

Texas Small Businesses Beware: New Laws Expand Liability for Sexual Harassment Claims



By [Janet A. Hendrick](#)



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September 1, 2021 marks the beginning of a new era for sexual harassment claims against employers in Texas. Texas is notorious for protecting its pro-employer policies, but recent legislation goes against the grain to make all businesses, regardless of size, subject to liability for sexual harassment claims.

1. Senate Bill 45 Broadens Definition of “Employer” and Scope of Liability

Senate Bill 45, signed by Governor Greg Abbott on May 30, 2021, adds Section 21.141 to the Texas Labor Code to define “employer” as “a person who (A) **employs one or more employees**; or (B) acts directly in the interests of an employer in relation to an employee.” Currently, only employers with fifteen or more employees can be sued for sex harassment, under either federal or Texas law, but the new Texas law will subject all employers doing business in Texas, regardless of size, to these claims. Additionally, the law expands liability to individuals, such as officers, directors, and other employees, so an employee claiming sex harassment can sue not just the employer, but these individuals.

2. Senate Bill 45 Requires Employers to Act Immediately

Historically, employers subject to sex harassment claims can avoid liability by taking prompt remedial action when an employee alleges sex harassment. The new Texas law changes this standard, requiring employers to take “immediate and appropriate corrective action.” What exactly this standard will require remains to be seen, as Texas courts will no doubt face interpreting the standard for years to come.

3. House Bill 21 Lengthens the Statute of Limitations for Employees to File Claim

Under current Texas law, an employee has 180 days to file a sexual harassment claim with the Texas Workforce Commission. House Bill 21, signed by Governor Abbott on June 9, 2021, extends this period to 300 days for claims based on conduct that occurred on or after September 1, 2021. The 180-day period will still apply to other discrimination claims, including discrimination based on sex, race, color, disability, national origin, or religion.

Although it is yet to be determined exactly how these changes will be interpreted and applied, it is imperative that *all* employers—regardless of size—be proactive to ensure they are

taking measures to minimize liability for sexual harassment claims. Three important steps are (1) robust policies, that allow reporting through multiple avenues, (2) manager training, and (3) swift action to investigate claims. Phillips Murrah has extensive experience investigating and defending sex harassment claims and working with employers to make sure their training, policies and procedures protect their businesses. For assistance, contact your Phillips Murrah labor and employment lawyer.

Phillips Murrah's [labor and employment](#) attorneys continue to monitor developments to provide up-to-date advice to our clients regarding new rules that affect employers.

[Janet Hendrick](#) is a Shareholder and a member of the Firm's [Labor and Employment](#) Practice Group. For more information on this alert and its impact on your business, please call 214.615.6391 or [email](#) me.



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