

# HOUSE BILL REPORT

## ESSB 5258

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### As Reported by House Committee On: Labor & Workplace Standards

**Title:** An act relating to preventing the sexual harassment and sexual assault of certain isolated workers.

**Brief Description:** Preventing the sexual harassment and sexual assault of certain isolated workers.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Wellman, Saldaña, Randall, Das, Dhingra, Cleveland, Conway, Wilson, C., Darneille, Kuderer, Takko, Salomon, Hasegawa and Hunt).

#### **Brief History:**

##### **Committee Activity:**

Labor & Workplace Standards: 3/19/19, 4/2/19 [DPA].

#### **Brief Summary of Engrossed Substitute Bill (As Amended by Committee)**

- Requires hotels, motels, retail, security guard entities, and property service contractors who employ a janitor, security guard, hotel or motel housekeeper, or room service attendant to adopt a sexual harassment policy, provide mandatory training regarding sexual assault, harassment, and discrimination, and provide a panic button to certain isolated workers.
- Requires property service contractors to submit specified information to the Department of Labor and Industries.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass as amended. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Chandler, Assistant Ranking Minority Member; Hoff.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Without recommendation. Signed by 1 member: Representative Mosbrucker, Ranking Minority Member.

**Staff:** Joan Elgee (786-7106).

**Background:**

Federal law and the Washington Law Against Discrimination (WLAD) prohibit discrimination in employment based on sex. Sexual harassment is a form of sex discrimination under the WLAD. The WLAD is administered by the Washington State Human Rights Commission (Commission), and the Commission investigates complaints that allege unfair practices in violation of the WLAD. If the Commission finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If the parties do not reach an agreement, the Commission must refer the matter to an administrative judge for a determination. The Commission has developed model policies and best practices regarding sexual harassment as directed by 2018 legislation.

Persons providing private security guards on a contractual basis must be licensed by the Department of Licensing.

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**Summary of Amended Bill:**

Every hotel, motel, retail, behavioral health or custodial employer, or property services contractor, who employs a custodian, security guard, hotel or motel housekeeper, or room service attendance (defined as "employees") must:

- adopt a sexual harassment policy;
- provide mandatory training to the employer's managers, supervisors, and employees to prevent sexual assault, harassment, and discrimination in the workplace;
- educate the workforce about protections for employees who report violations;
- provide a list of resources for the employer's employees to utilize—at a minimum these resources must include: contact information for the Equal Employment Opportunity Commission, the Commission, and local advocacy groups focused on preventing sexual harassment and sexual assault; and
- provide a panic button to each employee that spends a majority of her or his working hours alone or whose primary work responsibility involves working without another coworker. Licensed contracted security guard companies are exempt from the panic button requirement. The Department of Labor and Industries (Department) must publish advice and guidance for employers with 50 or fewer employees regarding the panic button requirement.

Property service contractors must provide certain information to the Department:

- the date of adoption of the sexual harassment policy;
- the number of managers, supervisors, and employees trained; and
- the physical addresses of locations where janitorial services are provided and the total number of employees or contractors and hours worked at each location.

The Department must make aggregate data available upon request and has rulemaking authority with respect to the property service contractor provisions.

A property service contractor is any person or entity that employs workers to perform labor for another person or on behalf of an employer, to provide commercial janitorial services. The Employment Security Department and certain individuals who perform labor as an exchange are not property service contractors.

A "panic button" is an emergency contact device carried by an employee by which the employee may summon immediate on-scene assistance from another worker, a security guard, or a representative of the employer. A "security guard" is an individual principally employed as or typically referred to as a security officer or guard, regardless of whether the individual is employed by a private security company or single employer or whether the individual is required to be licensed.

Businesses must meet the requirements by January 1, 2021, except that hotels and motels with 60 or more rooms must meet the requirements by January 1, 2020.

### **Amended Bill Compared to Engrossed Substitute Bill:**

The amended bill:

- strikes behavior health and custodial employers and adds security guard entities;
- defines "employee" as a janitor, security guard, hotel or motel housekeeper, or room service attendant, so that "employees" for purposes of the training, resources, and panic button requirements are limited to those as defined;
- removes "location that is not her or his home" with respect which employees must be provided with a panic button. Adds the exemption for licensed security guard companies for panic buttons;
- strikes the licensing provisions for property service contractors;
- modifies "property service contractor" to refer to commercial janitorial services, rather than services that "include" janitorial services;
- modifies the information property service contractors must provide to the Department to remove the demographic data and the number of employees performing janitorial services, and adds additional information regarding work at each location, the date of adoption of the sexual harassment policy, and the number of people trained. Adds the aggregate data provision and rulemaking authority; and
- rewords language for clarity.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Sexual assault and harassment are common in the security, housekeeping, and janitorial industries. This is unacceptable. Janitors in particular are vulnerable because language barriers, racism, gender dynamics, and immigration status make it hard to speak up. Hotel workers often are alone and are at a power disadvantage. According to a survey, over half of housekeepers have experienced harassment. Almost all have indicated they would feel safer if they had a panic button. The changes the Senate made and the Department amendment are supported. The definition of panic button in the Seattle ordinance, which is in the bill, is preferred.

(Opposed) None.

(Other) An amendment would remove the licensing of property service contractors, but retain the requirement that the contractors provide certain data to the Department. The Department would aggregate the data, which is similar to what is in the bill, and provide it upon request. The data would include the date of adoption of the sexual harassment policy, the number of managers, supervisors, and employees trained; and the physical address of the locations at which janitorial services are provided. It would not include the names of the clients. The sexual harassment policy provisions are good. Regarding the definition of "panic button", adding law enforcement is supported but the entities to be contacted should not be limited to law enforcement. The reference to behavioral health is not clear and needs to be clarified with the bill's sponsor. The Department of Health's health impact review determined that an assessment of the bill was difficult, but a fair amount of evidence was found that some provisions of the bill would reduce health inequities by changing workplace culture.

**Persons Testifying:** (In support) Abby Lawlor, Unite Here Local 8; Zenia Javalera, SEIU Property Services Northwest; and Julia Gorton, Washington Hospitality Association.

(Other) Michael Transue, Pierce County Security Services Incorporation; Lisa Thatcher, Washington State Hospital Association; Christy Hoff, State Board of Health; and Tammy Fellin, Department of Labor and Industries.

**Persons Signed In To Testify But Not Testifying:** None.