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The Honorable Michael Sirotkin, Chair
Senate Committee on Economic Development, Housing & General Affairs
Vermont Legislature
Statehouse
Montpelier, Vermont

RE: Act 183 – An Act Relating to the Prevention of Sexual Harassment

Dear Chair Sirotkin and Members of the Committee:

Thank you for the opportunity to provide an update and answer questions regarding Act 183. As background information, the Human Rights Commission's (HRC) former Executive Director, Karen Richards retired in November 2018; I was appointed by the Commission as the Executive Director and began in the position on November 13, 2018. As you know, the HRC has jurisdiction to investigate complaints of sexual harassment made by state employees in addition to other claims of discrimination in state employment, housing, and places of public accommodation. What follows is a summary of the HRC's activities and thoughts on Act 183 since its enactment on May 28, 2018:

- The HRC has not conducted any audits or inspections of employers nor has it received any complaints of sexual harassment in the workplace. The HRC does not have the resources to conduct random audits or inspections of employers and intends to utilize this statutory right only when there's been a complaint of discrimination or other basis to believe that an employer is not in compliance with sexual harassment laws.
- The Attorney General's Office provided a memorandum to the Vermont Bar on June 18, 2018 regarding the notice requirement under the Act. The HRC has not received notice of any pending sexual harassment claims brought against the State. It's possible that no sexual harassment cases have been filed or are pending. The AGO and HRC could issue another memorandum to the Bar and Bench. Additionally, since the responding party is the State of Vermont in all HRC complaints, it would be reasonable to require the State to provide notice to the HRC of all sexual harassment claims brought by state employees.
- As required by Act 183, the HRC has added the following language to all of its letters, notifying respondents in all discrimination complaints of the prohibition of retaliation:


Retaliation by a Respondent against a Complainant or anyone else who has testified, assisted or participated in an investigation of a Complaint of Discrimination is a separate violation of the law. If any form of retaliation occurs after the filing of a Complaint, the Complainant can contact the Human Rights Commission to report it.

- The HRC has worked closely with the Civil Rights Unit of the AGO on setting up enhanced mechanisms for reporting sexual harassment including a hotline and easy-to-use website portal. The AGO's office has taken the lead on this initiative with extensive input and feedback from the HRC. The HRC refers to the AGO on the status of this initiative.
- The Commission on Women has taken the lead on drafting the Request for Proposals and organizing the application materials of bidders for the development of a public education and outreach program regarding sexual harassment. The HRC reviewed and provided input on the Request for Proposals and evaluated the bidders.
- On December 14, 2018, the HRC met with Legislative Council and provided input on the efficacy of and mechanisms for rendering provisions of non-disclosure agreements void and unenforceable.

The HRC remains supportive of Act 183 and is open to answering any questions and receiving feedback on how it can better affirmatively carry out the legislative intent.

Thank you.

Sincerely,



Bor Yang
Executive Director and Legal Counsel

