



NEW YORK STATE SENATOR

Terrence Murphy

## Senator Murphy Sponsors Sexual Harassment Legislation to Create Safer Workplaces for All Employees

TERRENCE MURPHY March 13, 2018

| ISSUE: **SEXUAL HARASSMENT, SEXUAL HARASSMENT LAWS, SAFE WORKPLACES, WORKPLACE SAFETY**



Albany, NY - Since the allegations of sexual abuse by Hollywood producer Harvey Weinstein surfaced on Oct. 5, 2017, women have been stepping forward to publicly share their stories of sexual misconduct. With the prospect of being held accountable for their actions, some 100 high profile male executives and businessmen have resigned, while others have been ousted from their companies amidst the allegations.

To help strengthen the State harassment laws, Senator Terrence Murphy has sponsored legislation that is a comprehensive response to sexual harassment in New York's workplaces. The bill (S7848A), sponsored by Senator Murphy, Senator Catharine Young, Senator Elaine Phillips, members of the Senate Republican Women's Caucus, and others, would prevent individuals from engaging in misconduct that creates a hostile work environment in either the public or private sectors and encourages victims to come forward.

"The victims of sexual harassment have been forced to remain silent for far too long," said Senator Murphy. "We now have legislation that gives them a voice to combat sexual harassment in the workplace, holds offenders accountable for their inexcusable behavior and protects taxpayers from footing the bill to settle sexual harassment lawsuits."

Senator Catharine Young said, "#MeToo! In recent months, those simple yet powerful words have become a rallying cry for women and men who have been victims of sexual harassment. Their courage has awoken America to the stunning magnitude of the problem and created an overwhelming demand for change, not only in our culture, but also in our laws. While egregious cases from Hollywood and the media industry have garnered the most attention, millions of workers across the board in public and private settings need and deserve to have safeguards. Every New Yorker, whether you are living paycheck to paycheck, in the middle class, or are rich and famous, will now have their voices heard with sweeping new protections under the law. Senate Republicans are leading the way, and I urge Governor Cuomo and the state Assembly to adopt our comprehensive plan."

"There is no place in our government, or society as a whole, for sexual assault or harassment. It is inspiring to see the movement of women across our country coming forward, sharing their personal stories, and overcoming the stigma and shame brought on by the despicable

actions of others," stated Senator Phillips. "This landmark legislation defines in statute sexual harassment for the first time in our state; bans secret settlements; prohibits mandatory arbitration for sexual harassment complaints; and protects independent contractors. New Yorkers will now have the protections and safeguards they deserve. As a Senator, as a woman, as a mother, I urge the Assembly and the Governor to take up this legislation and enact these sweeping changes."

The major reforms of the bill include:

- \* Adopting the definition of "Sexual Harassment" into state law: The bill creates a uniform definition of sexual harassment that is based on federal regulations: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct, explicitly or implicitly, affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment without regard to actual economic injury to or discharge of the individual.

There is currently no definition in statute of what constitutes sexual harassment. That leaves litigants subject to varying interpretations by judges, who may improperly dismiss sexual harassment cases at the outset. One study found that approximately 37 percent of cases are dismissed pretrial.

- \* Prohibiting secret settlements unless the victim requests confidentiality: Courts would be prohibited from accepting any sexual harassment settlements that include confidentiality agreements or provisions. This would help ensure that those responsible are held accountable and prevent future harassment.

\* Prohibiting mandatory arbitration for sexual harassment complaints: Mandatory arbitration clauses are often used by employers to force sexual harassment victims into private arbitration proceedings, which precludes their ability to seek legal action.

\* Protecting non-employees in the workplace: Currently, individuals who are not employees but are present in the workplace on a contract basis cannot file complaints against their harassers. The legislation would close this loophole by extending to contract workers the same right to file sexual harassment complaints to the state Division of Human Rights as individuals who are directly employed by the company or entity.

\* Creating a uniform policy for all branches of state and local government: The state Department of Labor would be required to create a strong model management policy defining and prohibiting sexual harassment. Every county, city, town, village, school district, or other public entity would be required to develop a sexual harassment prevention policy that applies to all employees and which includes investigation procedures and a standard complaint form. Each complaint would be confidential and the policy must include the prevention of intimidation, retaliation, or coercion to help protect the complainant.

The measure also standardizes the process for state government. The legislature would be required to designate an independent attorney specializing in employment law to investigate complaints based on sexual harassment. A specialized unit within the state's Joint Commission on Public Ethics would also be established to receive and investigate complaints. Managers and supervisors would be required to report as soon as they become aware of sexual harassment conduct.

\* Protecting taxpayer funds from being used for individual sexual harassment settlements: When there is a finding or admission of sexual harassment by a state or local employee, this measure holds the harasser financially accountable for the settlement by enabling the public entity to recoup taxpayer money.

The bill was passed by the Senate on March 12 by a vote of 56-2. It will be sent to the Assembly. Albany, NY - Since the allegations of sexual abuse by Hollywood producer Harvey Weinstein surfaced on Oct. 5, 2017, women have been stepping forward to publicly share their stories of sexual misconduct. With the prospect of being held accountable for their actions, some 100 high profile male executives and businessmen have resigned, while others have been ousted from their companies amidst the allegations.