SENATE JOINT RESOLUTION 13-036

BY SENATOR(S) Carroll, Morse, Cadman, Kefalas, Todd, Ulibarri;
also REPRESENTATIVE(S) Hullinghorst, Ferrandino, Waller, Court, Fields, Labuda, Rosenthal, Ryden, Schafer, Young.

CONCERNING MODIFICATIONS TO THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES THAT ADDRESS SEXUAL HARASSMENT AND BILL REQUESTS SUBMITTED TO THE OFFICE OF LEGISLATIVE LEGAL SERVICES BY SUBJECT ONLY.

Be It Resolved by the Senate of the Sixty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That in the Joint Rules of the Senate and House of Representatives, Joint Rule No. 38, **amend** as follows:

38. ~~Sexual~~ WORKPLACE Harassment Policy

(a) ***~~Sexual~~ WORKPLACE harassment policy of the General Assembly.*** It is the General Assembly's policy to create and maintain a work environment in which all members, legislative employees, and third parties are treated with dignity and respect. Members, legislative employees, and third parties have the right to a workplace that is free from ~~sexual~~ harassment, both subtle and overt. ~~It is further the policy of the General Assembly to eliminate and prevent the recurrence of sexually harassing behavior~~ THEREFORE, THE GENERAL ASSEMBLY STRIVES TO PREVENT AND ELIMINATE HARASSING BEHAVIOR, AND THE RECURRENCE OF HARASSING BEHAVIOR, BASED ON DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, AGE FORTY AND OLDER, NATIONAL ORIGIN, MILITARY STATUS, GENETIC INFORMATION, OR ANCESTRY which ~~member~~ MEMBERS, legislative

employees, and third parties may encounter in the course of their work.

(a.5) ***WORKPLACE HARASSMENT – DEFINITION.*** "WORKPLACE HARASSMENT" MEANS ANY HARASSMENT BASED ON DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, AGE FORTY AND OLDER, NATIONAL ORIGIN, MILITARY STATUS, GENETIC INFORMATION, OR ANCESTRY, INCLUDING VERBAL OR PHYSICAL BEHAVIOR OR CONDUCT, THAT DENIGRATES OR SHOWS HOSTILITY OR AVERSION TOWARD AN INDIVIDUAL BECAUSE OF THAT INDIVIDUAL'S DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, AGE FORTY AND OLDER, NATIONAL ORIGIN, MILITARY STATUS, GENETIC INFORMATION, OR ANCESTRY OR THAT HAS THE PURPOSE OR EFFECT OF SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S WORK PERFORMANCE OR CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE WORK ENVIRONMENT. WHILE "WORKPLACE HARASSMENT" INCLUDES SEXUAL HARASSMENT, SEXUAL HARASSMENT RAISES ISSUES THAT ARE TO SOME EXTENT UNIQUE IN COMPARISON TO OTHER TYPES OF WORKPLACE HARASSMENT. THEREFORE, SEXUAL HARASSMENT WARRANTS SEPARATE EMPHASIS AND IS FURTHER DESCRIBED IN SUBSECTION (b) OF THIS JOINT RULE.

(b) ***Sexual harassment. ~~– definition~~.***

(1) For purposes of this Joint Rule, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work

performance or creating an intimidating, hostile, or offensive working environment.

(2) In the course of implementation of the General Assembly's ~~sexual~~ WORKPLACE harassment policy, the ~~definition~~ DESCRIPTION of sexual harassment contained in paragraph (1) of this subsection (b) AND IN THE WRITTEN STATEMENT PREPARED PURSUANT TO SUBSECTION (c) (1) OF THIS JOINT RULE shall be subject to revision as necessary to conform with the most recent state or federal statutes or case law defining sexual harassment.

(c) ***Statement implementing the ~~sexual~~ WORKPLACE harassment policy of the General Assembly.***

(1) The staff directors of the Legislative Council, the Office of Legislative Legal Services, and the Joint Budget Committee, the State Auditor, the secretary of the Senate, and the chief clerk of the House of Representatives jointly shall prepare a written statement implementing the ~~sexual~~ WORKPLACE harassment policy of the General Assembly set forth in subsection (a) OF THIS JOINT RULE and containing the definition of ~~sexual~~ WORKPLACE harassment in subsection ~~(b)~~ (a.5) of this Joint Rule. Such statement ~~shall~~ MUST be in the form of an employment or personnel policy. Such statement ~~shall~~ MUST be applicable to all legislative employees of the agencies or house not subject to the state personnel system, each member of the General Assembly, and third parties. Such statement ~~shall~~ MUST be submitted for approval to the Executive Committee of the Legislative Council and, following such approval, ~~shall~~ MUST also be included in each agency's personnel manual or equivalent document.

(2) Such statement ~~shall contain~~ MUST ALSO INCLUDE A SPECIFIC DESCRIPTION OF SEXUAL HARASSMENT AND examples of written, verbal, visual, and physical conduct which may constitute sexual harassment, including but not limited to, examples of the kind of behavior that creates a hostile environment BASED ON SEXUAL HARASSMENT.

(3) Such statement ~~shall~~ MUST provide that no person will be subject to retaliation for having complained of ~~sexual~~ WORKPLACE harassment or for having assisted or participated in an investigation of alleged ~~sexual~~ WORKPLACE harassment.

(d) ***Implementation of policy – complaint procedure.***

(1) The statement implementing the ~~sexual~~ WORKPLACE harassment policy of the General Assembly ~~shall~~ MUST provide for THE resolution of ~~sexual~~ WORKPLACE harassment complaints as follows:

(A) A legislative employee, member, or third party with a ~~sexual~~ WORKPLACE harassment complaint may notify that person's contact person. The contact person ~~will~~ SHALL investigate the complaint by interviewing the complainant, the person or persons accused, and any witnesses and by considering all of the circumstances surrounding the alleged incident or incidents which form the basis of the complaint. After this investigation and after appropriate consultation, if necessary, the contact person may resolve the complaint. Resolution may include disciplinary action when appropriate.

(B) Notwithstanding subparagraph (A) of this paragraph (1), a legislative employee with a ~~sexual~~ WORKPLACE harassment complaint may file a charge of discrimination with the United States Equal Employment Opportunity Commission or the Colorado Civil Rights Division as provided by law.

(e) The statement implementing the ~~sexual~~ WORKPLACE harassment policy of the General Assembly ~~shall establish~~ MUST INCLUDE appropriate record-keeping requirements, including, but not limited to, a provision that complaints of ~~sexual~~ WORKPLACE harassment will be investigated and ~~handled as discreetly as possible with~~ information ~~being~~ shared with those having a need

to know and in accordance with THE law.

(f) ***Training.*** Persons responsible for implementing the ~~sexual~~ WORKPLACE harassment policy of the General Assembly shall receive sufficient training to discharge their duties. The General Assembly shall provide training opportunities for members. In addition, such training shall be provided in the course of orientation of newly elected members.

(g) ***Definitions.*** As used in this Joint Rule:

(1) "Legislative employee" means an employee of the Legislative Council, the Office of Legislative Legal Services, the Joint Budget Committee, the State Auditor, the Senate, or the House of Representatives, or any legislative aide to a member, LEGISLATIVE INTERN, OR VOLUNTEER STAFF.

(2) "Contact person" means:

(A) The director of Legislative Council, or the ~~person of the opposite gender whom the director shall designate~~ DIRECTOR'S DESIGNEE OF THE OPPOSITE GENDER, for legislative employees of that office;

(B) The director of the Office of Legislative Legal Services, or ~~a person of the opposite gender whom the director shall designate~~ THE DIRECTOR'S DESIGNEE OF THE OPPOSITE GENDER, for legislative employees of that office;

(C) The staff director of the Joint Budget Committee, or ~~a person of the opposite gender whom the staff director shall designate~~ THE STAFF DIRECTOR'S DESIGNEE OF THE OPPOSITE GENDER, for legislative employees of that office;

(D) The State Auditor, or ~~a person of the opposite gender whom the State Auditor shall designate~~ THE STATE AUDITOR'S DESIGNEE OF THE OPPOSITE

GENDER, for legislative employees of that office that are not in the state personnel system;

(E) The secretary of the Senate, or ~~a person of the opposite gender whom the secretary shall designate~~ THE SECRETARY'S DESIGNEE OF THE OPPOSITE GENDER, for legislative employees of ~~that office~~ THE SENATE;

(F) The chief clerk of the House of Representatives, or ~~a person of the opposite gender whom the chief clerk shall designate~~ THE CHIEF CLERK'S DESIGNEE OF THE OPPOSITE GENDER, for legislative employees of ~~that office~~ THE HOUSE OF REPRESENTATIVES; or

(G) Either the President of the Senate, or ~~a person of the opposite gender whom the President shall designate~~ THE PRESIDENT'S DESIGNEE OF THE OPPOSITE GENDER, or the Speaker of the House of Representatives, or ~~a person of the opposite gender whom the Speaker shall designate~~ THE SPEAKER'S DESIGNEE OF THE OPPOSITE GENDER, for members, third parties, and any other person with a complaint.

(3) "Third parties" means newspersons, lobbyists, ~~interns,~~ and members of the general public who have business at the state capitol or who are doing business with legislative service agencies, the Senate, or the House of Representatives.

That in the Joint Rules of the Senate and House of Representatives, Joint Rule No. 36, **repeal** (b) (10) and (d) (6) as follows:

36. Lobbying Practices

(b) ***Prohibited practices.*** No person engaging in lobbying shall:

(10) ~~Engage in sexually harassing behavior towards members, legislative employees of the General Assembly, or third parties or behavior violative of the sexual harassment~~

~~policy under Joint Rule No. 38.~~

(d) ***Violations - complaint.***

(6) ~~The President of the Senate or the Speaker of the House of Representatives shall designate a person of the opposite gender from the President or Speaker with whom a written complaint alleging a violation of paragraph (10) of subsection (b) of this Joint Rule may be filed.~~

That in the Joint Rules of the Senate and House of Representatives, Joint Rule No. 24, **amend** (c) as follows:

24. Sponsorship of Bills

(c) Any member of the General Assembly who submits a bill draft request to the Office of Legislative Legal Services by subject only shall ~~be required to~~ provide the necessary information to enable ~~said~~ THE office to proceed with the drafting of the bill AS SOON AS POSSIBLE. ~~within five working days after making the request or within five working days after December 1, whichever is later. Failure to submit such information within the prescribed time period shall be considered as a request by a member to withdraw the bill draft request, and the number of bills which the member may introduce under subsection (b) (1) (A) shall be reduced by one.~~ On and after December 1 or December 15, whichever is applicable, a member ~~shall~~ MAY not have more than five draft requests for bills that are not subject to approval under subsection (b) (1) (D) of this JOINT Rule on file with the Office of Legislative Legal Services at any time. ~~A member may seek resolution of any question involving the application of this subsection (c) from the Committee on Delayed Bills for the house of which he or she is a member.~~

John P. Morse PRESIDENT OF THE SENATE	Mark Ferrandino SPEAKER OF THE HOUSE OF REPRESENTATIVES
Cindi Markwell SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO