

1 **Policy Concept**  
2 **Chapter 819, Texas Workforce Commission Civil Rights Division**  
3 **Rule Project #2021-13-819 – HB 21, SB 45 - Sexual Harassment Complaints and Prohibition**  
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5 **Introduction and Background**

6 House Bill (HB) 21 and Senate Bill (SB) 45, 87th Texas Legislature, Regular Session (2021), relate to  
7 sexual harassment complaints filed against employers. HB 21 expanded the statute of limitations for  
8 filing sexual harassment discrimination complaints and SB 45 broadened the definition of "Employer"  
9 as it relates to the filing of a sexual harassment discrimination complaint.

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11 HB 21 amended Texas Labor Code, §21.201(g) to include language regarding a complaint alleging  
12 sexual harassment and amended Texas Labor Code, §21.202 to add a deadline for filing complaints  
13 alleging sexual harassment. Under new Texas Labor Code, §21.202(a-1), complaints must be filed with  
14 the Texas Workforce Commission within 300 days of the alleged sexual harassment.

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16 SB 45 amended Texas Labor Code, Chapter 21 by adding Subchapter C-1, §21.141 and §21.142,  
17 relating to Sexual Harassment. New Texas Labor Code, §21.141 defines "Employer" and "Sexual  
18 harassment" and new Texas Labor Code, §21.142 includes sexual harassment as an unlawful  
19 employment practice.

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21 The four-year rule review required by Texas Government Code, §2001.039 is due in 2022. Staff will  
22 review the chapter to ensure the rules align with current Civil Rights Division (CRD) program processes  
23 and procedures.

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25 **Purpose for the Proposed Rule**

26 The purpose for this proposed rule is to amend Chapter 819 to implement HB 21 and SB 45.

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28 **Rule Revisions Required by Federal Regulation or State Statute**

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30 **Issue #1: HB 21 - Statute of Limitations on Sexual Harassment Complaints**

31 Currently Chapter 819 allows complaints to be filed within 180 days of the alleged unlawful  
32 employment practice. New Texas Labor Code, §21.202(a-1) increases the statute of limitations for filing  
33 a complaint alleging sexual harassment to within 300 days of the alleged sexual harassment. The  
34 amendment to Chapter 819 will increase the statute of limitations to file a complaint alleging sexual  
35 harassment to within 300 days of the alleged unlawful employment practice.

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37 **Issue #2: HB 45 - Prohibition of Sexual Harassment in the Workplace**

38 Current §819.11 defines an "Employer" as having 15 or more employees. New Texas Labor Code,  
39 §21.141 expands the definition of employers, regarding allegations of sexual harassment, to include  
40 employers with at least one employee and a person who acts directly in the interests of the employer in  
41 relation to an employee. New Texas Labor Code, §21.141 also includes a definition for "Sexual  
42 Harassment." The amendment to §819.11 will expand the definition of "Employer" and add the  
43 definition for "Sexual Harassment" to align with the definitions in new Texas Labor Code, §21.141.

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45 New Texas Labor Code, §21.142, includes sexual harassment as an unlawful employment practice if  
46 sexual harassment of an employee occurs and the employer or the employer's agents or supervisors:

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- knows or should have known that the conduct constituting sexual harassment was occurring; and

- fails to take immediate and appropriate corrective action.

The amendment to §819.12 will include sexual harassment as an unlawful employment practice in accordance with new Texas Labor Code, §21.142.

**Other Rule Revisions**

**Issue #3: Rule Review of Chapter 819**

Texas Government Code, §2001.039 requires that every four years each state agency review and consider for reoption, revision, or repeal each rule adopted by that agency. Staff will review the chapter in its entirety to ensure the rules align with the CRD program.

**PC Decision Point**

Staff recommends amending Chapter 819 to implement HB 21 and SB 45 and reviewing the chapter to ensure the rules align with current CRD program processes and procedures.