

# ASSEMBLY, No. 4243

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED OCTOBER 7, 2016

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**SYNOPSIS**

Bars public entities and public employees from entering into confidential settlements of “whistleblower” claims; provides that such settlements constitute public records.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 10/28/2016)

1 AN ACT concerning certain settlements and supplementing chapter  
2 19 of Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. As used in this act:

8 “Public entity” means the State, and any county, municipality,  
9 district, public authority, public agency, and any other political  
10 subdivision or public body in the State.

11 “Public employee” means an employee of a public entity.

12 b. (1) Except as provided in paragraph (2) of this subsection,  
13 no public entity or public employee may enter into any agreement  
14 to settle a claim or action to which the public entity, or a public  
15 employee in his capacity as a public employee, is a party where the  
16 public employee asserts the protections of the “Conscientious  
17 Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.), if  
18 such agreement provides that the terms or conditions of the  
19 settlement are confidential.

20 (2) A public entity or public employee may enter into an  
21 agreement that provides that the terms or conditions of settlement of  
22 such a claim or action are confidential if the settlement involves a  
23 matter of national security.

24

25 2. Any agreement to settle a claim or action in which a public  
26 entity, or a public employee in his capacity as a public employee, is  
27 a party and where the public employee asserts the protections of the  
28 “Conscientious Employee Protection Act,” P.L.1986, c.105  
29 (C.34:19-1 et seq.) shall be considered a public record within the  
30 meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404  
31 (C.47:1A-5 et al.) except for matters involving national security.

32

33 3. Nothing in this act shall be deemed to affect the requirement  
34 set out in P.L.1989, c.336 (C.2A:82-46), or in any other law or Rule  
35 of Court, that in prosecutions for aggravated sexual assault, sexual  
36 assault, aggravated criminal sexual contact, criminal sexual contact,  
37 endangering the welfare of children under N.J.S.2C:24-4, or in any  
38 action alleging an abused or neglected child under P.L.1974, c.119  
39 (C.9:6-8.21 et seq.), the name, address, and identity of a victim who  
40 was under the age of 18 at the time of the alleged commission of an  
41 offense shall not appear on the indictment, complaint, or any other  
42 public record.

43

44 4. Nothing in this act shall be deemed to preclude or otherwise  
45 limit the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) and  
46 P.L.2001, c.404 (C.47:1A-5 et al.).

1       5. This act shall take effect on the 90th day following  
2 enactment.

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STATEMENT

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6       This bill would bar public entities and public employees from  
7 entering into confidential settlements of claims or actions where the  
8 public employee asserts the protections of the “Conscientious  
9 Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.),  
10 except for matters involving national security. The bill also  
11 provides that such settlements constitute public records under the  
12 open public records laws. The “Conscientious Employee Protection  
13 Act” is known informally as the “Whistleblower Statute.”

14       Under current law, set out in P.L.1989, c.336 (C.2A:82-46), the  
15 name, address, and identity of a victim of a sex crime or child abuse  
16 who was under the age of 18 at the time of the offense shall not  
17 appear on the indictment, complaint, or any other public record.  
18 The bill specifically provides that it is not intended to affect this  
19 requirement.

20       The bill provides that it shall not be deemed to preclude or  
21 otherwise limit the provisions of the open public records laws.