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Time to Panic! The Need for State Laws Mandating Panic Buttons and Anti-Sexual Harassment Policies to Protect Vulnerable Employees in the Hotel Industry

*Kristy D'Angelo-Corker**

“The world is, a, sadly, dangerous place for women and girls And I think young women are tired of it. They’re tired of being undervalued. They’re tired of being disregarded.”

—Michelle Obama¹

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* Associate Professor of Law and Coordinator of Legal Research and Writing, Barry University Dwayne O. Andreas School of Law; J.D. Hofstra University School of Law; B.A. Syracuse University. Thank you to Barry University School of Law and Dean Leticia Diaz of Barry University School of Law for the financial support to produce this paper. I am also grateful to Alena Morgan for her exceptional research assistance. Last, but not least, I would like to thank my husband and children for their constant love, support, and encouragement.

1. Elizabeth Chuck, *Michelle Obama: Keep Fighting for Gender Equality, Even if It Makes People Uncomfortable*, NBC NEWS (Oct. 11, 2018), <https://www.nbcnews.com/news/us-news/michelle-obama-keep-fighting-gender-equality-even-if-it-makes-n918921> [<https://perma.cc/4JDT-PTNR>].

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INTRODUCTION

One only has to turn on the television or read the newspaper to see news story after news story reporting instances of women facing harassment, discrimination, or assault while at work.² The “Me Too” and “Time’s Up” campaigns have brought many of these issues to the forefront and have shown that women are fighting to be respected and demanding equal treatment.³ Although this fight for equal protection is ongoing, many women, such as those in lower-paying service industries, are still unable to protect themselves from sexual harassment, discrimination, and assault, as they do not have the support or power to adequately report and protect themselves against the harassment.

According to the Institute for Women’s Policy Research,⁴—a think tank in the United States that “conducts and communicates research to inspire public dialogue, shape policy, and improve the lives and opportunities of women of diverse backgrounds, circumstances, and

2. Kristy D’Angelo-Corker, *Don’t Call Me Sweetheart! Why the ABA’s New Rule Addressing Harassment and Discrimination Is So Important for Women Working in the Legal Profession Today*, 23 LEWIS & CLARK L. REV. 263, 265 (2019) (discussing the effects of harassment and discrimination against women in the legal profession).

3. *Id.* at 263.

4. The Institute for Women’s Policy Research (IWPR) applies quantitative and qualitative analysis of public policy through a gendered lens. IWPR advances women’s status through social science research, policy analysis, and public education. [They] develop new policy ideas, encourage enlightened public debate, and promote sound policy and program development. [Their] work also helps to change minds and improve the practices of institutions. IWPR operates on the principle that knowledge is power and that social science evidence based on strong data and analysis, compellingly presented and systematically disseminated, makes a difference in moving public policy.

Our Mission, INST. FOR WOMEN’S POL’Y RSCH., <https://iwpr.org/about/our-mission/> [https://perma.cc/942D-G697]; see ELYSE SHAW, ARIANE HEGEWISCH & CYNTHIA HESS, INST. FOR WOMEN’S POL’Y RSCH., *SEXUAL HARASSMENT AND ASSAULT AT WORK: UNDERSTANDING THE COSTS 12* (2018) [hereinafter *SEXUAL HARASSMENT COST*], https://iwpr.org/wp-content/uploads/2020/09/IWPR-sexual-harassment-brief_FINAL.pdf [https://perma.cc/QBB9-L9XL].

experiences”—studies estimate “that anywhere from almost a quarter to more than eight in ten women” experience sexual harassment in their lifetime.⁵ A recent Equal Employment Opportunity Commission (EEOC) Report found that “[h]arassment is . . . more likely to occur in isolated workspaces, where the workers are physically isolated or have few opportunities to work with others[,]” as “[h]arassers have easy access to such individuals, and there generally are no witnesses to the harassment.”⁶ Moreover, “[o]ver the past decade, more than a quarter of sexual harassment charges were filed in industries heavily staffed by service workers.”⁷ It is important to note that women make up 89% of individuals in maid and housekeeping cleaner positions.⁸ Thus, women in housekeeping positions are “particularly vulnerable to sexual harassment and assault[,]”⁹ as a result of the unique nature of their jobs where they are frequently working alone.

In response to this increased risk, global labor unions have put combatting sexual harassment in the hotel industry at the top of their agendas. As a result of the increased media coverage from both the “Me Too” and “Time’s Up” campaigns, and cases involving hotel employees being attacked by guests, as well as the push from hotel labor unions, just recently, the American Hotel and Lodging Association along with a number of major hotel chains, including Marriott, Hilton, Hyatt, Wyndham, IHG, and others, attempted to address the need by putting a “5-Star Promise” into effect promising to equip certain employees at certain hotels with panic buttons. Although this 5-Star promise is a clear first step, it is by no means a full solution for a number of reasons. For example, the hotels with the promise currently in effect have the ability to do away with the promise at any time. Moreover, other hotels have not put this promise into effect, leaving many hotel employees who are not

5. SEXUAL HARASSMENT COST, *supra* note 4 (citing CHAI R. FELDBLUM & VICTORIA A. LIPNIC, U.S. EQUAL EMP. OPPORTUNITY COMM’N, SELECT TASK FORCE ON THE STUDY OF HARASSMENT IN THE WORKPLACE (2016) [hereinafter EEOC REPORT ON SEXUAL HARASSMENT], https://www.eeoc.gov/sites/default/files/migrated_files/eeoc/task_force/harassment/report.pdf [<https://perma.cc/BBS7-JMTT>]).

6. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5, at 29.

7. According to a November analysis by the Center for American Progress of unpublished data by the U.S. Equal Employment Opportunity Commission. Rachel Siegel, *Hotel Chains to Tackle Worker Safety and Protection Against Sexual Harassment*, WASH. POST (Sept. 6, 2018), <https://www.washingtonpost.com/business/2018/09/06/major-hotel-chains-tackle-worker-safety-sexual-harassment-protection/> [<https://perma.cc/W6F7-XGVN>].

8. *Labor Force Statistics from the Current Population Survey*, U.S. BUREAU LAB. STAT. (Jan. 22, 2020), <https://www.bls.gov/cps/cpsaat11.pdf> [<https://perma.cc/5ANA-9Z9E>].

9. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5, at 29; *see also Rape on the Night Shift* (PBS Frontline Broadcast Jan. 16, 2018), <https://www.pbs.org/wgbh/frontline/film/rape-on-the-night-shift/> [<https://perma.cc/V9NK-FWGH>]; *Rape in the Fields* (PBS Frontline Broadcast June 25, 2013), <https://www.pbs.org/wgbh/frontline/film/rape-in-the-fields/> [<https://perma.cc/4LCR-HHNL>].

employed by a named hotel brand unprotected. Thus, the 5-Star Promise merely highlighted the need for each state to put a law into effect to protect individuals working in the hotel industry within their jurisdictions.

Over the years, a number of major cities and states (some even prior to the response from the hotel industry) implemented provisions in industry-wide hotel contracts or enacted laws to protect individuals working in their jurisdictions by requiring that hotels provide panic button devices to vulnerable employee groups to protect them while performing their duties.¹⁰ Additionally, many of these provisions also required that an anti-sexual harassment policy be effectuated to further educate and protect individuals in such positions. Although a few cities and states have enacted laws to protect certain vulnerable employees in the hotel industry from facing harassment and discrimination while on the job, until all states put such laws into effect, there is no national protection against such behavior.

Therefore, this Article will discuss the need for state laws aimed at protecting hotel employees, specifically those in housekeeping or service attendant positions, from sexual harassment and assault while on the job. The Article will begin by discussing the prevalence of sexual harassment and assault incidents affecting hotel employees, specifically those working in isolated workspaces. Next, the Article will address how the hospitality industry has attempted to address these issues by implementing its own protections. The Article will go on to examine the laws implemented in certain cities and states addressing this issue. Finally, the Article will argue that all states should enact laws requiring that hotels provide panic devices to all vulnerable employees at their properties and implement anti-sexual harassment policies.

I. SEXUAL ASSAULT AND HARASSMENT IN THE HOTEL INDUSTRY

“One of the occupational hazards that hotel workers in certain job classifications (especially in housekeeping and room service) face is the reality that their duties require them to enter isolated locked guest rooms by themselves, and that some hotel guests inside may have malevolent intentions.”¹¹ As the majority of hotel housekeepers are women, typically alone on floors and in rooms for the bulk of their workday, these workers are particularly vulnerable to assault and harassment while they are at work.

10. See *HTC Was First – Now the Panic Button Idea Is Catching on*, N.Y. HOTEL & MOTEL TRADES COUNCIL, AFL-CIO [hereinafter NYHMTU article], <https://hotelworkers.org/article/htc-was-first-now-the-panic-button-idea-is-catching-on> [https://perma.cc/JL86-9T38]; SEATTLE, WASH., MUN. CODE § 14.26 (2019); CHI., ILL., MUN. CODE § 4-6-180 (2018); SACRAMENTO, CAL., MUN. CODE § 4.75 (2018); LONG BEACH, CAL., MUN. CODE § 5.54 (2018); OAKLAND, CAL., MUN. CODE § 5.93 (2018); MIA. BEACH, FLA., MUN. CODE art. VI (2018).

11. NYHMTU article, *supra* note 10.

A. *Historical and Statistical Examination of Sexual Harassment and Assault in the Workplace*

Title VII of the Civil Rights Act of 1964 states:

It shall be an unlawful employment practice for an employer –

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.¹²

The EEOC was established to enforce the requirements set out in Title VII of the Civil Rights Act of 1964. Specifically, the EEOC “is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, transgender status, and sexual orientation), national origin, age (40 or older), disability or genetic information.”¹³ It is also “illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.”¹⁴

“Title VII applies to employers with 15 or more employees, including state and local governments.”¹⁵ The EEOC's Fact Sheet on Sexual Harassment and Discrimination (EEOC Fact Sheet) goes on to state that, “[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work

12. Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2(a)(1)-(2).

13. *Overview*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/overview> [<https://perma.cc/S2FG-YCUW>].

14. *Laws Enforced by EEOC*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/statutes/laws-enforced-eeoc> [<https://perma.cc/253U-8RF8>].

15. *Facts About Sexual Harassment*, U.S. EQUAL EMP. OPPORTUNITY COMM'N [hereinafter *Fact Sheet*], <https://www.eeoc.gov/publications/facts-about-sexual-harassment> [<https://perma.cc/FG9P-SJAQ>]. It also applies to employment agencies and to labor organizations as well as to the federal government. *Id.*

environment.”¹⁶ Moreover, the EEOC Fact Sheet lists a variety of circumstances under which sexual harassment can occur including but not limited to the following scenarios:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim’s supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser’s conduct must be unwelcome.¹⁷

In June 2016, the Co-Chairs of the EEOC’s Select Task Force on the Study of Harassment in the Workplace (Select Task Force) presented the Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace (EEOC Report).¹⁸ The EEOC Report came as a result of a public meeting held by the EEOC on January 14, 2015, entitled “Harassment in the Workplace.”¹⁹ The purpose of this meeting was to “examine the issue of workplace harassment—its prevalence, its causes, and strategies for prevention and effective response.”²⁰ “At the start of that meeting, EEOC Chair Jenny R. Yang announced the formation of EEOC’s Select Task Force on the Study of Harassment in the Workplace.”²¹

In Chair Yang’s Opening Statement at that Harassment in the Workplace Meeting (Workplace Harassment Meeting) of the EEOC, she stated:

[T]he goal of the Select Task Force was to “convene experts across the employer, employee, human resources, academic, and other communities to identify strategies to prevent and remedy harassment in the workplace. Through this task force, we hope to reach more workers so they understand their rights and also to reach more in the employer community so we can understand the

16. *Id.*

17. *Id.*

18. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5.

19. *Id.* at 1.

20. *Id.* (citing *Meeting of January 14, 2015 – Workplace Harassment*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/eeoc/meetings/1-14-15/index.cfm> [<https://perma.cc/KTJ5-3PFC>]).

21. *Id.*

challenge that they face and promote some of the best practices that we've seen working."²²

In the weeks following the meeting, the Select Task Force was assembled and reflected a "broad diversity of experience, expertise, and opinion" and "was comprised of 16 members from around the country, including representatives of academia from various social science disciplines; legal practitioners on both the plaintiff and defense side; employers and employee advocacy groups; and organized labor."²³

The Preface of the EEOC Report clearly states that the commission intended to "present this report with a firm, and confirmed, belief that too many people in too many workplaces find themselves in unacceptably harassing situations when they are simply trying to do their jobs."²⁴ According to the Executive Summary in the EEOC Report (Executive Summary), the Select Task Force spent "18 months examining the myriad and complex issues associated with harassment in the workplace."²⁵ The Executive Summary highlights that "[t]hirty years after the U.S. Supreme Court held in the landmark case of *Meritor Savings Bank v. Vinson* that workplace harassment was an actionable form of discrimination prohibited by Title VII of the Civil Rights Act of 1964, we conclude that we have come a far way since that day, but sadly and too often still have far to go."²⁶ The Preface further states that

[w]hile we offer suggestions in this report for what EEOC can do to help prevent harassment, we caution that our agency is only one piece of the solution. Everyone in society must feel a stake in this effort. That is the only way we will achieve the goal of reducing the level of harassment in our workplaces to the lowest level possible.²⁷

The EEOC Report pointed out that along with the clear case that "[e]mployers should care about stopping harassment because *harassment*

22. *Id.* (quoting *Meeting of January 14, 2015 – Workplace Harassment – Transcript*, U.S. EQUAL EMP. OPPORTUNITY COMM'N, <https://www.eeoc.gov/meetings/24066/transcript> [<https://perma.cc/NVL5-J9YX>] (opening statement of Chair Jenny Yang)).

23. *Id.* at iv.

24. *Id.* at ii.

25. *Id.* at iv ("This report is written by the two of us, in our capacity as Co-Chairs of the Select Task Force. It does not reflect the consensus view of the Select Task Force members, but is informed by the experience and observations of the Select Task Force members' wide range of viewpoints, as well as the testimony and information received and reviewed by the Select Task Force. Our report includes analysis and recommendations for a range of stakeholders: EEOC, the employer community, the civil rights community, other government agencies, academic researchers, and other interested parties.").

26. *Id.*

27. *Id.* at ii.

is wrong—and, in many cases, it is *illegal*,²⁸ there is also a clear business reason for stopping and preventing harassment.²⁹ The business reasons include the “financial costs associated with harassment complaints,” as well as the “[t]ime, energy, and resources that are diverted from operation of the business to legal representation, settlements, litigation, court awards, and damages,” to name a few.³⁰ Additionally, the business reasons extend to include other issues such as “employees who endure but never report harassment,” and other detrimental organizational effects, such as decreased performance and productivity, a damaged reputation, and high employee turnover.³¹

In 2019, the EEOC received 26,221 claims of workplace harassment,³² of which 12,739 were “sex-based harassment allegations, including charges alleging sexual harassment.”³³ Note that the sex-based harassment allegations did “not include charges filed with state or local Fair Employment Practices Agencies.”³⁴ Additionally, note that, specifically with regard to “sexual harassment allegations, i.e., harassment of a sexual nature,” the EEOC received 7,514 claims, of which only 16.8% were filed by males.³⁵ Thus, a large majority of the claims were made by women.

The EEOC Report went on to explain that the Select Taskforce tried to “identify elements in a workplace that might put a workplace more at risk for harassment” so that these “risk factors” may be able to “give employers a roadmap for taking proactive measures to reduce harassment in their workplaces.”³⁶ One such identified risk factor was working in an isolated workspace.³⁷ The Risk Factors section of the EEOC Report specifically noted that “[h]arassment is also more likely to occur in isolated workspaces, where the workers are physically isolated or have few

28. *Id.* at 17 (“Workplace harassment can produce a variety of harms – psychological, physical, occupational, and economic harms that can ruin an employee’s life. These effects of harassment – on victims – are primarily why harassment must be stopped. So, again: Employers should care about preventing harassment because it is the right thing to do, and because stopping illegal harassment is required of them.”).

29. *Id.* at 17–18.

30. *Id.*

31. *Id.* at 18.

32. *All Charges Alleging Harassment (Charges Filed with EEOC) FY 2010 – FY 2019*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/statistics/all-charges-alleging-harassment-charges-filed-eeoc-fy-2010-fy-2019> [https://perma.cc/AS57-X859].

33. *Id.*

34. *Id.*

35. *Charges Alleging Sex – Based Harassment (Charges Filed with EEOC) FY 2010 – FY 2019*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/statistics/charges-alleging-sex-based-harassment-charges-filed-eeoc-fy-2010-fy-2019> [https://perma.cc/4PJB-YF5N].

36. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5, at 25.

37. *Id.* at 29.

opportunities to work with others. Harassers have easy access to such individuals, and there generally are no witnesses to the harassment.”³⁸

It is not surprising, then, that “[w]orkers in low-wage, female-dominated industries have the highest reported incidences of sexual harassment and assault by sector.”³⁹ Beyond the EEOC Report, numerous other studies support the findings regarding the prevalence of sexual harassment experienced by workers in the hotel industry. For example, in a study specifically focusing on women working in the Chicago hospitality industry, “49% of housekeepers reported having had guest(s) answer the door naked, expose themselves, or flash them.”⁴⁰ In that same survey, “58% of hotel workers and 77% of casino workers surveyed” indicated that they had “been sexually harassed by a guest” and, specifically, mainly by male guests.⁴¹ Additionally, “Unite Here, a labor union . . . represent[ing] workers in the hospitality industry,” surveyed its members, and in Seattle, “53 percent of housekeepers surveyed said they had experienced some form of harassment over the course of their careers.”⁴²

Thus, a great concern arises as many individuals in such positions are not covered by federal law because there are less than fifteen employees at the location or employers are hiring independent contractors or part-time employees so that these workers are never covered by employer sexual harassment policies and do not have standing to seek

38. *Id.* (citing *Written Testimony of Michael A. Robbins*, U.S. EQUAL EMP. OPPORTUNITY COMM’N, <https://www.eeoc.gov/written-testimony-michael-robbins> [<https://perma.cc/78JT-JWJP>]); see *Rape on the Night Shift*, *supra* note 9; *Rape in the Fields*, *supra* note 9; SEXUAL HARASSMENT COST, *supra* note 5, at 3 (“Isolation leaves women vulnerable to abusers who may feel emboldened by a lack of witnesses . . .”).

40. ALIEZA DURANA, AMANDA LENHART, ROSELYN MILLER, BRIGID SCHULTE & ELIZABETH WEINGARTEN, NEW AM., SEXUAL HARASSMENT: A SEVERE AND PERVASIVE PROBLEM 19 (Oct. 10, 2018) [hereinafter DURANA ET AL., NEW AMERICA], https://d1y8sb8igg2f8e.cloudfront.net/documents/Sexual_Harassment_A_Severe_and_Pervasive_Problem_2018-10-10_190248.pdf [<https://perma.cc/L5M6-67ND>] (section titled Making Ends Meet in the Margins: Female-Dominated, Low-Wage Sectors); see SEXUAL HARASSMENT COST, *supra* note 5, at 3 (“Frontline reported in 2015 that ABM (described as the largest employer of janitors) had 42 lawsuits brought against it in the previous two decades for allegations of workplace sexual harassment, assault, or rape . . .”). According to the New America website, it has nurtured “a new generation of policy experts and public intellectuals” and “is pioneering a new kind of think and action tank: a civic platform that connects a research institute, technology lab, solutions network, media hub and public forum.” *Our Story*, NEW AM., <https://www.newamerica.org/our-story/> [<https://perma.cc/WLN2-8NF8>].

40. UNITE HERE LOCAL 1, HANDS OFF PANTS ON: SEXUAL HARASSMENT IN CHICAGO’S HOSPITALITY INDUSTRY 3 (2016), <https://www.handsoffpantson.org/wp-content/uploads/HandsOffReportWeb.pdf> [<https://perma.cc/3Z56-SY3U>].

41. *Id.* at 4.

42. Samantha Raphelson, *Advocates Push for Stronger Measures to Protect Hotel Workers from Sexual Harassment*, NPR (June 29, 2018), <https://www.npr.org/2018/06/29/624373308/advocates-push-for-stronger-measures-to-protect-hotel-workers-from-sexual-harass> [<https://perma.cc/HQ7Y-3M3V>].

legal recourse if they are sexually harassed.⁴³ Beyond the federal laws not covering such behavior, there are few city and state laws in effect designed to protect such employees. Additionally, as many of the individuals being harassed are undocumented, those individuals are less willing to make a claim out of fear of losing their job or being threatened with penalties, such as deportation.⁴⁴ Moreover,

[r]egardless of their employment status, low-wage workers with jobs that require more time in public spaces such as . . . hotel workers—where the majority of women in the labor force are employed—are likely to experience harassment from multiple sources, also known as “third party harassment,” from customers, vendors, and clients.⁴⁵

This provides an additional challenge, as there are fewer procedures in place for reporting and punishing those groups of individuals.

B. How Is the Hotel Industry Addressing the Issue?

On May 14, 2011, the world woke up to the *New York Times* headline, *I.M.F. Chief, Apprehended at Airport, Is Accused of Sexual Attack*, reporting that the managing director of the International Monetary Fund, Dominique Strauss-Kahn, was arrested “in connection with the sexual attack of a [housekeeper] at a Midtown Manhattan hotel.”⁴⁶ In response to this incident, the President of the New York Hotel and Motel Trades Union (NYHTC), Peter Ward, proposed “to make a sweeping change to the security infrastructure in every unionized hotel in New York City, in order to dramatically reduce the threat to our members.”⁴⁷ Thus, in 2012, during contract negotiations between the NYHTC and the industry hotels, the NYHTC requested that every unionized hotel in New York City be required to install a “‘panic button’ system which would enable an employee to summon security to her or his location immediately, anywhere in the building.”⁴⁸

43. DURANA ET AL., *NEW AMERICA*, *supra* note 39.

44. ACLU, *NO FREE PASS TO HARASS: PROTECTING THE RIGHTS OF UNDOCUMENTED IMMIGRANT WOMEN WORKERS IN SEXUAL HARASSMENT CASES passim* (2007), https://www.aclu.org/sites/default/files/pdfs/womensrights/no_free_pass_20071119.pdf [<https://perma.cc/95HJ-9X5Y>].

45. DURANA ET AL., *NEW AMERICA*, *supra* note 39; *see* *SEXUAL HARASSMENT COST*, *supra* note 5, at 3 (“Many workers—such as female janitors, domestic care workers, hotel workers, and agricultural workers, who often work in isolated spaces—report higher than average rates of sexual harassment and assault . . . [.]”).

46. Al Baker & Steven Erlanger, *I.M.F. Chief, Apprehended at Airport, Is Accused of Sexual Attack*, *N.Y. TIMES* (May 14, 2011), <https://www.nytimes.com/2011/05/15/nyregion/imf-head-is-arrested-and-accused-of-sexual-attack.html> [<https://perma.cc/F85P-PFBR>].

47. NYHMTU article, *supra* note 10.

48. *Id.*

The NYHTC acknowledged that this “bold and original initiative,” although extremely beneficial for the employees that it would protect, “would be very expensive to implement, and therefore would be resisted by the employers.”⁴⁹ As this large undertaking could have posed a major stopping block in negotiations for the New York City industry-wide hotel contract,⁵⁰ in order to ensure that the goal would be reached, NYHTC aimed to persuade their “entire membership, including those members who worked in jobs that don’t constantly situate them alone in guest rooms (cooks, maintenance workers, servers, bussers, front desk, front service, etc.) to support the demand and be willing, if necessary, to strike for it.”⁵¹ Thankfully, the NYHTC members united and supported the cause and, as a result, the union persuaded the employers to agree to the contract provision.⁵² After the provision was included, NYHTC realized the importance of ensuring that the contract language was enforced and “created a task force of Health and Safety experts, legal staff, organizers and business agents to make sure hotels have properly installed panic button systems and implemented safety protocols in the event the[y] are utilized by an employee.”⁵³

Around the same time, hotel workers in Washington DC, through their Local 25 Union, won a tough fight against some of the major hotel chains, including Hyatt, Marriott, Omni, and Hilton and, among other things, secured important new contract provisions, most notably, panic button provisions.⁵⁴ Furthermore, as of 2018, unionized workers in Las Vegas hotels also requested that panic buttons be included in contract negotiations, and, as a result, numerous hotels in Las Vegas began to provide housekeepers, cocktail waitresses, and other service-industry workers with the devices.⁵⁵

As of June 2018, global labor unions put sexual harassment in the hotel industry at the top of their agendas. For example, in a blog post on their website, Unite Here—a labor union representing “300,000 working

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *D.C. Hotel Workers Win Best Contract in Their Union’s 70 Year History*, N.Y. HOTEL & MOTEL TRADES COUNCIL, AFL-CIO (June 4, 2012), <https://hotelworkers.org/article/DC-hotel-workers-win-best-contract-in-their-unions-70-year-history> [<https://perma.cc/CS4F-F6RB>].

55. See Abby Theodros, *Las Vegas Hotel-Casinos Begin to Supply Employees with Panic Buttons*, FOX 5 (July 4, 2018), https://www.fox5vegas.com/news/las-vegas-hotel-casinos-begin-to-supply-employees-with-panic-buttons/article_f5d9ce5b-fe84-5a67-8629-0a19d7661dc7.html [<https://perma.cc/768W-Q3RV>]; see also Monica Poling, *Las Vegas Hospitality Workers to Receive Panic Buttons*, TRAVEL PULSE (July 7, 2018), <https://www.travelpulse.com/news/hotels-and-resorts/las-vegas-hospitality-workers-to-receive-panic-buttons.html> [<https://perma.cc/SSP4-TDZH>].

people across Canada and the United States”⁵⁶ with a self-described diverse membership made up of “predominantly women and people of color”⁵⁷ working “in the hotel, gaming, food service, manufacturing, textile, distribution, laundry, transportation, and airport industries”⁵⁸—declared that it has “taken the lead in challenging sexual harassment and sexual violence in the hospitality industry” by putting “the issue at the forefront of its political agenda, in bargaining new contracts—and now, in its global campaigns.”⁵⁹ Unite Here, a labor union representing Marriott workers, partnered with the International Union of Food Workers (IUF) and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)⁶⁰ and

convened a group of Marriott workers from around the world to meet in Geneva on May 29, to present Marriott International—the world’s largest hotel company—with demands on ending sexual harassment across its global operations. At the International Labour Conference, where negotiations are currently underway on a new legal standard on violence at work, Marriott workers shared their own experiences of sexual violence and harassment on the job.⁶¹

The Unite Here article also explained that

[t]he content of the global demands on Marriott reflected not only the testimony of workers in the room, but also hundreds of interviews conducted by hotel unions affiliated with the IUF in the months leading up to the meeting. Workers shared horrific experiences of guests grabbing them, exposing themselves, propositioning them and attempting rape. They made clear that the hotel industry needed to implement a set of commonsense measures:

- Training staff at all levels.
- Reducing precarious work, as a critical step to reducing vulnerability.

56. *Who We Are*, UNITE HERE!, <https://unitehere.org/who-we-are/> [https://perma.cc/S28M-PZM2].

57. *Id.*

58. *Industries*, UNITE HERE!, <https://unitehere.org/who-we-are/industries/> [https://perma.cc/3SWC-C35W].

59. AFL-CIO Staff, *United Here Calls on Marriott to Use Its Clout to Combat Sexual Harassment in Global Hospitality Industry*, AFL-CIO: BLOG (June 6, 2018), <https://aflcio.org/2018/6/6/unite-here-calls-marriott-use-its-clout-combat-sexual-harassment-global-hospitality> [https://perma.cc/NLL8-7TJP].

60. “The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) works tirelessly to improve the lives of working people. We are the democratic, voluntary federation of 55 national and international labor unions that represent 12.5 million working men and women.” *About Us*, AFL-CIO, <https://aflcio.org/about-us> [https://perma.cc/3QCK-EP69].

61. AFL-CIO Staff, *supra* note 59.

- Limiting the isolation of workers in jobs such as housekeeping.
- Protecting against retaliation for reporting harassment and abuse.
- Installing panic buttons in guest rooms to ensure that security can be alerted immediately.
- Blacklisting guests with a record of harassing or abusing workers.
- Putting in place an independent oversight body to receive and investigate complaints.⁶²

Additionally, many Marriott workers went on strike in 2018 with demands focused on, among other things, better working conditions, pay raises, and benefits.⁶³ In some instances, the strikes lasted more than two months and involved numerous properties under the Marriott, Sheraton, and Westin names.⁶⁴ “The seven UNITE HERE locals in Hawaii, San Francisco, Oakland, San Diego, San Jose, Detroit, and Boston bargained separately, but similar contract expiration dates allowed 7,700 workers to strike Marriott at the same time.”⁶⁵ As a result of this strike, many workers in these cities were able to obtain, among other benefits, “new protections against sexual harassment, including the use of GPS-based panic buttons and new caps on their workloads.”⁶⁶

Besides Unite Here, other unions, including NYHTC, continued to fight for employee rights through contract language. For example, “[t]he newly signed first union contract between HTC and Rivers Casino & Resort is a game-changer for 800 workers and their families,” as it includes a provision that no later than April 1, 2019, any employee who is required to enter an occupied guest room must be provided with a panic button that they can quickly and easily activate to summon help.⁶⁷

62. *Id.*

63. Samantha Winslow, *Marriott Hotel Strikers Set a New Industry Standard*, LAB. NOTES (Dec. 20, 2018) [hereinafter Winslow, *Marriot Strike*], <https://labornotes.org/2018/12/marriott-hotel-strikers-set-new-industry-standard> [<https://perma.cc/9GMD-2C7N>]; Dave Jamieson, *The Marriott Strike Helped Grow the Largest Hotel Workers Union*, HUFFPOST (June 11, 2019) [hereinafter Jamieson, *Marriot Strike*], https://www.huffpost.com/entry/the-marriott-strike-helped-grow-the-largest-hotel-workers-union_n_5cfead38e4b02ee3477b5a41 [<https://perma.cc/2MKL-Y67B>].

64. Jamieson, *Marriot Strike*, *supra* note 63.

65. Winslow, *Marriott Strike*, *supra* note 63.

66. Jamieson, *Marriot Strike*, *supra* note 63.

67. HTC, *A Game-Changer: The HTC Contract at Rivers Casino*, N.Y. HOTEL & MOTEL TRADES COUNCIL, AFL-CIO (Nov. 28, 2018), <https://hotelworkers.org/article/a-game-changer-the-htc-contract-at-rivers-casino> [<https://perma.cc/6E35-JNW3>].

Moreover, it also provides that employees have a “right to refuse a work assignment if they reasonably believe it would expose them to unusually dangerous conditions.”⁶⁸

Eventually, the American Hotel & Lodging Association (AHLA), which self-describes itself as “the singular voice representing every segment of the hotel industry including major chains, independent hotels, management companies, REIT’s, bed and breakfasts, industry partners and more,”⁶⁹ and the “foremost representative of and advocate for the U.S. lodging industry,”⁷⁰ saw the need to address the safety concerns of hotel workers, specifically to address the prevention of sexual harassment and assault. This came after some significant push back on legislation in Seattle where some saw it as too much to not only require hotels to provide panic buttons but also require hotels to report a guest and ban them for a set amount of time.⁷¹ Thus, as recent as September 2018, hotel industry leaders took a large first step in protecting their employees, such that a press release from the AHLA⁷² stated that

[b]uilding on decades of investments in safety and security and in coordination with security experts, the American Hotel & Lodging Association (AHLA) and the major hotel brands in membership today announced the 5-Star Promise, a pledge to provide hotel employees across the U.S. with employee safety devices (ESDs) and commit to enhanced policies, trainings and resources that together are aimed at enhancing hotel safety, including preventing and responding to sexual harassment and assault.⁷³

Specifically, the 5-Star Promise “is a voluntary commitment by AHLA members to enhance policies, trainings and resources, including providing employee safety devices, that together are aimed at strengthening the culture of employee and guest safety, with an emphasis

68. *Id.*

69. *Who We Are*, AM. HOTEL & LODGING ASS’N, <https://www.ahla.com/who-we-are> [<https://perma.cc/8S9D-FQVQ>].

70. *Our Industry*, AM. HOTEL & LODGING ASS’N, <https://www.ahla.com/our-industry> [<https://perma.cc/8942-UHA2>].

71. Julia Jacobs, *Hotels See Panic Buttons as a #MeToo Solution for Workers. Guest Bans? Not So Fast*, N.Y. TIMES (Nov. 11, 2018), <https://www.nytimes.com/2018/11/11/us/panic-buttons-hotel-me-too.html> [<https://perma.cc/FF9C-WDZ7>].

72. Press Release, Am. Hotel & Lodging Ass’n, Hotel Industry Announces Added Safety Measures for Employees; Builds on Layers of Security Procedures (Sept. 6, 2018) [hereinafter AHLA Press Release], <https://www.ahla.com/press-release/hotel-industry-announces-added-safety-measures-employees-builds-layers-security> [<https://perma.cc/BTM6-4K5Q>]. Note that the AHLA “is the sole national association representing all segments of the 8 million jobs the U.S. lodging industry supports, including hotel owners, REITs, chains, franchisees, management companies, independent properties, bed and breakfasts, state hotel associations, and industry suppliers.” *Id.*

73. *Id.*

on preventing and responding to sexual harassment and assault.”⁷⁴ The press release also noted that “[i]n an unprecedented show of unity within a fiercely competitive industry, the CEOs of Hilton, Hyatt, IHG, Marriott and Wyndham joined AHLA president and CEO Katherine Lugar and Chairman of the Board Mark Carrier, president of B.F. Saul Company Hospitality Group, for the announcement.”⁷⁵ This statement alone suggests that those with power within the industry realized the grave need to remedy the prevalence of sexual harassment and assault within the hotel industry. In the press release, Lugar was quoted as saying:

We’re proud of the hotel industry’s efforts and are encouraged to see our industry come together in an unprecedented way to make our employees feel safer at work. Hotels have been investing in employee and guest safety for decades, working with experts to continuously update protocols and procedures that keep both employees and guests safe.⁷⁶

The press release went on to note that each brand or property “will determine the best security devices based on the property’s layout and features, with a range of options including devices with loud noise-emitting features or emergency GPS tracking at the push of a handheld button.”⁷⁷ The press release explained that the AHLA also put together a task force assigned with assisting companies in identifying the appropriate technology in an attempt to be responsive to the varied nature of the hotel industry, “ranging from large urban hotels to small rural roadside inns to mixed-use properties that combine hotels, apartments, condos, retail, and restaurants.”⁷⁸

Despite the collaborative efforts of those within the industry, including labor unions and certain hotel chains, to bring change, state laws must be introduced to put the onus on the state governments to protect those working within the state. Moreover, although many of the larger hotel conglomerates are currently on board, without a state law in place, there is no true protection for those working in the industry. As previously mentioned, the hotels could change their minds at any given time and decide not to continue providing safety devices. Additionally, smaller hotels are not required to have any plans in place to protect their employees, and thus, those workers are working without any protection against sexual harassment. Therefore, solely depending on the cooperation

74. *5-Star Promise*, AM. HOTEL & LODGING ASS’N, <https://www.ahla.com/5star> [<https://perma.cc/TC8G-4NJE>].

75. AHLA Press Release, *supra* note 72.

76. *Id.*

77. *Id.*

78. *Id.*

and voluntary participation of larger hotel conglomerates does not provide enough protection against sexual harassment and assault for those working in housekeeping positions.

II. HOW SOME CITIES AND STATES HAVE ADDRESSED THE ISSUE

Although some of the larger hotel chains in the hotel industry acknowledged that panic buttons were necessary and began using them, some cities, and even a few states, saw the need for across-the-board regulations. Through ordinances and state laws intended to protect employees, these jurisdictions began mandating that hotels provide panic buttons to certain employees and enact sexual harassment policies.

A. Seattle, Washington and Washington State

One of the first cities to see the overwhelming need for legislation was Seattle, Washington. Although establishing the first law was not an easy feat, ultimately a law was enacted, as the city made it a priority to protect individuals working within their city limits from sexual harassment and assault.

1. Seattle, Washington

In 2016, Seattle took the lead in protecting hotel workers by passing Initiative 124 (Seattle Initiative), which mandated panic buttons and instituted a system that would place guests accused of sexual misconduct on a list to allow its workers to be aware of such a status.⁷⁹ The Seattle Initiative was approved as a ballot measure with 76.59% of the vote.⁸⁰ Proponents of the law argued that it “would protect a workforce of mostly immigrants and women of color from sexual assault and harassment while bettering their sometimes dangerous and grueling job conditions.”⁸¹ Hospitality associations, on the other hand, sued almost immediately, arguing that the Seattle Initiative, among other things, “violates the requirements that an initiative cover a single subject and the subject be expressed in the title” and that “maintaining a list of hotel guests accused of harassment violates the state and federal constitutions’ guarantees of

79. *Yes on 124: Initiative 124*, SEATTLE PROTECTS WOMEN (May 6, 2016), http://clerk.seattle.gov/~cfpics/CF_319639k.pdf [<https://perma.cc/CCP6-JKN8>] (Initiative 124 petition filed with City of Seattle).

80. *Id.*; *Am. Hotel & Lodging Ass’n v. City of Seattle*, 432 P.3d 434, 445 (Wash. Ct. App. 2018) (finding Initiative 124 valid).

81. Daniel Beekman, *Seattle Council Adopts Hotel-Worker Protections After Voter-Approved Law Was Nixed in Court*, SEATTLE TIMES (Sept. 17, 2019), <https://www.seattletimes.com/seattle-news/politics/seattle-council-adopts-hotel-worker-protections-after-voter-approved-law-was-nixed-in-court/> [<https://perma.cc/Q7DE-WLAK>].

privacy and due process.”⁸² The complaint, filed by the American Hotel & Lodging Association, Seattle Hotel Association, and Washington Hospitality Association against the City of Seattle, specifically stated that “[i]f a hotel employee merely accuses a guest of assault or harassment, the hotel is required to place the guest’s name on the list, whether or not the employee is willing to sign a sworn statement, make a police report, or offer any supporting evidence.”⁸³ Additionally, the complaint stated:

The names on the list are not required to be kept secret. Even if the accusing employee is unwilling to sign a statement, the names of accused guests must be shared with the City of Seattle and, if the guest returns, with other hotel employees. If the employee is willing to sign a statement, the guest must be denied future lodging for three years, without being told why or given an opportunity to challenge the accusation.⁸⁴

Thus, the complaint argued that

[t]he potential for mistakes and abuse is significant, especially because the hotels are allowed no opportunity to determine whether there was actually any wrongdoing, and guests are allowed no opportunity to refute the allegations. The blacklist provision **requires** hotels to punish people (by placing them on a list and denying some of them accommodations) without any opportunity to investigate the allegations. The blacklist requirement further forces hotels to damage the reputation of accused guests, and expose them to public shame, without making any assessment of the truth of the accusations. Most importantly, the blacklist provision creates a significant risk that people will be mistakenly or wrongfully accused without any opportunity to respond or clear their names and denied public accommodations as a result.⁸⁵

The plaintiffs noted early in the complaint that “[o]bviously, a claim of harassment or assault is a serious matter,”⁸⁶ however it went on to almost dismiss this notion, as it further argued that “existing state and federal laws already provide protections, without requiring hotels to violate the state and federal constitutional rights of guests.”⁸⁷ The complaint ultimately argued that the Seattle Initiative violated the single

82. *Am. Hotel & Lodging Ass’n v. City of Seattle*, No. 16-2-30233-5, 2017 WL 10901326, at *2 (Wash. Super. Ct. June 9, 2017).

83. Complaint for Declaratory and Injunctive Relief at 1, *Am. Hotel & Lodging Ass’n v. City of Seattle*, No. 16-2-30233-5, 2016 WL 11567189 (Wash. Super. Ct. Dec. 19, 2016).

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

subject rule, Article IV, Section 7 of the Seattle City Charter,⁸⁸ and therefore was void, as workplace safety and other matters were addressed in the same Initiative.⁸⁹ Thus, in 2017, despite the push back, the Seattle Initiative was originally upheld, as the Superior Court of King County entered judgment in favor of the defendants, upholding the validity of the measure.⁹⁰ The court concluded that “the Initiative and Ordinance do not violate the federal or Washington State Constitutions, are not inconsistent with or preempted by existing law, and that plaintiffs Associations lack the requisite standing for a facial constitutional challenge to the assaultive guest registry requirement provisions of the legislation.”⁹¹

Then, in December 2018, a three-judge panel in the appeals court struck down the law, holding that the Seattle Initiative did violate the single subject rule set out in Article IV, Section 7 of the Seattle City Charter.⁹² The court reasoned that “[b]ecause there is no rational unity between the provisions of [the Initiative], it is impossible for the court to determine whether any provision would have received majority support if voted on separately.”⁹³ In 2019, the City of Seattle and UniteHere! Local 8 appealed the decision to the Washington Supreme Court, arguing that “[a]mbitious in scope but singular in focus, Seattle Initiative 124 (the ‘Initiative’) takes on the full panoply of factors impacting worker well-being within the hotel industry,”⁹⁴ and as of May 2019, the Washington Supreme Court agreed to consider the Initiative.⁹⁵

Meanwhile, in September of 2019, the Seattle City Council voted unanimously to adopt a new set of ordinances designed to protect hotel workers.⁹⁶ These provisions, however, did not include a provision requiring hotels to keep a list of those guests accused of harassing or attacking workers, nor did it require that those guests be barred from the hotel, as these provisions were dropped.⁹⁷ Thus, the “Hotel Employees

88. The complaint stated that “Article IV, Sec. 7 of the Seattle City Charter requires that every legislative act ‘shall contain but one subject, which shall be clearly expressed in its title.’” *Id.* at 3.

89. *See id.* (“I-124 contains multiple subjects: health and safety measures for hotel workers, compensation and fringe benefits for hotel workers, preferential hiring requirements for hotels in the event of change of ownership, changes in legal standards for certain discrimination claims, and a blacklist, the effect of which is to deny certain persons public accommodations in Seattle.”).

90. *Am. Hotel & Lodging Ass’n v. City of Seattle*, No. 16-2-30233-5, 2017 WL 10901326, at *19 (Wash. Super. Ct. June 9, 2017).

91. *Id.*

92. *Am. Hotel & Lodging Ass’n v. City of Seattle*, 432 P.3d 434, 445 (Wash. Ct. App. 2018).

93. *Id.*

94. Supplemental Brief of Petitioner City of Seattle at 1, *City of Seattle v. Am. Hotel & Lodging Ass’n*, No. 96781-4, 2019 WL 2453571 (Wash. May 31, 2019).

95. *Am. Hotel & Lodging Ass’n v. City of Seattle*, 439 P.3d 1069 (Wash. 2019).

96. Seattle, Wash., Ordinance 125,923 (Sept. 16, 2019).

97. SEATTLE, WASH., MUN. CODE § 14.26 (2019).

Safety Protections Ordinance⁹⁸ went into effect on July 1, 2020, for most covered businesses.⁹⁹ Seattle Municipal Code added Chapter 14.26 entitled “Protecting Hotel Employees from Violent or Harassing Conduct,” which is an ordinance (Seattle Ordinance) relating to employment in Seattle requiring employers to take certain steps to prevent and report violent and harassing conduct by guests and to support employees who report this kind of conduct.¹⁰⁰ The Seattle Ordinance lays out that “covered employers are limited to those who either (a) own, control, or operate a hotel in the City or (b) own, control, or operate an ancillary hotel business in the City.”¹⁰¹ The definition section of the Seattle Ordinance specifically defines these key terms, related to those who must abide by the ordinance, as follows:

“Ancillary hotel business” means any business that (1) routinely contracts with the hotel for services in conjunction with the hotel’s purpose; (2) leases or sublets space at the site of the hotel for services in conjunction with the hotel’s purpose; or (3) provides food and beverages, to hotel guests and to the public, with an entrance within the hotel premises;

....

“Hotel” means a hotel or motel, as defined in Section 23.84A.024, containing 60 or more guest rooms or suites of rooms suitable for providing lodging to members of the public for a fee, regardless of how many of those rooms or suites are occupied or in commercial use at any given time[.]¹⁰²

The Ordinance also defines “employee” and later goes on to specifically address those employees protected by the ordinance, as follows:

“Employee” means “employee” as defined under Section 12A.28.200, including but not limited to full-time employees, part-time employees, and temporary workers. An alleged employer bears the burden of proof that the individual is, as a matter of economic reality, in business for oneself (i.e. independent contractor) rather than dependent upon the alleged employer[.]¹⁰³

98. *Id.* § 14.26.010 (Section 14.26 “shall constitute the ‘Hotel Employees Safety Protections Ordinance’ and may be cited as such”).

99. *Id.* §14.26.260.

100. *See id.* §14.26.050.

101. *Id.* §14.26.040.

102. *Id.* §14.26.020.

103. *Id.*

Moreover, the Seattle Ordinance clearly lays out a definition for “[v]iolent or harassing conduct” and explains that it “means conduct that a reasonable person would characterize as ‘assault,’ ‘harassment,’ ‘sexual contact’ without ‘consent,’ and ‘indecent exposure’ as those terms are defined under the Revised Code of Washington.”¹⁰⁴ Additionally, “[p]anic button” is also defined and is clearly delineated as “an emergency contact device that an employee may easily carry and activate. When activated, the panic button must summon immediate on-scene assistance from another employee, security guard, or representative of the employer to the employee’s specific location.”¹⁰⁵

Most notably, Section 14.26.050, entitled “Panic buttons,” states:

A. At no cost to the employee, a hotel employer shall provide a panic button to each hotel employee assigned to work in a guest room or assigned to deliver items to a guest room.

B. A hotel employer shall provide access to a panic button to each employee of an ancillary hotel business who is assigned to work in a guest’s room or to make deliveries to a guest’s room. The employer shall provide access to the panic button at no cost to the ancillary hotel business or to the employee of the ancillary hotel business.

C. When a hotel employee or an employee of an ancillary hotel business activates a panic button, the hotel employer must immediately deploy a security guard, hotel employer representative, or another hotel employee to render assistance.

D. An employer shall not take adverse action against an employee for using the panic button to request on-scene assistance during an incident of actual or perceived violent or harassing conduct or other emergency in the employee’s presence or for ceasing work and leaving an area of perceived danger to await assistance after activating the panic button.

E. As a time-limited measure, employers may provide a panic button to each employee that complies with state requirements for panic buttons under Chapter 392, Laws of 2019 through December 31, 2020 and thereafter must provide a panic button to each employee that complies with all requirements of this Chapter 14.26.¹⁰⁶

The Seattle Ordinance also includes a section, entitled “Deterring assaults by notifying guests of employee protections,” which aims to put guests on notice of the protections afforded to its employees.¹⁰⁷ Such

104. *Id.*

105. *Id.*

106. *Id.* § 14.26.050.

107. *Id.* § 14.26.060.

notification of employees being armed with panic buttons, in and of itself, serves as a deterrent, as it forewarns guests that the employees have a method of protecting themselves should the guest have criminal intentions. The specific language states:

Each hotel shall place a sign on the back of each guest room door that includes the heading “The Law Protects Hotel Housekeepers and Other Employees From Violent Assault and Sexual Harassment,” a citation to this Chapter 14.26, and notice that, in compliance with this Chapter 14.26, the hotel provides panic buttons to employees that are assigned to work in guest rooms. The sign shall be written clearly and legibly and in a font size of no less than 18-point.¹⁰⁸

Moreover, although the language regarding the blacklist was removed, an additional provision was included, beyond the provision making notification in the room required, to ensure that hotel employees are further protected from violent or harassing conduct by guests. Section 14.26.070, entitled “Protecting employees from violent or harassing conduct by guests,” provides that “[a]n employer must develop policies and institute procedures that prevent and address violent or harassing conduct by guests” and specifically lays out that an employer must:

1. Develop a written policy against violent or harassing conduct by guests. At a minimum, the policy must explain the employer’s obligations under this Section 14.26.070;
2. Inform guests of this policy prior to or at time of guest check-in and through other means that may be addressed through Director’s Rules for special circumstances; and
3. At hire and on an annual basis, inform employees of the policy, the employer’s procedure for addressing allegations of violent or harassing conduct by guests, and how to report violent or harassing conduct by guests.¹⁰⁹

Subsection B of section 14.26.070 goes on to lay out the requirements and actions that an employer must immediately take when that “employer receives an allegation or learns that a guest engaged in violent or harassing conduct towards an employee(s).”¹¹⁰ Under that

108. *Id.* Because of the change to the section number, as a result of the Seattle Ordinance being amended, the following information is also included in Section 14.26.060:

Signs that were installed on the back of each guest room prior to the effective date provided in Section 14.26.260 shall not be deemed out of compliance for referencing to Chapter 14.25 instead of Chapter 14.26; however, hotels shall update the reference to Chapter 14.26 whenever the signs are replaced after the effective date provided in Section 14.26.260.

Id.

109. *Id.* § 14.26.070.

110. *Id.*

subsection, the employer has a duty to inform the guest, with written notice, of the minimum measures the employer is obligated to take.¹¹¹ The minimum measures include not assigning any employees to work in the accused guest's room.¹¹² However, if room entry is necessary, for example, to perform "a safety check following an allegation of violent or harassing conduct" then the employees "must be accompanied by a second employee, and any such assigned employee may voluntarily decline such an assignment."¹¹³

The Seattle Ordinance is extremely comprehensive in that it further explains the actions that an employer must immediately take for an employee who is the alleged victim of violent or harassing conduct by a guest.¹¹⁴ Specifically, the employer must, "[u]pon the employee's request or consent, reassign the employee to an equivalent or better assignment on a different work floor or to a different work area if no different work floor exists, for the entire duration of the guest's current stay."¹¹⁵ Moreover, among other things, the employer must provide the employee a copy of the written notice given to the accused guest, give the employee paid time off (in addition to that required by state law for victims of domestic violence, sexual assault, or stalking), and cooperate with any law enforcement investigations.¹¹⁶

The Seattle Ordinance provides one final protection for employees, requiring that employers "take reasonable precautions to maintain the confidentiality of employees who report violent or harassing conduct by guests, employees who are alleged victims of violent or harassing conduct by guests, and witnesses."¹¹⁷ Finally, the Seattle Ordinance also lays out specific remedies for violations, which include, but are not limited to, penalties such as "full payment of unpaid compensation plus interest in favor of the aggrieved party under the terms of this Chapter 14.26, and other equitable relief," as well as civil penalties increasing with each subsequent violation.¹¹⁸

Beyond these provisions, the Seattle Ordinance also discusses the enforcement power and duties of the agency required to enforce the provision, the Office of Labor Standards (Agency), and defines the Agency's right to investigate violations, coordinate implementation and enforcement of the Seattle Ordinance, and promulgate rules in accordance

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.* § 14.26.090.

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.* § 14.26.170.

with the Seattle Ordinance.¹¹⁹ The Seattle Ordinance also lays out the process for investigation,¹²⁰ findings of fact, and determinations.¹²¹ Moreover, it tasks the Agency with creating and making available certain written documents in English, Spanish, and other languages, such as a poster giving notice of the rights afforded by Chapter 14.26, notice of the right to a community advocate and notice of prohibitions against retaliation.¹²² The protection against retaliation is also set out in great detail in the Seattle Ordinance.¹²³ Overall, the Seattle Ordinance is one of the most comprehensive laws set in effect in the United States and appears to provide significant protections to those working in the hospitality industry within the city.

2. Washington State

In May 2019, just prior to the approval of the Seattle Ordinance, Washington State Governor Jay Inslee signed Senate Bill 5258 (Washington Rule) “[r]elating to preventing sexual harassment and assault of certain isolated workers.”¹²⁴ The Washington Rule added a new section to Chapter 49.60, entitled “Discrimination—Human rights commission,” of the Revised Code of Washington, specifically Chapter 49.60.515 entitled “Sexual harassment and assault policy—Adoption of by hotel, motel, retail, or security guard entity, or property services contractors—Requirements.”¹²⁵ For the purpose of coverage under the section, “[e]mployee” is defined as “an individual who spends a majority of her or his working hours alone, or whose primary work responsibility involves working without another coworker present, and who is employed by an employer as a janitor, security guard, hotel or motel housekeeper, or room service attendant.”¹²⁶ Although the Washington Rule is similar to the Seattle Ordinance in a number of ways, the Washington Rule distinguishes itself, as it applies to “[e]very hotel, motel, retail, or security guard entity, or property services contractor,”¹²⁷ throughout the state, regardless of size,

119. *Id.* § 14.26.130.

120. *Id.* § 14.26.150.

121. *Id.* § 14.26.160.

122. *Id.* § 14.26.100.

123. *Id.* § 14.26.120.

124. S. 5258, 66th Leg., 2019 Reg. Sess. (Wash. 2019).

125. WASH. REV. CODE § 49.60.515 (2019). “The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed.” *Revised Code of Washington (RCW)*, WASH. STATE LEGISLATURE (Dec. 7, 2020), <https://apps.leg.wa.gov/rcw> [<https://perma.cc/XCT7-EVLW>].

126. § 49.60.515.

127. *Id.*

whereas the Seattle Ordinance only applies to hotels containing 60 or more guest rooms.¹²⁸

Specifically, the Washington Rule adopted in Chapter 49.60.515 of the Revised Code of Washington is quite brief and requires that such establishments:

- (a) Adopt a sexual harassment policy;
- (b) Provide mandatory training to the employer's managers, supervisors, and employees to:
 - (i) Prevent sexual assault and sexual harassment in the workplace;
 - (ii) Prevent sexual discrimination in the workplace; and
 - (iii) Educate the employer's workforce regarding protection for employees who report violations of a state or federal law, rule, or regulation;
- (c) Provide a list of resources for the employer's employees to utilize. At a minimum, the resources must include contact information of the equal employment opportunity commission, the Washington state human rights commission, and local advocacy groups focused on preventing sexual harassment and sexual assault; and
- (d) Provide a panic button to each employee. The department must publish advice and guidance for employers with fifty or fewer employees relating to this subsection (1)(d). This subsection (1)(d) does not apply to contracted security guard companies licensed under chapter 18.170 RCW.¹²⁹

One notable similarity between the Washington Rule and the Seattle Ordinance is that panic button is similarly defined, such that the Washington Rule defines it as "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."¹³⁰ Finally, the Washington Rule requires hotels with sixty or more rooms to meet the requirements by January 1, 2020, while all other employers must meet the requirements by January 1, 2021.¹³¹ This rather quick timeline for implementation demonstrates that Washington State made it clear that it will not tolerate sexual harassment and assault perpetrated on workers in the hotel industry within its borders and is

128. SEATTLE, WASH., MUN. CODE § 14.26.020 (2019).

129. WASH. REV. CODE § 49.60.515 (2019).

130. *Id.*

131. *Id.*

imposing regulations on employers to ensure that they properly protect their employees.

B. Chicago, Illinois, and the State of Illinois

Both Chicago, Illinois, and the State of Illinois have recently acknowledged the importance of protecting those working within their boundaries and have reacted by enacting laws to protect those individuals. In 2017, Chicago became the second city in the United States, after Seattle, to enact an ordinance (Chicago Ordinance) requiring hotels to distribute panic buttons,¹³² and the State of Illinois recently passed a law with an effective date of July 2020.¹³³

1. Chicago, Illinois

After months of lobbying efforts by local hospitality workers, the Chicago Ordinance was passed¹³⁴ and Section 4-6-180 of the Municipal Code of Chicago was revised to include a requirement that certain employees at hotels¹³⁵ within the city be equipped with a panic button or notification device for their protection.¹³⁶ Specifically, Section 4-6-180(e) of the Municipal Code of Chicago now states:

(a) Legal duties. Each license engaged in the business of hotel shall have a duty to:

(1) equip employees who are assigned to clean or to inventory, inspect or restock supplies in a guest room or restroom, under circumstances where no other employee is present in such room, with a panic button or notification device. The employee may use the panic button or notification device to summon help if the employee

132. Alexia Elejalde-Ruiz, *Chicago Hotels Roll Out Panic Button Systems to Protect Housekeepers from Sexual Harassment*, CHI. TRIB. (June 7, 2018), <https://www.chicago.tribune.com/business/ct-biz-hotel-housekeepers-panic-buttons-xxxx-20180605-story.html> [<https://perma.cc/3UHF-F8RD>].

133. S. 75, 101st Gen. Assemb. (Ill. 2020).

134. See Jody Kahn Mason & Jackson Lewis, *Chicago Adopts Law Protecting Hotel Workers from Sexual Assault*, SOC'Y HUM. RES. MGMT. (Nov. 7, 2017), <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/chicago-adopts-law-protecting-hotel-workers-from-sexual-assault.aspx> [<https://perma.cc/AD9Y-CQAS>].

135. Under the Chicago Ordinance, "Hotel" means any building or structure kept, used, maintained as, advertised or held out to the public to be an inn, hotel, motel, family hotel, apartment hotel, lodging house, dormitory or other place, where sleeping or rooming accommodations are furnished for hire or rent, and in which seven or more sleeping rooms are used or maintained for the accommodation of guests, lodgers or roomers.

CHI., ILL., MUN. CODE § 4-6-180 (2018).

136. *Id.* § 4-6-180(e)(1).

reasonably believes that an ongoing crime, sexual harassment, sexual assault or other emergency is occurring in the employee's presence. Panic buttons and notification devices shall be provided by the licensee at no cost to the employee.¹³⁷

Thus, as is true with the Washington Rule, the Chicago Ordinance also applies to all hotels engaged in business within the city. Specifically, under the Chicago Ordinance, "[e]mployee" is defined as "any natural person who works full time or part time at a hotel for or under the direction of the licensee or any subcontractor of the licensee for wages or salary or remuneration of any type under a contract or subcontract of employment, whether express or implied."¹³⁸ Thus, covered individuals include all hotel employees, whether full time or part time, assigned to work in an isolated position. "Panic button" and "notification device" are defined together as "a portable emergency contact device that is designed so that an employee can quickly and easily activate such button or device to effectively summon to the employee's location prompt assistance by a hotel security officer, manager, or other appropriate hotel staff member designated by the licensee."¹³⁹ Finally, "[s]exual harassment" is specifically defined as "any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature."¹⁴⁰

In addition to panic buttons, the Chicago Ordinance also requires that all Chicago hotels "develop, maintain and comply with a written anti-sexual harassment policy to protect employees against sexual assault and sexual harassment by guests"¹⁴¹ and such policy must:

1. encourage employees to immediately report to their employer occurrences of alleged sexual assault and sexual harassment by offending guests;
2. describe the procedures that an employee and hotel shall follow in response to such occurrences;
3. instruct the employee to stop work and leave the immediate area of the perceived danger until hotel security or members of the police arrive;
4. offer a temporary work assignment to the employee during the duration of the offending guest's stay;

137. *Id.*

138. *Id.* § 4-6-180(a).

139. *Id.*

140. *Id.*

141. *Id.* § 4-6-180(e)(2).

5. provide the employee with necessary paid time off to sign a complaint with the police department against the offending guest and testify as a witness at any legal proceeding that results from the complaint;
6. inform the employee that the Illinois Human Rights Act, Chicago Human Rights Ordinance and Title VII of the Civil Rights Act of 1964 provide additional protections against sexual harassment in the workplace; and
7. inform the employee that the hotel will not retaliate against the employee for reasonably using the panic button or notification device, or in good faith availing himself/herself of the requirements described above.¹⁴²

The policy is required to be provided in English, Spanish, and Polish and posted in conspicuous areas in the hotel where employees will likely see it.¹⁴³

Additionally, the Chicago Ordinance imposes strict penalties on hotels that do not meet the requirement. For example, a hotel risks license suspension or revocation, if, within any twelve-month period, there are two or more adjudged violations of the following, such that the hotel retaliates against any employee for using a panic button or notification device, or availing themselves of the policy, or disclosing, reporting or testifying about any violation of the Chicago Ordinance.¹⁴⁴ Moreover, “any person who violates this section or any rule promulgated thereunder shall be subject to a fine of not less than \$250.00 nor more than \$500.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.”¹⁴⁵ It should be noted that, originally, the Chicago Ordinance was “supposed to be modeled on Seattle’s ordinance, including the provisions on barring and blacklisting certain guests. Later, those provisions were abandoned.”¹⁴⁶

2. State of Illinois

Illinois recently put the Hotel and Employee Casino Safety Act (Illinois Act) into effect through Article 5 of Illinois Senate Bill 75, with an effective date of July 1, 2020.¹⁴⁷ Similar to the Washington Rule,

142. *See id.*

143. *Id.*

144. *Id.* § 4-6-180(f)(3).

145. *Id.* § 4-6-180(g)(1).

146. Jacobs, *supra* note 71.

147. S. 75, 101st Gen. Assemb. (Ill. 2020).

generally, the Illinois Act requires that all hotels¹⁴⁸ within the state, regardless of size, provide certain hotel employees¹⁴⁹ with a notification device or safety device to assist in protecting the individual and allow for “summon[ing] help if the employee reasonably believes that an ongoing crime, sexual harassment, sexual assault, or other emergency is occurring in the employee’s presence.”¹⁵⁰ Specifically, Section 5-10(a) of the Illinois Act states that the employees who must be equipped with the devices are those who are “assigned to work in a guest room, restroom, or casino floor, under circumstances where no other employee is present in the room or area, with a safety device or notification device.”¹⁵¹ As it seems to be the case with all panic device laws, the Illinois Act requires that these devices “shall be provided by the hotel or casino at no cost to the employee.”¹⁵²

In addition to providing a notification or safety device, the hotel or casino employer must also “develop, maintain, and comply with a written anti-sexual harassment policy to protect employees against sexual assault and sexual harassment by guests.”¹⁵³ The language of Section 5-10(b) of the Illinois Act lays out the requirements for the anti-sexual harassment policy, and those requirements virtually mirror those in the Chicago Ordinance. The Illinois Act takes one additional step, requiring that “[e]ach hotel employer and casino employer shall also make all reasonable efforts to provide employees with a current copy of its written anti-sexual harassment policy in any language other than English and Spanish that, in its sole discretion, is spoken by a predominant portion of its employees.”¹⁵⁴

148. Under the Illinois Act, “[h]otel” is broadly defined to cover “any building or buildings maintained, advertised, and held out to the public to be a place where lodging is offered for consideration to travelers and guests,” and “includes an inn, motel, tourist home or court, and lodging house.” 820 ILL. COMP. STAT. 325/5-5 (2020).

149. The Illinois Act defines “[e]mployee” as
any natural person who works full-time or part-time for a hotel employer or casino employer for or under the direction of the hotel employer or casino employer or any subcontractor of the hotel employer or casino employer for wages or salary or remuneration of any type under a contract or subcontract of employment.

Id.

150. *Id.* 325/5-10(a). For the purposes of the Illinois Act, “[s]exual harassment” means any harassment or discrimination on the basis of an individual’s actual or perceived sex or gender, including unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.” *Id.* 325/5-5. Additionally, the act defines “[s]exual assault” as:

(1) an act of sexual conduct, as defined in Section 11-0.1 of the Criminal Code of 2012; or
(2) any act of sexual penetration, as defined in Section 11-0.1 of the Criminal Code of 2012 and includes, without limitation, acts prohibited under Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012.

Id.

151. *Id.* 325/5-10(a).

152. *Id.*

153. *Id.* 325/5-10(b).

154. *Id.*

The Illinois Act also provides a vehicle for remedies. Although an individual may pursue an action, before such an action is pursued, “the representative must first notify the hotel employer or casino employer in writing of the alleged violation under this Act and allow the hotel employer or casino employer 15 calendar days to remedy the alleged violation.”¹⁵⁵ After this notification and cure period, an employee and their representatives claiming a violation of the Illinois Act

may bring an action against the hotel employer or casino employer in the circuit court of the county in which the hotel or casino is located and is entitled to all remedies available under the law or in equity appropriate to remedy any such violation, including, but not limited to, injunctive relief or other equitable relief including reinstatement and compensatory damages.¹⁵⁶

Additionally, an “employee or representative of employees that successfully brings a claim under this Act shall be awarded reasonable attorney’s fees and costs. An award of economic damages shall not exceed \$350 for each violation. Each day that a violation continues constitutes a separate violation.”¹⁵⁷ Thus, the Illinois Act ensures that hotels within the state protect their employees against sexual assault and harassment by guests both in the form of mandatory notification devices and a written anti-sexual harassment policy.

C. State of California and Various California Cities, including Sacramento, Long Beach, and Oakland

Although California introduced Assembly Bill 1761 in the California Assembly in January 2018, which would have added Section 6403.7 to the California Labor Code (Proposed California Law) to provide additional protections against sexual assault and harassment for its workers, the bill ultimately did not pass.¹⁵⁸ Prior to the attempt to put the new law into effect, the law in California regarding employee safety simply stated:

No employer shall fail or neglect to do any of the following:

- (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

155. *Id.* 325/5-20.

156. *Id.*

157. *Id.*

158. See S. AB-1761, 2018 Reg. Sess. (Cal. 2018).

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.¹⁵⁹

The Proposed California Law would have required a hotel employer to provide certain employees “with a panic button, free of charge,” in order to request immediate assistance when working alone in a guest room should the employee believe that “there is an ongoing crime, harassment, or other emergency happening in the employee’s presence.”¹⁶⁰ Additionally, the Proposed California Law would have required a hotel employer to post notification of these requirements on the back of each guest room door to notify guests of the practice.¹⁶¹ The remaining requirements under the policy were similar to the laws in both Washington and Illinois, in that, if an employee informed the hotel employer they had been subjected to an act of violence, sexual assault, or sexual harassment by a guest, then the law required the hotel employer to do the following, among other things: provide paid time off to the employee to “contact law enforcement, seek injunctive or other legal relief, contact an attorney”; at the request of the employee, provide reasonable accommodations for the employee such as “transfer, reassignment, modified schedule, or any other reasonable adjustment”; at the request of the employee, report the act to and cooperate with law enforcement in any investigation; and comply with any other requirements under applicable local, state, or federal law.¹⁶²

In Section 1 of California Assembly Bill 1761, the legislature found and declared:

(a) It is the intent of this measure to protect hotel employees from violent assault, including sexual assault, and sexual harassment, and to enable those employees to speak out when they experience harassment or assault on the job.

159. CAL. LAB. CODE § 6403 (1983).

160. S. AB-1761, 2018 Reg. Sess. § 1(b) (Cal. 2018).

161. Such notice would have been required to have the heading “The Law Protects Hotel Housekeepers and Other Employees from Sexual Assault and Harassment” and to “be printed in no less than 18-point type and state that panic buttons are provided to hotel employees assigned to work alone in guestrooms, including housekeepers, room servers, and other employees.” § 6403.7(a)(2).

162. *Id.* § 6403.7(b). Additionally, California AB-1761 provided that “[a] hotel employer shall not discharge or in any manner discriminate or retaliate against an employee who reasonably uses a panic button, reports an act of violence, sexual assault, or sexual harassment, takes time off, or requests reasonable accommodations as provided by this section.” *Id.* § 6403.7(c).

(b) Hotel employees are often asked to work alone in hotel rooms, which sometimes may be occupied, placing them at risk of violent assault, including sexual assault, and sexual harassment.¹⁶³

Thus, despite the clear acknowledgement of the need for such a law to protect hotel employees in California, the law was ultimately never put into effect.¹⁶⁴

Although the Proposed California Law, which would have provided statewide protection, did not come to fruition, local ordinances in Sacramento, Long Beach, and Oakland have since received approval.¹⁶⁵ As of February 2018, the Sacramento County Hotel Worker Protection Act of 2018 (Sacramento Act) was approved¹⁶⁶ and required every hotel with “twenty-five (25) or more guest rooms subject to licensure by the County of Sacramento”¹⁶⁷ to “equip each employee who is assigned to work in a guest room or restroom with a panic button or notification device. Panic buttons and notification devices shall be provided by the hotel licensee at no cost to the employee.”¹⁶⁸

Additionally, as seen in only some of the other laws put into place across the country, the Sacramento Act required that such hotels shall

develop, maintain and comply with a written sexual harassment policy to protect employees against sexual assault and sexual harassment by guests. Such policy shall encourage employees to immediately report to the hotel licensee instances of alleged sexual assault and sexual harassment by guests, and shall describe the procedures that the complaining employee and hotel licensee shall follow in such cases.¹⁶⁹

163. S. AB-1761 § 1.

164. *See id.*

165. SACRAMENTO, CAL., CNTY. CODE § 4.75 (2018); LONG BEACH, CAL., MUN. CODE, ch. 5.54 (2018); OAKLAND, CAL., MUN. CODE § 5.93 (2018).

166. On February 27, 2018, the Office of Planning and Environmental Review in Sacramento County, California recommended, and the Board of Governors approved, the Sacramento County Hotel Worker Protection Act, adding Chapter 4.75 to Title 4 of the Sacramento County Code (SCC) Requiring Hotel Employee Panic Buttons and Hotel Guest Sexual Harassment Policies. SACRAMENTO, CAL., CNTY. CODE § 4.75 (2018); Memorandum from Off. of Plan. & Env’t Rev. to the Bd. of Supervisors (Feb. 27, 2018), <https://planning.saccounty.net/Documents/Hotel%20Worker%20Protection%20Act/Panic%20Button%20Adopted%20Ordinance.pdf> [<https://perma.cc/KG3L-6KE5>] (recommending the approval of the Sacramento County Hotel Worker Protection Act of 2018).

167. According to the Sacramento Act, “Hotel” means any hotel with twenty-five (25) or more guest rooms subject to licensure by the County of Sacramento.” § 4.75.002.

168. *Id.* § 4.75.003. According to the Sacramento Act, “Employee(s)” means a natural person who works full or part time at a hotel for wages or salary or remuneration of any type.” *Id.* § 4.75.002.

169. *Id.* § 4.75.004. According to the Sacramento Act, sexual harassment was similarly defined as meaning “any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature.” *Id.* § 4.75.002.

Moreover, as was also seen in other laws across the country, such hotels “shall provide all employees with a current copy in English and Spanish of the sexual harassment policy, and post such policy in conspicuous areas in the hotel, such as supply rooms or employee break rooms, where employees can reasonably be expected to see it.”¹⁷⁰ Although there are some variations as to the specific requirements, such as the location of the required notifications, the general overriding principles in the Sacramento Act are the same as the laws in other jurisdictions. The Sacramento Act took effect “on and after thirty (30) days from the date of its passage.”¹⁷¹

Additionally, Long Beach, California, also included a requirement in its municipal code requiring all hotels¹⁷² to provide panic buttons¹⁷³ to hotel employees¹⁷⁴ to protect their safety while at work. Specifically, Section 5.54.030 of the Long Beach Municipal Code (Long Beach Code) states that “[a] hotel employer shall provide a panic button to each hotel employee assigned to work in a guest room without other employees present, regardless of job classification, at no cost to the hotel employee.”¹⁷⁵ The Long Beach Code further acknowledges “that because of the varying size and physical layout of each hotel, different devices may be appropriate for different hotels.”¹⁷⁶ Moreover, as is true in many of the other laws put into place, in order to protect employees while working, the Long Beach Code states that “[a] hotel employee may use the panic button if the hotel employee reasonably believes there is an ongoing crime, threatening behavior, or other emergency in the hotel employee’s

170. *Id.* § 4.75.004.

171. Sacramento, Cal., ordinance 1620 (Feb. 27, 2018) (codified at SACRAMENTO, CAL., CNTY. CODE ch. 4.75 (2018)).

172. According to the Long Beach Code,

“Hotel” means structures as defined by Long Beach Municipal Code section 9.02.080, or suites of rooms, and includes motels as defined by Long Beach Municipal Code section 21.15.1800. “Hotel” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.

LONG BEACH, CAL., MUN. CODE § 5.54.020 (2018).

173. According to the Long Beach Code, “‘Panic button’ means an emergency electronic contact device carried by a hotel employee by which the hotel employee may summon immediate on-scene assistance from a security guard or other person employed by the hotel.” *Id.*

174. According to the Long Beach Code,

“Hotel employee” means any individual: (1) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at a hotel in the City; and (2) who was hired to or did work an average 5 hours/week for 4 weeks at one or more hotels.

Id.

175. *Id.* § 5.54.030.

176. *Id.*

presence. The hotel employee may cease work and leave the immediate area of danger to await the arrival of assistance.”¹⁷⁷

Furthermore, hotel employees’ rights are spelled out and include allowing the employee to leave guest room doors open while cleaning, reassigning to a different work area any employee who makes a request because they believe that their safety is at risk, immediately allowing the affected hotel employee sufficient time to contact police to provide a statement, and having the hotel employer cooperate with any investigation into the incident undertaken by the appropriate law enforcement agency.¹⁷⁸ Moreover, the Long Beach Code provides that the hotel employer shall not retaliate such that the employee shall not suffer discharge, reduction in compensation, an increased workload, an imposition of fees or charges, or a change in duties for participating in proceedings or seeking to enforce their rights.¹⁷⁹ Finally, there is a slight difference in this law versus some of the other laws put into place in other locations. Many of the other laws require that notice be given specifically by posting signs around the hotel; however, the Long Beach Code simply requires that “a hotel employer shall give written notification to each current hotel employee, and to each new hotel employee at the time of hire.”¹⁸⁰

Oakland, California also included a provision in its municipal code (Oakland Code) requiring that panic buttons¹⁸¹ be given to certain hotel employees,¹⁸² similar to other laws in place in other cities across the country.¹⁸³ As is typically found in most provisions, the panic button must be given at no charge and is to be used “to report threatening conduct by a hotel guest and other emergencies.”¹⁸⁴ Additionally, similar to the Seattle Ordinance, which only pertains to hotels with sixty or more guest rooms,

177. *Id.*

178. *Id.*

179. *Id.*

180. Compare OAKLAND, CAL., MUN. CODE § 5.93.020(D) (2018), and SEATTLE, WASH., MUN. CODE § 14.26.060 (2019), with *id.* § 5.54.030(B)(2)(e).

181. According to the Oakland Code, “‘Panic Button’ means an emergency contact device carried by the hotel employee which allows him or her in the event of an ongoing crime, threat, or other emergency to alert another employee or security guard responsible for providing immediate on-scene assistance.” OAKLAND, CAL., MUN. CODE § 5.93.010 (2018).

182. According to the Oakland Code,

“Hotel Employee” means any individual:

- (1) Who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at a hotel in the City of Oakland; and
- (2) Who was hired to or did work an average of five (5) hours/week for four (4) weeks at one (1) or more hotels.

Id.

183. Compare *id.* §§ 5.93.020(A-B), with SEATTLE, WASH., MUN. CODE § 14.26.060 (2019), and LONG BEACH, CAL., MUN. CODE § 5.54.030(A) (2018).

184. OAKLAND, CAL., MUN. CODE § 5.93.020(A) (2018).

the Oakland Code only pertains to hotels with fifty or more guest rooms.¹⁸⁵ The provision provides many of the same protections set forth in the other provisions in that the employee can request reassignment and paid time off to provide a police statement, and the provision requires that the hotel cooperate with any investigation into the matter.¹⁸⁶ Plus, there may be no retaliation against the employee for use of the panic button.¹⁸⁷ Finally, the provision is strikingly similar to the provision in Seattle in that it requires that

[e]ach hotel shall place a sign on the back of each guestroom door, written in a font size of no less than eighteen (18) points, that includes the heading “The Law Protects Hotel Housekeepers and Employees From Threatening Behavior,” a citation to this Chapter of the Oakland Municipal Code, and notice of the fact that the hotel is providing panic buttons to its housekeepers, room servers, and other hotel employees assigned to work in guest rooms without other employees present, in compliance with this Chapter.¹⁸⁸

This type of notification demonstrates the clear desire that all hotel guests be made aware that panic buttons are given to employees, which serves as yet another means of protecting employees because the notice itself serves as a warning to guests at the hotel.

D. State of New Jersey

In 2019, New Jersey passed legislation (New Jersey Law), with an effective date of January 2020, requiring that hotels¹⁸⁹ with more than 100 guest rooms supply those employees¹⁹⁰ assigned “work in a guest room without any other employees present” with a panic device¹⁹¹ at no cost to

185. *Id.* § 5.93.010; SEATTLE, WASH., MUN. CODE § 14.26.020 (2019).

186. OAKLAND, CAL., MUN. CODE § 5.93.020(C) (2018).

187. *See id.* § 5.93.060.

188. *Compare id.* § 5.93.020(D), with SEATTLE, WASH., MUN. CODE § 14.26.060 (2019).

189. According to the New Jersey Law, “‘Hotel’ means any hotel, inn, boarding house, motel or other establishment whose proprietor offers and accepts payment for rooms, sleeping accommodations or board and lodging and retains the right of access to, and control of, the premises which are let, which contains at least 100 guest rooms.” N.J. STAT. ANN. § 29:4-10 (West 2019).

190. According to the New Jersey Law,

“Hotel employee” or “employee” means any natural person who works full-time or part-time performing housekeeping or room service duties at a hotel for or under the direction of the hotel employer or any subcontractor of the hotel employer for wages or salary or remuneration of any type under a contract or subcontract of employment.

Id.

191. According to the New Jersey Law,

“Panic device” means a two-way radio or other electronic device which is kept on an employee’s person when the employee is in a guest room, and that permits an employee to

the employee.¹⁹² The law allows the employee who activates the device, because they fear an immediate threat of assault or harassment, to leave the guest room and await further assistance without fear of adverse action being taken against the employee for use of the panic button.¹⁹³ Specifically, the law also requires that employers must adhere to a certain protocol once a panic device is activated, which includes requirements such as:

- Keeping a record of accusations it receives that a guest committed an act of violence, including sexual assault, sexual harassment, or other inappropriate conduct towards a hotel employee and maintaining the name of the guest so the accused can remain on the list for a period of five years from the date of the incident.
- Reporting incidents involving criminal conduct by a guest to an appropriate law enforcement agency and to cooperate with that law enforcement agency if an investigation is undertaken.
- Notifying hotel employees who are assigned to housekeeping or room service duties of the room where the alleged incident occurred of the presence and location of the guest named on the list, and to allow hotel employees (other than the individual who activated the panic button) the option of either servicing the guest room with a partner or opting out of servicing the room for the duration of the guest's stay.
- Immediately reassigning the hotel employee who activated the panic button to a different work area away from the guest room of the guest on the list for the duration of the guest's stay.
- Deciding whether to refuse to provide occupancy to the guest for a set amount of time, if the accused guest is convicted of a crime in connection with the incident determined that the information supports the hotel employee's description of the incident.¹⁹⁴

These provisions far surpass the protections provided in the other locales because offending guests are penalized for their actions (such as

communicate with or otherwise effectively summon immediate on-scene assistance from a security officer, manager or supervisor, or other appropriate hotel staff member.

Id.

192. *Id.* § 29:4.11.

193. *Id.*

194. *Id.*

being kept on a blacklist of sorts) and offending guests risk being declined occupancy in the future. Although many other jurisdictions considered including a blacklist, New Jersey appears to be the only jurisdiction to put such a provision into effect. Additionally, similar to the laws in other jurisdictions, each covered hotel is required to “develop and maintain a program, which may include written information, to educate hotel employees regarding the use of panic devices and their rights in the event the hotel employees activate their devices, and to encourage hotel employees to activate panic devices when appropriate.”¹⁹⁵ Such education programs will give employees the confidence of knowing how to properly use the devices, as well as allow them to feel empowered to use the device should the need arise. Finally, a hotel that does not provide a panic device to its employees pursuant to the law or does not follow the protocols established in the law, “upon a hotel employee reporting an incident shall be subject to a civil penalty in an amount not to exceed \$5,000 for the first violation and \$10,000 for each subsequent violation.”¹⁹⁶ The inclusion of such penalties confirms that covered hotels operating in New Jersey will be held accountable for protecting their vulnerable employees.

E. Miami Beach, Florida

The city of Miami Beach, Florida, passed an ordinance to protect “certain hotel and hostel employees in the hospitality industry from violent assault, including sexual assault, and sexual harassment” (Miami Ordinance).¹⁹⁷ The Ordinance explains that “[h]otel and hostel employees often work alone (or alone with a guest) in a guest room or restroom, placing the employees at risk of violent assault, including sexual assault, and sexual harassment.”¹⁹⁸ The Miami Ordinance, which was originally set to take effect on August 1, 2019, but was delayed until September 15, 2019, goes one step further than many of the laws in other jurisdictions by including certain hostel employees in its definition of who is protected under the law.¹⁹⁹ The Miami Ordinance specifically states:

195. *Id.*

196. *Id.* § 29:4-12.

197. MIA. BEACH, FLA., MUN. CODE ch. 62, art. VI, § 62-204 (2018).

198. *Id.*

199. A hotel or hostel employer is defined as:

any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any employee, and who owns, controls, and/or operates a hotel or hostel in the City of Miami Beach; or a person who employs or exercises control over the wages, hours, or working conditions of any person employed in conjunction with a hotel

Hotel or hostel employee or employee means any natural person who works full-time or part-time at a hotel or hostel for or under the direction of the hotel or hostel employer, or any subcontractor of the hotel or hostel employer, for wages or salary or remuneration of any type under a contract or subcontract of employment, whether express or implied.²⁰⁰

The Miami Ordinance does specifically list out those individuals who are to receive a device, as it states that “[e]ach hotel or hostel employer shall . . . [p]rovide a safety button or notification device to each hotel or hostel employee that is a room attendant, housekeeping attendant, minibar attendant, or room service server.”²⁰¹ Furthermore, similar to provisions in other jurisdictions, the Miami Ordinance states that

[a]n employee may use the safety button or notification device if the employee reasonably believes there is an ongoing crime, harassment, or other emergency in the employee’s presence. It is recognized that because of the varying size and physical layout of each hotel, different devices may be appropriate for different hotels. Safety buttons and notification devices shall be provided by the hotel or hostel employer at no cost to the employee.²⁰²

Additionally, notification must be accomplished, as the Miami Ordinance specifies that by September 15, 2019, each covered hotel and hostel

shall place a plainly visible sign inside of each guest room, written in a font size of no less than 14 points, that states the following: “For the protection of our employees, this establishment provides safety buttons or notification devices to its room attendants, housekeeping attendants, minibar attendants, and room service servers, in compliance with Chapter 62, article VI of the Code of the City of Miami Beach.”²⁰³

The Miami Ordinance goes on to explain that the code compliance department will enforce the law.²⁰⁴ However this “shall not preclude other law enforcement agencies from any action to assure compliance with this

or hostel employer in furtherance of the provision of lodging and other related services for the public.

Id. § 62-205.

200. *Id.*

201. *Id.* § 62-206.

202. *Id.*

203. *Id.* § 62-207.

204. *Id.* § 62-208.

article and all applicable laws.”²⁰⁵ If a violation occurs, “the enforcement officer will be authorized to issue a notice of violation,” which serves to

inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.²⁰⁶

Again, the inclusion of such penalties confirms that covered hotels operating in the city will be held accountable for not protecting their vulnerable employees.

III. RECOMMENDATIONS

As numerous studies have shown that hotel employees who work in isolated situations for the majority of their day are at an increased risk of being sexually harassed or assaulted while at work, it is imperative that all states enact laws protecting these vulnerable employees. As discussed above, major hotel industry leaders recently joined together to commit to providing employee safety devices (panic buttons) and enhancing policies, trainings, and resources aimed at improving hotel safety through their 5-Star Promise. Although the response from the hotel industry is a positive step, there is still a clear need for state laws to be enacted. Without these laws, vulnerable hotel employees are left with only the protections from the hotel industry employers and such protections could waiver or be withdrawn at any moment. Moreover, not all hotels are included, such as smaller hotel chains or privately-owned hotels, leaving employees at those locations without any protections at all. Additionally, anti-sexual harassment and assault training should be established so that, regardless of job category, all employees participate, since managers and supervisors, along with others within the employment chain, can be a key resource in preventing and stopping harassment.

205. *Id.*

206. Under the Miami Ordinance, the penalties and fines imposed are as follows:

First violation: written warning.

Second violation within preceding six months: civil fine of \$500.

Third violation within preceding six months: civil fine of \$1,000.

Fourth or subsequent violation within preceding six months: civil fine of \$2,000.

Id.

A. Enact State Laws to Ensure Uniformity of Protection

To date, a handful of cities and states have recognized the vulnerability of certain hotel employees, specifically those working in isolated situations, to the increased risk of sexual harassment and sexual assault and, as a result, put laws into effect to protect those individuals while at work.²⁰⁷ The implementation of such laws is imperative and supported by numerous surveys and studies done by the EEOC and other entities, which demonstrate the prevalence of sexual harassment and assault specifically for hospitality workers with jobs requiring them to work in isolation for most of the day, such as those required to clean rooms, stock supplies, etc. A number of the jurisdictions that have implemented these laws even included language in the legislation which clearly states that the reason for the legislation is to protect certain employees, providing clear historical legislative support for the creation of these laws.

Specifically, it is recommended that the laws to be effectuated should provide the most protection for vulnerable employees. As such, state laws should contain a broad definition of hotel, similar to Illinois' current law, which requires that *all* hotels within the state, regardless of size, provide a panic device to vulnerable employee groups and “develop, maintain, and comply with a written anti-sexual harassment policy to protect employees against sexual assault and sexual harassment by guests.”²⁰⁸ Although both the Seattle Ordinance and New Jersey Law provide protection to some employees, numerous employees are left uncovered based on how their statutes define hotel. For example, the Seattle Ordinance, one of the first of its kind and comprehensive in other ways, only requires hotels with sixty or more guest rooms to provide a panic button device to its employees,²⁰⁹ while , the New Jersey Law, only requires hotels with more than 100 guest rooms to supply employees assigned “work in a guest room without any other employees present” with a panic device.²¹⁰ Because the Illinois Act clearly provides the most protection for its hotel workers by requiring *all* hotels within the state to equip their employees with panic buttons,²¹¹ it serves as a prime model for how to define hotel so as to provide the most comprehensive protection. Additionally, as is the case in most of the current laws in effect as discussed herein, the provision defining covered employees should include a broad definition encompassing *all* employees, whether full- or part-time because all vulnerable employees working in

207. *See supra* Part II.

208. S. 75, 101st Gen. Assemb. § 5-10(b) (Ill. 2020).

209. SEATTLE, WASH., MUN. CODE § 14.26.020 (2019).

210. N.J. REV. STAT. § 29:4-11 (2019).

211. S. 75, 101st Gen. Assemb. § 5-10(a) (Ill. 2020).

isolated conditions should be protected regardless of whether or not that individual is working in a full- or part-time capacity.²¹²

As the goal of such a law is to provide protection to vulnerable employees, having a method of notifying guests that panic buttons are provided to employees is crucial. Therefore, it is also recommended that state law provisions provide for a clear method of notification to guests, since the law itself serves as a deterrent for any guest that may have harmful intentions. Currently, some, though not all, of the provisions in existence provide such a method of notification to guests. For example, the Seattle Ordinance, Oakland Code, and Miami Ordinance all require that each hotel place a sign on the back of each guest room door that includes a heading indicating something to the effect that *The Law Protects Hotel Housekeepers and Other Employees from Violent Assault and Sexual Harassment/Threatening Behavior* and requires that such sign be written clearly, legibly, and in large font.²¹³ Notification via a sign on the interior side of a guest room door, in a prominent location, and in large font (preferably 18-point or larger) detailing the panic device policy and rights of hotel employees, clearly puts guests on notice thereby providing another layer of protection for employees. Moreover, New Jersey allows the following two methods of notification: (1) A hotel can notify guests with a sign on the back of the door or (2) A hotel can require “guests to acknowledge the policy as part of the hotel terms and conditions upon checking in to the hotel.”²¹⁴ New Jersey’s option of requiring guests to acknowledge the policy as part of the hotel’s terms and conditions upon checking in appears to be an extremely effective method of notification, and, thus, it is recommended that each state law contain a provision requiring both notification at check-in along with the door notification requirement.

Finally, the inclusion of language requiring employers to adhere to certain protocols if a panic device is activated, such as keeping a record of accusations among other things, also serves as a significant deterrent against harmful behavior. Although a number of cities²¹⁵ considered

212. See SEATTLE, WASH., MUN. CODE, § 14.26 (2019); CHI., ILL., MUN. CODE § 4-6-180 (2018); WASH. REV. CODE § 49.60.515 (2019); S. 75, 101st Gen. Assemb. § 10(9)(B) (Ill. 2020); N.J. REV. STAT. § 29:4-11 (2019); SACRAMENTO, CAL., CNTY. CODE § 4.75.002 (2018); MIA. BEACH, FLA., MUN. CODE ch. 62, art. VI, § 62-205 (2018).

213. SEATTLE, WASH., MUN. CODE § 14.26.060 (2019) (18-point font required); OAKLAND, CAL., MUN. CODE § 5.93.020 (2018) (18-point font required); MIA. BEACH, FLA., MUN. CODE ch. 62, art. VI, § 62-207 (2018) (14-point or larger font required).

214. Specifically, the rule requires that a sign be placed on the “interior side of guest room doors in a prominent location and in large font, detailing the panic device policy and the rights of hotel employees” or requires “guests to acknowledge the policy as part of the hotel terms and conditions upon checking in to the hotel.” N.J. REV. STAT. § 29:4-11(f) (2019).

215. SEATTLE, WASH., MUN. CODE § 14.26 (2019); CHI., ILL., MUN. CODE § 4-6-180 (2018).

putting such “blacklist”-type language into their provisions, as this sort of language appeared in earlier drafts of the laws enacted in Seattle and Chicago, ultimately New Jersey is the only jurisdiction with such a provision included in its final version.²¹⁶ Such a provision provides another layer of protection for those working in vulnerable positions, as it sends a clear message to guests that sexual harassment and assault will not be tolerated and that such harmful behavior will have serious consequences.

B. State Laws Should Include an Anti-Sexual Harassment and Assault Policy Which Incorporates Training

Additionally, state laws should require implementation of an anti-sexual harassment and assault policy involving training for all employees, regardless of job category. The inclusion of such a provision is crucial, as managers and supervisors, along with others within the employment chain, can be a valuable resource in preventing and stopping harassment.²¹⁷ In order for anti-sexual harassment and assault policies to be effective, it must be clear that leadership will compel compliance and that offenders will be punished. Although harassment or assault by guests is not immediately within the control of leadership at a hotel, ideally, a hotel should aim for a workplace culture where it is clear that harassment and assault will not be tolerated and an individual feels empowered to speak up and report any incidents of such behavior.

A recent EEOC Report suggested that in order to create this type of culture, leadership must “establish a *sense of urgency* about preventing harassment” by “taking a visible role in stating the importance of having a diverse and inclusive workplace that is free of harassment.”²¹⁸ Additionally, leadership must clearly articulate “the specific behaviors that will not be acceptable in the workplace, setting the foundation for employees throughout the organization to make change,” if necessary.²¹⁹ Ultimately, “once an organizational culture is achieved that reflects the values of the leadership”, they must “commit to ensuring that the culture is maintained.”²²⁰ The EEOC Report further suggested that “[o]ne way to effectuate and convey a sense of urgency and commitment is to assess whether the workplace has one or more of the risk factors” as discussed in the Report and to “take proactive steps to address those.”²²¹ Thus, as it has

216. N.J. REV. STAT. § 29:4-11(c)(1) (2019).

217. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5, at v.

218. *Id.* at 32 (citing the Oral Testimony of Robert J. Bies at the Meeting of the Select Task Force on the Study of Harassment in the Workplace on March 11, 2016).

219. *Id.*

220. *Id.*

221. *Id.* at 33.

been shown that employees working in isolated situations are more exposed to the risk of sexual harassment and assault than other types of workers, policies must be put into place that specifically address those concerns. The EEOC Report went on to state that,

[f]or example, if employees tend to work in isolated workspaces, an employer may want to explore whether it is possible for the work to get done as effectively if individuals worked in teams. In a workplace where an employee's compensation is directly tied to customer satisfaction or client service, the employer may wish to emphasize that harassing conduct should be brought immediately to a manager's attention and that the worker will be protected from retaliation.²²²

Thus, as the EEOC Report suggests, the anti-harassment and assault policy should include provisions such as reporting procedures, safety measures to be taken when and if an incident occurs, a promise of a protection from retaliation, and should even consider other solutions, such that individuals may be able to work in teams.

Some current city and state laws include such provisions.²²³ For example, the Chicago Ordinance requires each hotel to “develop, maintain, and comply with a written anti-sexual harassment policy to protect employees against sexual assault and sexual harassment by guests.”²²⁴ Such policy must encourage employees to immediately report, describe procedures for the employee and hotel in response to an occurrence, instruct the employee to stop work and leave the immediate area of the perceived danger, and offer a temporary work assignment to the employee during the duration of the offending guest's stay.²²⁵ Additionally, the provision further states that the hotel must provide the employee with necessary paid time off to sign a complaint with police against the offending guest and testify as a witness at any legal proceeding, inform the employee of additional federal and state protections, and inform the employee that the hotel will not retaliate against the employee.²²⁶ Furthermore, the policy requirements in the Illinois Act almost mirror those in the Chicago Ordinance, with the additional requirement that each employer shall also make all reasonable efforts to provide employees with a current copy of its written anti-sexual harassment policy in any language other than English and Spanish that, in its sole discretion, is spoken by a

222. *Id.*

223. SEATTLE, WASH., MUN. CODE § 14.26 (2019); CHI., ILL., MUN. CODE § 4-6-180 (2018); SACRAMENTO, CAL., CNTY. CODE § 4.75.004 (2018); WASH. REV. CODE § 49.60.515 (2019); S. 75, 101st Gen. Assemb. § 5-10 (Ill. 2020).

224. CHI., ILL., MUN. CODE § 4-6-180(e)(2) (2018).

225. *Id.*

226. *Id.*

predominant portion of its employees.²²⁷ The Sacramento Act similarly requires that the sexual harassment policy “encourage employees to immediately report to the hotel licensee instances of alleged sexual assault and sexual harassment by guests”²²⁸ and explains that the sexual harassment policy “shall describe the procedures that the complaining employee and hotel licensee shall follow” to report the alleged conduct.²²⁹ Additionally, “[e]very hotel licensee shall provide all employees with a current copy in English and Spanish of the sexual harassment policy, and post such policy in conspicuous areas in the hotel, such as supply rooms or employee break rooms, where employees can reasonably be expected to see it.”²³⁰ The Seattle Ordinance similarly requires that an employer “[d]evelop a written policy against violent or harassing conduct by guests” and “[i]nform guests of this policy prior to or at time of guest check-in and through other means.”²³¹ Additionally, an employer must, “[a]t hire and on an annual basis, inform employees of the policy, the employer’s procedure for addressing allegations of violent or harassing conduct by guests, and how to report violent or harassing conduct by guests.”²³²

The inclusion of the immediacy of reporting and non-retaliation language in some of the above provisions sends a message to employees that their voice will be heard, and their claim will be taken seriously, should an incident occur. Thus, it is recommended that state laws include such language, so as to be as comprehensive and protective as possible. Putting an anti-sexual harassment and assault policy into place provides protections for employees as it will warn employees and guests that bad behavior will not be tolerated and that there will be immediate, and possibly long-term, repercussions for such behavior.

As a final step towards protecting vulnerable employees, trainings should be instituted as part of the anti-sexual harassment and assault policy. The EEOC Report clearly stated that “effective training can reduce workplace harassment” but that ineffective trainings “can be unhelpful or counterproductive.”²³³ The Report noted that “even effective training cannot occur in a vacuum—it must be part of a holistic culture of non-harassment that starts at the top. Similarly, one size does *not* fit all: Training is most effective when tailored to the specific workforce and workplace, and to different cohorts of employees.”²³⁴

227. S. 75, 101st Gen. Assemb. § 5-10(b) (Ill. 2020).

228. SACRAMENTO, CAL., CNTY. CODE § 4.75.004 (2018).

229. *Id.*

230. *Id.*

231. SEATTLE, WASH., MUN. CODE § 14.26.070 (2019).

232. *Id.*

233. EEOC REPORT ON SEXUAL HARASSMENT, *supra* note 5, at v.

234. *Id.*

The EEOC Report also suggested that training must change, as “much of the training done over the last 30 years has not worked as a prevention tool—it’s been too focused on simply avoiding legal liability”²³⁵ and went on to advise that new and different approaches to training should be explored.²³⁶ In order for a sexual harassment and assault policy to be effective, policies must be communicated and followed, procedures must be put into place, and effective trainings must be conducted regarding those procedures.²³⁷ Thus, as state laws are drafted, these concerns should be directly addressed in the language of the law to ensure that effective policies are put into place. As a clear example, the Washington Rule includes such a provision and requires not only that each hotel adopt an anti-sexual harassment policy, but that hotels also

[p]rovide mandatory training to the employer’s managers, supervisors, and employees to: (i) [p]revent sexual assault and sexual harassment in the workplace; (ii) [p]revent sexual discrimination in the workplace; and (iii) [e]ducate the employer’s workforce regarding protection for employees who report violations of a state or federal law, rule, or regulation.²³⁸

CONCLUSION

As hotel employees who work in isolated situations for the majority of their day are at an increased risk of being sexually harassed or assaulted while at work, it is imperative that all states enact laws protecting these vulnerable employees. These laws must require that panic buttons be given to all vulnerable hotel employees and that comprehensive anti-sexual harassment and assault policies be implemented.

235. *Id.*

236. *Id.* (recommending “harassment prevention” and “respectful workplaces” trainings).

237. *Id.* at v.

238. WASH. REV. CODE § 49.60.515 (2019).