

KTJ

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LEGAL ALERT

SEXUAL HARASSMENT

On November 16, 2017, the Governor signed Public Act 100-0554 (Senate Bill 402) (the “Sexual Harassment Bill”), which, among other things, amends Section 70-5 of the State Officials and Employees Ethics Act, 5 ILCS 430/70-5, to require governmental units to adopt a sexual harassment policy, by either an ordinance or a resolution, that complies with the law’s new requirements. This legislation became effective immediately (on November 16, 2017). **The adoption of a sexual harassment policy (or amendments to an existing sexual harassment policy) must occur no later than sixty (60) days after the legislation’s effective date (i.e., on or prior to Tuesday, January 15, 2018).**

Although most governmental units already have a sexual harassment policy in place, in accordance with Title VII of the Civil Rights Act of 1964 and the Illinois Human Rights Act, the policy requirements established in Public Act 100-0554 vary slightly from the minimum policy requirements set forth in the above civil rights statutes. Therefore, it is important to review existing policies to ensure compliance with the new statutory requirements and take formal action to adopt or ratify the policy by resolution or ordinance.

Public Act 100-0554 requires the sexual harassment policy to include, at a minimum:

- (i) a prohibition on sexual harassment;
- (ii) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights;



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- (iii) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under this Act, the Whistleblower Act, and the Illinois Human Rights Act; and
- (iv) the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report.

The term “sexual harassment” mimics the term as used in the Illinois Human Rights Act. Please be advised that the term “governmental units” is not defined in the State Officials and Employees Ethics Act, and has been inconsistently defined in State statutes. To ensure compliance, we recommend that all governmental entities, including counties, municipalities, townships, special districts, and school districts, review and update their policies to comply with this new legislation. Please contact your KTJ attorney to determine what steps are necessary to comply with the Act.