



The Public Employee Sexual Violence Act H.B. 6

“We need to turn the question around to look at the harasser, not the target. We need to be sure that we can go out and look anyone who is a victim of harassment in the eye and say, ‘You do not have to remain silent anymore.’” - Anita Hill

Overview

[House Bill 6 \(H.B. 6\)](#), the Public Employee Sexual Violence Act, re-opens a window for public employees who suffered sexual violence by their employer to file a suit against that employer that may otherwise have been untimely under the existing statute of limitations. A statute of limitation is, essentially, the expiration date of when someone can file a case for an offense. This legislation allows victims one year to file a suit in cases up to twenty-five years old, even if the applicable statute of limitations has expired, if they can establish that they were either dissuaded or intimidated from bringing the suit previously.

Problem

As the #MeToo movement has highlighted the painful and pervasive sexual violence rooted in American society, many survivors have decided to come forward and share their stories. As more and more survivors come forward to seek justice, they may quickly encounter a hurdle in their path: an expired statute of limitations.

Research has shown that [63 percent](#) of sexual assault crimes are not reported. Survivors have [many reasons](#) for not reporting these crimes, ranging from fear of the justice system to the stigma that is too often associated with survivors of sexual abuse. For whatever reason a survivor chooses not to come forward, it can take many years before they are ready, if ever, to seek justice. In these cases, survivors who are eventually prepared to file suit may find that the window of time to file has closed, and they no longer have a legal avenue to seek redress.

Moreover, sexual violence and harassment in the workplace can have profound impacts on both the survivor and the overall work culture. When sexual violence [occurs in the workplace](#), an employee's job performance may suffer, or the victim may feel pressured to leave that job entirely. While the state of Delaware should implement measures to ensure that sexual violence is never perpetuated in the workplace in the first place, the state should also ensure that those who are victims of sexual violence are given the proper time and space to receive justice as the culture shifts to be more supportive of victims.

Policy Solutions

Representative Longhurst, along with Senator Lockman and Representative Lambert, is sponsoring H.B. 6, the Public Employee Sexual Violence act to address the problem of expired statutes of limitations. [This bill](#), if passed, will allow Delaware state public employees (ranging from public school teachers to municipality officials) a year to file claims against an offense who otherwise would be time-barred, provided they can show they were previously deterred from doing so earlier.

Benefits:

This bill is a step in the right direction for addressing harassment in the workplace. The main benefit of the bill is essentially what has been described above--this bill re-opens a window for public employees who suffered sexual violence to file suit against an employer when the previous statute of limitations may have been closed, and they can provide that they were previously deterred from reporting.

Future Improvements:

While this bill is a much-needed push in the direction of reforming the justice system to work for survivors of sexual violence and harassment, the following are suggestions for improving and expanding the legislation:

- Expanding the protection offered in the Public Employee Sexual Violence Act to **all** employees in the state of Delaware, not just public employees;
- Removing the geographic limitation for incidents; and
- Removing the statute of limitations for the most serious of sexual assault cases (particularly in rape cases), especially considering the current statute of limitation for sexual assault ranges only from 2-5 years;

In addition to the scope of this legislation, there is much to be done on the topic largely. [Research](#) has shown that sexual harassment in the workplace is often a result of stark power imbalances between employees and employers. As women, and particularly women of color and immigrant women, are disproportionately represented in low-wage jobs, they lack many of the protections of high-wage workers, such as predictable schedules and paid time off. In this sense, more policies need to be implemented to address the gaps in workplace harassment

laws, such as decreasing the employer size threshold for harassment and discrimination laws, and including “independent contractors” in the provisions of these laws as well.

Finally, while it may seem that the thorough language used in H.B. 6 to define acts of sexual violence may be a positive, this could also be used as a means to limit the range of offenses included in the bill. A broader definition of acts of sexual violence and harassment could be more beneficial, and add flexibility for those who are survivors of sexual violence in the workplace.

Additional Resources

- RAINN Statute of Limitations [information for Delaware](#);
- [Research](#) on the adverse effects of sexual harassment in the workplace, and resources for employers to address these issues;
- Know your sexual harassment rights at work [here](#).