

ASSEMBLY BILL

No. 2053

Introduced by Assembly Member Gonzalez

February 20, 2014

An act to amend Section 12950.1 of the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2053, as introduced, Gonzalez. Employment discrimination or harassment: education and training: abusive conduct.

Existing law makes specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. Existing law further requires every employer to act to ensure a workplace free of sexual harassment by implementing certain minimum requirements, including posting sexual harassment information posters at the workplace and obtaining and making available an information sheet on sexual harassment.

Existing law also requires employers, as defined, with 50 or more employees to provide at least 2 hours of training and education regarding sexual harassment to all supervisory employees, as specified. Existing law requires each employer to provide that training and education to each supervisory employee once every 2 years.

This bill would additionally require that the above-described training and education include, as a component of the training and education, prevention of abusive conduct, as defined. The bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12950.1 of the Government Code is
2 amended to read:

3 12950.1. (a) ~~By January 1, 2006, an~~ An employer having 50
4 or more employees shall provide at least two hours of classroom
5 or other effective interactive training and education regarding
6 sexual harassment to all supervisory employees in California ~~who~~
7 ~~are employed as of July 1, 2005, and to all new supervisory~~
8 ~~employees within six months of their assumption of a supervisory~~
9 ~~position. Any employer who has provided this training and~~
10 ~~education to a supervisory employee after January 1, 2003, is not~~
11 ~~required to provide training and education by the January 1, 2006,~~
12 ~~deadline. After January 1, 2006, each~~ An employer covered by this
13 section shall provide sexual harassment training and education to
14 each supervisory employee in California once every two years.
15 The training and education required by this section shall include
16 information and practical guidance regarding the federal and state
17 statutory provisions concerning the prohibition against and the
18 prevention and correction of sexual harassment and the remedies
19 available to victims of sexual harassment in employment. The
20 training and education shall also include practical examples aimed
21 at instructing supervisors in the prevention of harassment,
22 discrimination, and retaliation, and shall be presented by trainers
23 or educators with knowledge and expertise in the prevention of
24 harassment, discrimination, and retaliation.

25 (b) *An employer shall also include prevention of abusive conduct*
26 *as a component of the training and education specified in*
27 *subdivision (a).*

28 ~~(b)~~

29 (c) The state shall incorporate the training required by
30 subdivision (a) into the 80 hours of training provided to all new
31 supervisory employees pursuant to subdivision (b) of Section
32 19995.4, using existing resources.

33 ~~(e) For purposes of this section only, “employer” means any~~
34 ~~person regularly employing 50 or more persons or regularly~~
35 ~~receiving the services of 50 or more persons providing services~~
36 ~~pursuant to a contract, or any person acting as an agent of an~~
37 ~~employer, directly or indirectly, the state, or any political or civil~~
38 ~~subdivision of the state, and cities.~~

1 (d) Notwithstanding subdivisions (j) and (k) of Section 12940,
2 a claim that the training and education required by this section did
3 not reach a particular individual or individuals shall not in and of
4 itself result in the liability of any employer to any present or former
5 employee or applicant in any action alleging sexual harassment.
6 Conversely, an employer's compliance with this section does not
7 insulate the employer from liability for sexual harassment of any
8 current or former employee or applicant.

9 (e) If an employer violates this section, the department may
10 seek an order requiring the employer to comply with these
11 requirements.

12 (f) The training and education required by this section is
13 intended to establish a minimum threshold and should not
14 discourage or relieve any employer from providing for longer,
15 more frequent, or more elaborate training and education regarding
16 workplace harassment or other forms of unlawful discrimination
17 in order to meet its obligations to take all reasonable steps
18 necessary to prevent and correct harassment and discrimination.

19 (g) (1) *For purposes of this section only, "employer" means*
20 *any person regularly employing 50 or more persons or regularly*
21 *receiving the services of 50 or more persons providing services*
22 *pursuant to a contract, or any person acting as an agent of an*
23 *employer, directly or indirectly, the state, or any political or civil*
24 *subdivision of the state, and cities.*

25 (2) *For purposes of this section, "abusive conduct" means*
26 *conduct of an employer or employee in the workplace, with malice,*
27 *that a reasonable person would find hostile, offensive, and*
28 *unrelated to an employer's legitimate business interests. Abusive*
29 *conduct may include repeated infliction of verbal abuse, such as*
30 *the use of derogatory remarks, insults, and epithets, verbal or*
31 *physical conduct that a reasonable person would find threatening,*
32 *intimidating, or humiliating, or the gratuitous sabotage or*
33 *undermining of a person's work performance. A single act shall*
34 *not constitute abusive conduct, unless especially severe and*
35 *egregious.*

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