

# STATE OF NEW YORK

7177

## IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to official misconduct for sexual harassment by a public servant

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The penal law is amended by adding a new section 195.01 to  
2 read as follows:

3 § 195.01 Official misconduct for sexual harassment.

4 A public servant is guilty of official misconduct for sexual harass-  
5 ment when he or she commits the act of sexual harassment as defined in  
6 this section. For purposes of this section, the following terms shall  
7 have the following meanings:

8 (a) "Sexual harassment" shall mean making unwelcome or unwanted sexual  
9 advances, requesting sexual favors in exchange for favorable treatment  
10 or continued employment, engaging in verbal or physical conduct of a  
11 sexual nature which is made a term or condition of employment, or which  
12 is used as the basis for employment decisions. "Sexual harassment" shall  
13 also include any type of sexual oriented conduct that is unwelcome and  
14 has the purpose or effect of unreasonably interfering with an employee's  
15 work performance or creating a work environment that is intimidating,  
16 hostile, offensive or coercive to a reasonable person. "Sexual harass-  
17 ment" shall not be limited to male-female interaction.

18 (b) "Public servant" shall be defined as (i) any public officer or  
19 employee of the state or of any political subdivision thereof or of any  
20 governmental instrumentality within the state, or (ii) any person exer-  
21 cising the functions of any such public officer or employee. The term  
22 public servant shall include a person who has been elected or designated  
23 to become a public servant.

24 Official misconduct for sexual harassment is a class A misdemeanor.

25 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscoring) is new; matter in brackets  
[-] is old law to be omitted.

LBD13908-01-7