



SPONSOR: Rep. Keeley

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2  
TO  
HOUSE SUBSTITUTE NO. 1  
FOR  
HOUSE BILL NO. 360

1 AMEND House Substitute No. 1 for House Bill No. 360 by adding after line 16 but before line 17 and  
2 redesignating accordingly the following:

3 “( ) “Employee placed by employment agency” means an employee who performs services for an employer  
4 as a result of the employer’s contractual agreement with an employment agency.”.

5 FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by adding after line 18 but before line 19 and  
6 redesignating accordingly the following:

7 “( ) “Employment agency” means as defined in § 710 of this Title.”.

8 FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by deleting lines 20 through 23 in their  
9 entirety and inserting in lieu thereof the following:

10 “(7) “Independent contractor” means as defined in § 3507 of this Title.”.

11 FURTHER AMEND House Substitute No. 1 for House Bill No. 360 on lines 26 by deleting “and includes  
12 termination, failure to promote or hire and loss of wages or benefits”.

13 FURTHER AMEND House Substitute No. 1 for House Bill No. 360 on line 30 by adding after “employee” and  
14 before the period therein “or who directs an employee’s daily work activities”.

15 FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by deleting lines 31 through 36 in their  
16 entirety and inserting in lieu thereof the following:

17 “(c) Sexual harassment of an employee is an unlawful employment practice when the employee is subjected to  
18 conduct that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a  
19 sexual nature when:

20 (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee’s  
21 employment;

22                   (2) submission to or rejection of such conduct is used as the basis for employment decisions affecting an  
23                   employee; or

24                   (3) such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance  
25                   or creating an intimidating, hostile, or offensive working environment.”

26                   FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by deleting lines 44 through 53 in their  
27                   entirety and redesignating accordingly.

28                   FURTHER AMEND House Substitute No. 1 for House Bill No. 360 on line 71 by adding after “distribute” and  
29                   before “the” as it appears therein “, physically or electronically.”

30                   FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by deleting lines 79 and 80 in their entirety  
31                   and redesignating accordingly.

32                   FURTHER AMEND House Substitute No. 1 for House Bill No. 360 on line 81 by deleting “at least 90 minutes of  
33                   effective” as it appears therein.

34                   FURTHER AMEND House Substitute No. 1 for House Bill No. 360 by adding after line 104 and before line 105  
35                   the following:

36                   “(6) Numerosity and training requirement.

37                   a. Employers do not count applicants or independent contractors towards the numerosity requirement  
38                   under this subsection.

39                   b. Employers are not required to provide training under this subsection to applicants, independent  
40                   contractors, or employees employed less than 6 months continuously.

41                   c. Employment agencies are the only employers required to count and provide training to employees  
42                   placed by employment agency under this subsection.”

#### SYNOPSIS

This amendment replaces the definition of “joint employee” with “employee placed by employment agency” to make clear that such employees are protected against sexual harassment. This amendment also changed the definition of independent contractor by using a definition already existing in Title 19 and clarified the definition of supervisor. This amendment changed the language in the definition of sexual harassment to track directly the federal definition as it appears in the Code of Federal Regulations. This amendment also clarifies that employers can distribute the information sheet physically or electronically to employees. This amendment removes the requirement that an employer provide 90 minutes of sexual harassment training. Finally, this amendment clarifies which employees are required to be counted and trained under subsection (h).