

THE NEWSLETTER OF THE LAW OFFICES OF KARIN A. BENTZ, P.C.

Legislature Amends the Civil Rights Act to Prohibit Sexual Harassment

In April 2006 the Virgin Islands legislature amended the Civil Rights Act to prohibit sexual harassment in employment. "Sexual harassment," said the legislators, "goes against the established constitutional principle that the dignity of a human being is inviolable."

Attorneys of the
Law Offices of Karin A. Bentz, P.C.



The firm announces that Karin A. Bentz was admitted to practice law before the State Bar of New York in July of 2006.

**Law Offices of
Karin A. Bentz, P.C.
18 Dronningens Gade, Ste. 8
St. Thomas, VI 00802
340-774-2669 Tel.
340-774-2665 Fax**

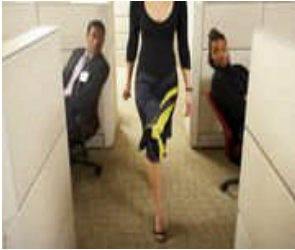
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New Rules on Sexual Harassment



All employers are encouraged to follow the new rules, but the Virgin Islands Government and employers of five or more are required to do so. Even non-profits must comply.

The legislature defined sexual harassment broadly as any unwelcome sexual advances, request for sexual favors or any other verbal or physical conduct of a sexual nature when:

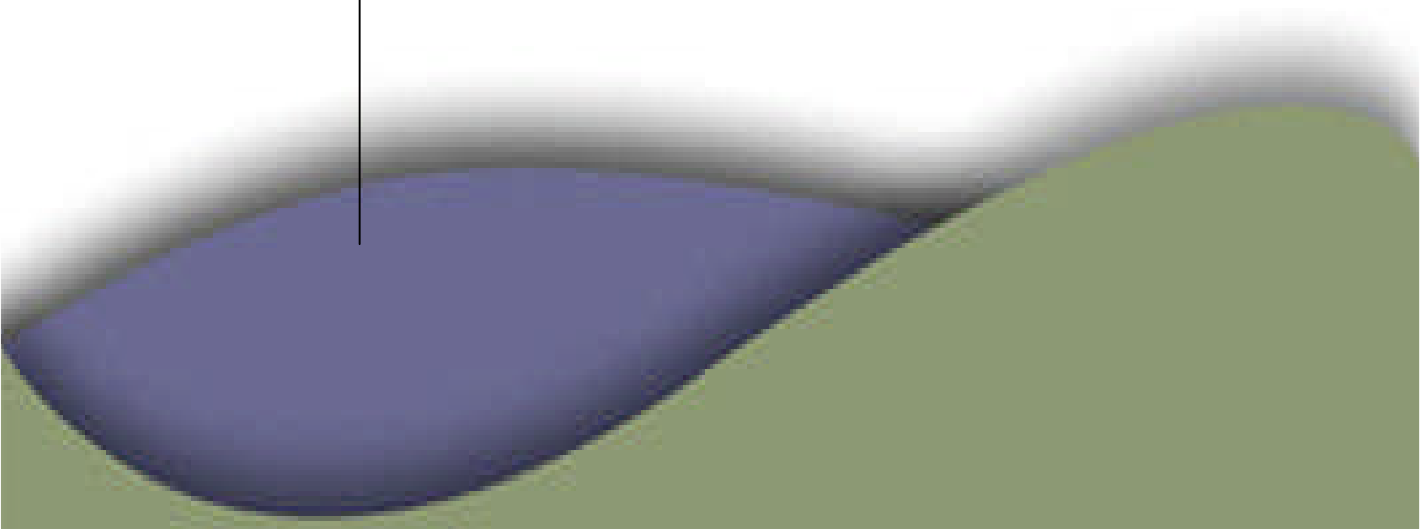
- Submission is made a condition of any individual's employment, explicitly or implicitly; or
- Submission is used as a basis for employment decisions about an individual; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive workplace.

The penalties for violating the new law are not as clearly drafted as the provisions dealing with the meaning of sexual harassment.

It is clear that an action may be brought in Superior Court, not just before the Civil Rights Commission and that new remedies apply in addition to pre-existing remedies for sexual discrimination.

This is what is not clear: The new law states that any person responsible for sexual harassment shall pay damages to the person aggrieved. Does this include the employer or only the wrongdoer? Will the existence of a policy against sexual harassment and procedures to deal with complaints shield the employer from liability?

Finally, employers should note that the court can order them to hire, promote and reinstate the employee. This means that the employer will in all likelihood be part of any civil litigation.





Adopt a Policy

These are the procedures that employers must follow to prevent sexual harassment in their work place:

- Adopt a policy that it is unlawful to harass someone sexually and that it is unlawful to retaliate against someone for filing a complaint for sexual harassment or for cooperating in an investigation.
- Provide a description and examples of sexual harassment.
- Describe the procedure for filing internal complaints about sexual harassment, including the contact information for the person to whom complaints are to be made.
- Identify the appropriate territorial and federal employment discrimination enforcement agencies and directions on how to contact them.
- Provide copies of the written policy against sexual harassment to all employees upon request.
- Provide an educational and training program for new employees with additional training for new supervisory and managerial employees.

Please feel free to contact us about compliance with the new law. Our experienced employment lawyers can assist with structuring a procedure for internal complaints, drafting a written anti-harassment policy, modifying the Employee Handbook, and training personnel.

