

TEXAS LAW · CHECKLIST COMPANION

Texas SB 45 Operating Adjustments

How to bring your policies and daily practice in line with the Texas amendments that expanded liability to every employer. The reasoning behind each step on the one-page checklist.

TEXAS LAW

STATE COMPLIANCE

LIABILITY

Why It Matters

Texas raised the bar quietly

On September 1, 2021, Texas became one of the most employer-exposed states in the country for sexual harassment. The statutory changes were short. Their operational implications are not.

Senate Bill 45 lowered the threshold so that any employer with one or more employees is covered, opened the door to individual liability for supervisors and managers, and raised the response standard to 'immediate and appropriate corrective action.' Texas added no training mandate, so the practical defense is a documented program you can prove you were running.

Confirm coverage and exposure

First, confirm you are covered: for sexual-harassment claims under Texas Labor Code Chapter 21, a single employee is enough, a sharp change from the prior fifteen-employee threshold. Second, make sure supervisors and managers understand that the amended employer definition reaches individuals acting in the employer's interests, so they may be named as individual defendants and face potential exposure of personal assets rather than only the company's. Texas courts are still defining how far that exposure reaches. That uncertainty is precisely why supervisor-specific training and clear escalation procedures are a personal safeguard as well as an organizational one.

Update the policy to the higher standard

Revise your anti-harassment policy to reflect the 'immediate and appropriate corrective action' standard, which is a higher bar than the older 'prompt remedial action' formulation. Add multiple reporting channels that do not route through an employee's own supervisor, and extend your anti-retaliation language and complaint procedures so the process is clear and usable.

Train, equip, and document

Train supervisors on the new standard and their personal exposure, and stand up or confirm a neutral, timestamped reporting channel so an immediate response is both possible and provable. Then keep the records that carry the defense: signed policy acknowledgments, training rosters, hotline logs, and investigation files. Because the filing window for harassment claims runs 300 days and the case law is still developing, retention and a periodic counsel review matter more here than almost anywhere.

THE CORE IDEA

Texas did not add a training requirement; it added exposure. With no statutory safe harbor, the only real protection is a documented program: clear policy, real reporting channels, prompt investigations, and immediate corrective action. In Texas, the program and its records are what the defense is argued from.

At a Glance

The checklist, step by step

The checkbox sheet walks through these 10 steps; this companion explains the why behind each.

CONFIRM COVERAGE

- ☐ **1 Confirm you are covered.**
In Texas, one or more employees triggers sexual-harassment liability.
- ☐ **2 Recognize that supervisors and managers face potential personal liability.**
SB 45 opened the door to individual liability, with Texas courts still defining its outer limits.

UPDATE POLICY & STANDARD

- ☐ **3 Update the anti-harassment policy to the 'immediate and appropriate corrective action' standard.**
- ☐ **4 Add multi-channel reporting that bypasses an employee's own supervisor.**
- ☐ **5 Extend anti-retaliation language and complaint procedures.**

TRAIN & EQUIP

- ☐ **6 Train supervisors on the new standard and their personal exposure.**
- ☐ **7 Stand up or confirm a neutral, timestamped reporting channel.**
So an 'immediate' response is possible and provable.

DOCUMENT & RETAIN

- ☐ **8 Get signed policy acknowledgments from all employees.**
- ☐ **9 Retain training rosters, hotline logs, and investigation files.**
The filing window for sexual-harassment complaints is 300 days.
- ☐ **10 Set a periodic counsel review.**
Texas case law interpreting SB 45 is still developing.

WHAT IS SETTLED AND WHAT IS NOT

Settled: the one-employee threshold, the 'immediate and appropriate corrective action' standard, and the 300-day filing window. Still being defined: how far individual liability extends, and which supervisors and HR personnel fall inside the amended employer definition.

WHERE EMPATHIHR FITS

We are a Texas firm, and we build the documented program SB 45 effectively requires. **Schedule a compliance assessment · 866.240.6618 · empathihr.com**

Important

About this companion

Educational information, not legal advice. This companion is provided by empathiHR for general educational purposes. It is not legal advice and does not create an attorney–client or consultant–client relationship. Employment law changes frequently and varies by jurisdiction, industry, and the specific facts of each situation.

Texas case law interpreting SB 45 is still developing, and the scope of individual liability for supervisors and HR personnel has not been fully resolved. Before acting on anything in this companion, review your policies, programs, and specific circumstances with qualified employment counsel. empathiHR works alongside your legal counsel to build and maintain the operational program described here.

Case citations, statutes, and figures were current as of the update date on the cover and should be re–verified against primary sources before you rely on them. Where the law is unsettled or a figure is not fixed by statute, this companion says so.



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