



Prepared for: Joint Committee on Capitol Culture
 Date: March 13, 2019
 By: Josh Nasbe, Committee Counsel
 Re: HCR 20 -1 and SB 744 -2

The Joint Committee on Capitol Culture has several amendments before it at its [March 13 meeting](#), including [-1 amendments](#) to House Concurrent Resolution 20 and [-2 amendments](#) to Senate Bill 744. The below tables and lists are an effort to summarize the more significant components of these two amendments.

I. TABLE 1 – COMPARISON OF SENATE BILL 744 AND THE -2 AMENDMENT

	Senate Bill 744 -as introduced	Senate Bill 744 -2 amendment
Who selects the Principal Officers of the Legislative Equity Office?	The Joint Committee on Conduct.	The Legislative Assembly, via concurrent resolution. The Joint Committee on Conduct may conduct interviews and may make recommendations, after consulting with the Capitol Diversity, Equity and Inclusion Team.
What are the terms of the Principal Officers' appointments?	Serve at the pleasure of the Joint Committee. If vacancy, Presiding Officers select acting Principal Officers.	Four-year terms. May be removed – for cause – by the Joint Committee. If vacancy, Joint Committee may select acting Principal Officers.
When must registered lobbyists begin annual training?	January 1, 2023	January 1, 2021

	Senate Bill 744 -as introduced	Senate Bill 744 -2 amendment
Are the Principal Officers authorized to advise individuals on whether proffered facts might constitute harassment?	Yes	No
Who may provide process counseling and receive confidential disclosures?	The Principal Outreach Officer.	<ul style="list-style-type: none"> • The Principal Outreach Officer; and • An independent contractor serving as an offsite process counselor.
How are process counseling and confidential disclosures protected from disclosure?	The communications are subject to an evidentiary privilege, held by the individual making the disclosure, pursuant to House Bill 2859.	<ul style="list-style-type: none"> • Communications with the Principal Outreach officer are confidential; and • Communications with the offsite process counselor are subject to an evidentiary privilege, held by the individual making the disclosure.
What records and information are subject to disclosure?	Pursuant to LC 3039: <ul style="list-style-type: none"> • Formal complaints are subject to disclosure • Investigatory records relating to a legislator are subject to disclosure at the conclusion of the investigation • All other records are subject to disclosure upon the imposition of remedial measures or discipline 	Same, though a conflict with subsection (16) of HCR 20 -1 must be resolved.

II. TABLE 2 – COMPARISON OF HOUSE CONCURRENT RESOLUTION 20 AND THE -1 AMENDMENT

	House Concurrent Resolution 20 -as introduced	House Concurrent Resolution 20 -1 amendment
Who is a mandatory reporter of harassment?	Appointing authorities and supervisors.	Appointing authorities and nonpartisan supervisors. In lieu of making a nonconfidential report, mandatory reporters may report harassment that they personally experience via a confidential disclosure.
What are the time limits on making a report?	No limit.	<ul style="list-style-type: none"> • No limit for confidential disclosures. • Five-year limit for nonconfidential reports and formal complaints.

III. LIST 1 – ADDITIONS TO HOUSE CONCURRENT RESOLUTION 20 IN THE -1 AMENDMENT

- Requires members of the respective Conduct Committees to be elected by the full body
- Modifies the confidential disclosure process:
 - Authorizes the imposition of safety measures that are consistent with a confidential disclosure
 - Requires that interns be advised of the Title IX reporting process, services available at the educational institution and institutional contact information
 - Requires an explanation of the Employee Assistance Program and authorizes a referral to a counselor
- Requires that all employee, intern, extern and volunteer applications be provided to Human Resources
- Requires proactive efforts by Principal Investigator to conduct exit interviews when employees resign or retire
- Modifies the remedial standard applicable to legislators: "...the committee shall impose any remedy that is sufficient to reprimand the member and deter future conduct that violates the rule..."
- Modifies the standard by which nonconfidential reports are reviewed by the Principal Investigator: "...whether the reported conduct, when taken on its face, could be prohibited by this rule..."
- Requires the Legislative Equity Office to develop and publish examples of conduct constituting harassment, sexual harassment and retaliation
- Includes a non-exclusive list of protected classes
- In addition to making the definitional amendments described below, deletes definitions of "severe" and "pervasive"

IV. AMENDMENT TO SUBSTANTIVE DEFINITIONS

(4) Harassment [*and hostile work environment*]

[(a)] An individual engages in harassment by engaging in verbal or physical conduct, including making a visual display or causing a visual display to be shown, that denigrates or shows hostility toward a protected class or a member of a protected class. Examples of harassment **may** include, but are not limited to:

[(A)] **(a)** Name-calling, slurs or stereotyping;

[(B)] **(b)** Threatening, intimidating or hostile acts that relate to a protected class;

[(C)] Belittling, demeaning or humiliating a person **or group of persons** because of a protected class; or

(D) Generating or displaying written or graphic material that [*denigrates or shows hostility or aversion toward an individual or group because of a protected class*] **that is described in paragraphs (a) to (c) of this subsection .**

[(b)] *An individual creates a hostile work environment by engaging in behavior that is unwelcome and is so severe or pervasive that it either affects a person's ability to function in the workplace or denies someone the benefits of the workplace.*]

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[(7)] **(8)** Prohibitions.

[(a)] The Legislative Branch prohibits conduct that:

[(A)] **(a)** Constitutes harassment;

[(B)] *Creates a hostile work environment;*

[(C)] **(b)** Constitutes sexual harassment; or

[(D)] **(c)** Is retaliation.

[(b)] *The Legislative Branch prohibits all forms of harassing behavior, even if the behavior does not rise to the level of creating a hostile work environment.*

[(c)] *The Legislative Branch prohibits all retaliatory behavior, even if the retaliatory behavior does not rise to the level of unlawful retaliation.*]