

P.L. 2019, CHAPTER 39, *approved March 18, 2019*  
Senate, No. 121 (*Second Reprint*)

1 AN ACT concerning discrimination and supplementing Title 10 of  
2 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. A provision in any employment contract that waives any  
8 substantive or procedural right or remedy relating to a claim of  
9 discrimination, retaliation, or harassment shall be deemed against  
10 public policy and unenforceable.

11 b. No right or remedy under the “Law Against Discrimination,”  
12 P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law  
13 shall be prospectively waived.

14 c. This section shall not apply to the terms of any collective  
15 bargaining agreement between an employer and the collective  
16 bargaining representative of the employees.

17  
18 2. <sup>1</sup>a.<sup>1</sup> A provision in any employment contract or <sup>1</sup>settlement<sup>1</sup>  
19 agreement which has the purpose or effect of concealing the details  
20 relating to a claim of discrimination, retaliation, or harassment  
21 <sup>1</sup>(hereinafter referred to as a “non-disclosure provision”)<sup>1</sup> shall be  
22 deemed against public policy and unenforceable <sup>1</sup>against a current  
23 or former employee (hereinafter referred to as an “employee”) who  
24 is a party to the contract or settlement. If the employee publicly  
25 reveals sufficient details of the claim so that the employer is  
26 reasonably identifiable, then the non-disclosure provision shall also  
27 be unenforceable against the employer.

28 b. Every settlement agreement resolving a discrimination,  
29 retaliation, or harassment claim by an employee against an  
30 employer shall include a bold, prominently placed notice that  
31 although the parties may have agreed to keep the settlement and  
32 underlying facts confidential, such a provision in an agreement is  
33 unenforceable against the employer if the employee publicly reveals  
34 sufficient details of the claim so that the employer is reasonably  
35 identifiable<sup>1</sup>.

EXPLANATION – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLA committee amendments adopted March 5, 2018.

<sup>2</sup>Assembly AAP committee amendments adopted January 28, 2019.

1        <sup>2</sup>c. Notwithstanding any other provision of law to the contrary,  
2 this section shall not be construed to prohibit an employer from  
3 requiring an employee to sign an agreement:

4        (1) in which the employee agrees not to enter into competition  
5 with the employer during or after employment; or

6        (2) in which the employee agrees not to disclose proprietary  
7 information, which includes only non-public trade secrets, business  
8 plan and customer information.<sup>2</sup>  
9

10        3. A person who enforces or attempts to enforce a provision  
11 deemed against public policy and unenforceable pursuant to P.L.    ,  
12 c. (C.    ) (pending before the Legislature as this bill) shall be  
13 liable for the employee's reasonable attorney fees and costs.  
14

15        4. No person shall take any retaliatory action, including but not  
16 limited to failure to hire, discharge, suspension, demotion,  
17 discrimination in the terms, conditions, or privileges of  
18 employment, or other adverse action, against a person, on grounds  
19 that the person does not enter into an agreement or contract that  
20 contains a provision deemed against public policy and  
21 unenforceable pursuant to P.L.    , c. (C.    ) (pending before the  
22 Legislature as this bill).  
23

24        5. Any person claiming to be aggrieved by a violation of  
25 P.L.    , c. (C.    ) (pending before the Legislature as this bill)  
26 may initiate suit in Superior Court. An action pursuant to this  
27 section shall be commenced within two years next after the cause of  
28 any such action shall have accrued. All remedies available in  
29 common law tort actions shall be available to prevailing plaintiffs.  
30 These remedies are in addition to any provided by P.L.    ,  
31 c. (C.    ) (pending before the Legislature as this bill) or any  
32 other statute. A prevailing plaintiff shall be awarded reasonable  
33 attorney fees and costs.  
34

35        6. This act shall take effect immediately and shall apply to all  
36 contracts and agreements entered into, renewed, modified, or  
37 amended on or after the effective date.  
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41 \_\_\_\_\_  
42 Bars provisions in employment contracts that waive rights or  
43 remedies; bars agreements that conceal details relating to  
44 discrimination claims.