promptly assign or appoint
34 an investigator to investigate any complaint regarding suspected
35 harassment or discrimination based on sex or gender filed by an
36 employee pursuant to the procedure established in accordance
37 with section 3 of this act or received pursuant to section 4 of this
38 act. An investigator assigned or appointed pursuant to this section
39 shall inform each person involved in such an investigation of the
40 provisions of subsection 6. The investigation must be conducted as
41 discreetly and with as minimal disruption to the workplace as
42 possible.

43 3. At the conclusion of the investigation, the investigator
44 shall prepare a written report of his or her findings and submit the
45 report to the Sex- or Gender-Based Harassment and



1 *Discrimination Investigation Unit for transmission to the*
2 *appointing authority of the agency in which the complaint arose*
3 *or a person designated by the appointing authority to handle*
4 *issues relating to sex- or gender-based harassment and*
5 *discrimination and the deputy attorney general or other counsel*
6 *designated to act as an attorney for the agency.*

7 *4. The Sex- or Gender-Based Harassment and*
8 *Discrimination Investigation Unit shall notify a complainant when*
9 *a report has been completed and forwarded to the appointing*
10 *authority for review.*

11 *5. Upon receipt of a written report prepared pursuant to*
12 *subsection 3, the appointing authority shall review the report and*
13 *determine the appropriate resolution of the complaint. The*
14 *appointing authority shall:*

15 *(a) Notify the Sex- or Gender-Based Harassment and*
16 *Discrimination Investigation Unit in writing of its determination*
17 *regarding the resolution of the complaint within 30 days after the*
18 *date on which the resolution occurs; and*

19 *(b) Retain a copy of the written report prepared pursuant to*
20 *subsection 3 and the written notification of the resolution of the*
21 *complaint described in paragraph (a).*

22 *6. Except as otherwise provided in subsection 7, any*
23 *information that may be used to identify an employee who filed a*
24 *complaint pursuant to section 4 of this act, a person who is the*
25 *subject of such a complaint or a person who claims to have*
26 *witnessed an employee being harassed or discriminated against*
27 *based on his or her sex or gender that is:*

28 *(a) Obtained by the investigator in the investigation of a*
29 *complaint pursuant to subsection 2;*

30 *(b) Contained in a written report of a complaint retained*
31 *pursuant to subsection 5; or*

32 *(c) Contained in a written resolution of a complaint retained*
33 *pursuant to subsection 5,*

34 *↳ is confidential and must not be disclosed unless so ordered by*
35 *the Administrator or his or her designee or a court of competent*
36 *jurisdiction upon a determination by the Administrator, designee*
37 *or court, as applicable, that the interests of the public in disclosing*
38 *the information outweigh the interests of the person about whom*
39 *the information pertains in maintaining the confidentiality of the*
40 *information. Such information must not be disclosed until after*
41 *the conclusion of the investigation.*

42 *7. The provisions of subsection 6 do not apply to any*
43 *information that may be used to identify an elected officer in the*
44 *Executive Department who:*

45 *(a) Filed a complaint pursuant to section 4 of this act;*



- 1 ***(b) Is the subject of such a complaint; or***
- 2 ***(c) Claims to have witnessed an employee being harassed or***
- 3 ***discriminated against based on his or her sex or gender.***

4 ***8. In the event of a conflict between this section and the***
5 ***provisions of a collective bargaining agreement entered into***
6 ***pursuant to NRS 288.400 to 288.630, inclusive, the provisions of***
7 ***this section prevail.***

8 **Sec. 5.3.** NRS 284.013 is hereby amended to read as follows:

9 284.013 1. Except as otherwise provided in subsection 4, this
10 chapter does not apply to:

11 (a) Agencies, bureaus, commissions, officers or personnel in the
12 Legislative Department or the Judicial Department of State
13 Government, including the Commission on Judicial Discipline;

14 (b) Any person who is employed by a board, commission,
15 committee or council created in chapters 445C, 590, 623 to 625A,
16 inclusive, 628, 630 to 644A, inclusive, 648, 652, 654 and 656 of
17 NRS; or

18 (c) Officers or employees of any agency of the Executive
19 Department of the State Government who are exempted by specific
20 statute.

21 2. Except as otherwise provided in subsection 3, the terms and
22 conditions of employment of all persons referred to in subsection 1,
23 including salaries not prescribed by law and leaves of absence,
24 including, without limitation, annual leave and sick and disability
25 leave, must be fixed by the appointing or employing authority
26 within the limits of legislative appropriations or authorizations.

27 3. Except as otherwise provided in this subsection, leaves of
28 absence prescribed pursuant to subsection 2 must not be of lesser
29 duration than those provided for other state officers and employees
30 pursuant to the provisions of this chapter. The provisions of this
31 subsection do not govern the Legislative Commission with respect
32 to the personnel of the Legislative Counsel Bureau.

33 4. Any board, commission, committee or council created in
34 chapters 445C, 590, 623 to 625A, inclusive, 628, 630 to 644A,
35 inclusive, 648, 652, 654 and 656 of NRS which contracts for the
36 services of a person, shall require the contract for those services to
37 be in writing. The contract must be approved by the State Board of
38 Examiners before those services may be provided.

39 5. ~~For~~ ***Except as otherwise provided in section 5 of this act,***
40 ***to*** the extent that they are inconsistent or otherwise in conflict, the
41 provisions of this chapter do not apply to any terms and conditions
42 of employment that are properly within the scope of and subject to
43 the provisions of a collective bargaining agreement or a
44 supplemental bargaining agreement that is enforceable pursuant to
45 the provisions of NRS 288.400 to 288.630, inclusive.



1 **Sec. 5.5.** NRS 288.505 is hereby amended to read as follows:
2 288.505 1. Each collective bargaining agreement must be in
3 writing and must include, without limitation:

4 (a) A procedure to resolve grievances which applies to all
5 employees in the bargaining unit and culminates in final and binding
6 arbitration. The procedure must be used to resolve all grievances
7 relating to employment, including, without limitation, the
8 administration and interpretation of the collective bargaining
9 agreement, the applicability of any law, rule or regulation relating to
10 the employment and appeal of discipline and other adverse
11 personnel actions.

12 (b) A provision which provides that an officer of the Executive
13 Department shall, upon written authorization by an employee within
14 the bargaining unit, withhold a sufficient amount of money from the
15 salary or wages of the employee pursuant to NRS 281.129 to pay
16 dues or similar fees to the exclusive representative of the bargaining
17 unit. Such authorization may be revoked only in the manner
18 prescribed in the authorization.

19 (c) A nonappropriation clause that provides that any provision
20 of the collective bargaining agreement which requires the
21 Legislature to appropriate money is effective only to the extent of
22 legislative appropriation.

23 2. Except as otherwise provided in subsections 3 and 4, the
24 procedure to resolve grievances required in a collective bargaining
25 agreement pursuant to paragraph (a) of subsection 1 is the exclusive
26 means available for resolving grievances described in that
27 paragraph.

28 3. An employee in a bargaining unit who has been dismissed,
29 demoted or suspended may pursue a grievance related to that
30 dismissal, demotion or suspension through:

31 (a) The procedure provided in the agreement pursuant to
32 paragraph (a) of subsection 1; or

33 (b) The procedure prescribed by NRS 284.390,
34 ➔ but once the employee has properly filed a grievance in writing
35 under the procedure described in paragraph (a) or requested a
36 hearing under the procedure described in paragraph (b), the
37 employee may not proceed in the alternative manner.

38 4. An employee in a bargaining unit who is aggrieved by the
39 failure of the Executive Department or its designated representative
40 to comply with the requirements of NRS 281.755 may pursue a
41 grievance related to that failure through:

42 (a) The procedure provided in the agreement pursuant to
43 paragraph (a) of subsection 1; or

44 (b) The procedure prescribed by NRS 288.115,



1 ↪ but once the employee has properly filed a grievance in writing
2 under the procedure described in paragraph (a) or filed a complaint
3 under the procedure described in paragraph (b), the employee may
4 not proceed in the alternative manner.

5 5. If there is a conflict between any provision of an agreement
6 between the Executive Department and an exclusive representative
7 and:

8 (a) Any regulation adopted by the Executive Department, the
9 provision of the agreement prevails unless the provision of the
10 agreement is outside of the lawful scope of collective bargaining.

11 (b) An existing statute, other than a statute described in
12 paragraph (c), the provision of the agreement may not be given
13 effect unless the Legislature amends the existing statute in such a
14 way as to eliminate the conflict.

15 (c) ~~FA~~ *Except as otherwise provided in section 5 of this act, a*
16 provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575
17 or 288.580, the provision of the agreement prevails unless the
18 Legislature is required to appropriate money to implement the
19 provision, within the limits of legislative appropriations and any
20 other available money.

21 **Sec. 6.** NRS 239.010 is hereby amended to read as follows:

22 239.010 1. Except as otherwise provided in this section and
23 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
24 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
25 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
26 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
27 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
28 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
29 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
30 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
31 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
32 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
33 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
34 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
35 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
36 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
37 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
38 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
39 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
40 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
41 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
42 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
43 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,
44 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
45 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,



1 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
2 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
3 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
4 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
5 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
6 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
7 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
8 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
9 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
10 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
11 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
12 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
13 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
14 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
15 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
16 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
17 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
18 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
19 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
20 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
21 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
22 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
23 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
24 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
25 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
26 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
27 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
28 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
29 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
30 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
31 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
32 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
33 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
34 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
35 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
36 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
37 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
38 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
39 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
40 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
41 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
42 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
43 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
44 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
45 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,



1 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
2 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
3 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
4 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
5 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
6 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
7 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
8 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
9 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
10 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
11 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
12 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*
13 *section 5 of this act*, sections 35, 38 and 41 of chapter 478, Statutes
14 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada
15 2013 and unless otherwise declared by law to be confidential, all
16 public books and public records of a governmental entity must be
17 open at all times during office hours to inspection by any person,
18 and may be fully copied or an abstract or memorandum may be
19 prepared from those public books and public records. Any such
20 copies, abstracts or memoranda may be used to supply the general
21 public with copies, abstracts or memoranda of the records or may be
22 used in any other way to the advantage of the governmental entity or
23 of the general public. This section does not supersede or in any
24 manner affect the federal laws governing copyrights or enlarge,
25 diminish or affect in any other manner the rights of a person in any
26 written book or record which is copyrighted pursuant to federal law.

27 2. A governmental entity may not reject a book or record
28 which is copyrighted solely because it is copyrighted.

29 3. A governmental entity that has legal custody or control of a
30 public book or record shall not deny a request made pursuant to
31 subsection 1 to inspect or copy or receive a copy of a public book or
32 record on the basis that the requested public book or record contains
33 information that is confidential if the governmental entity can
34 redact, delete, conceal or separate, including, without limitation,
35 electronically, the confidential information from the information
36 included in the public book or record that is not otherwise
37 confidential.

38 4. If requested, a governmental entity shall provide a copy of a
39 public record in an electronic format by means of an electronic
40 medium. Nothing in this subsection requires a governmental entity
41 to provide a copy of a public record in an electronic format or by
42 means of an electronic medium if:

43 (a) The public record:

- 44 (1) Was not created or prepared in an electronic format; and
45 (2) Is not available in an electronic format; or



1 (b) Providing the public record in an electronic format or by
2 means of an electronic medium would:

3 (1) Give access to proprietary software; or

4 (2) Require the production of information that is confidential
5 and that cannot be redacted, deleted, concealed or separated from
6 information that is not otherwise confidential.

7 5. An officer, employee or agent of a governmental entity who
8 has legal custody or control of a public record:

9 (a) Shall not refuse to provide a copy of that public record in the
10 medium that is requested because the officer, employee or agent has
11 already prepared or would prefer to provide the copy in a different
12 medium.

13 (b) Except as otherwise provided in NRS 239.030, shall, upon
14 request, prepare the copy of the public record and shall not require
15 the person who has requested the copy to prepare the copy himself
16 or herself.

17 **Sec. 7.** This act becomes effective upon passage and approval.

