STATE OF NEW YORK

4658

2023-2024 Regular Sessions

IN ASSEMBLY

February 21, 2023

Introduced by M. of A. MCGOWAN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to enacting "Lindsey's law"

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

Section 1. Short title. This act shall be known and may be cited as "Lindsey's law".

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

§ 195.01 Official misconduct for retaliation.

A public servant is guilty of official misconduct for retaliation when he or she, as retaliation against an employee, paid or unpaid intern or non-employee for making a complaint or claim about any incident or incidents of sexual harassment, knowingly and purposefully discloses any confidential government records, including but not limited to personnel files and confidential information or documents pertaining to such incident or incidents of sexual harassment, to any other party who would not otherwise be entitled to such information, after such complaint or claim has been made.

For purposes of this section: 1. "Sexual harassment" shall mean making unwelcome or unwanted sexual advances, requesting sexual favors in exchange for favorable treatment or continued employment, engaging in verbal or physical conduct of a sexual nature which is made a term or condition of employment, or which is used as the basis for employment decisions. "Sexual harassment" shall also include any type of sexually oriented conduct that is unwelcome and has the purpose or effect of unreasonably interfering with an employee's work performance or creating a work environment that is intimidating, hostile, offensive or coercive to a reasonable person. "Sexual harassment" shall not be limited to male-female interaction.

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

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2. "Public servant" shall mean (i) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (ii) any person exercising the functions of any such public officer or employee. The term public servant shall include a person who has been elected or designated to become a public servant.

Official misconduct for retaliation is a class A misdemeanor.

§ 3. This act shall take effect immediately.