

[First Reprint]

ASSEMBLY, No. 4521

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

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SYNOPSIS

Prohibits certain non-disclosure and non-disparagement provisions in employment contracts.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on September 29, 2022, with amendments.



(Sponsorship Updated As Of: 10/3/2022)

1 AN ACT concerning employment contracts and amending P.L.2019,
2 c.39.

3

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

6

7 1. Section 1 of P.L.2019, c.39 (C.10:5-12.7) is amended to read as
8 follows:

9 1. a. A provision in any employment contract that waives any
10 substantive or procedural right or remedy relating to a claim of
11 discrimination, retaliation, or harassment, including, but not limited to,
12 a non-disclosure or non-disparagement provision, or other similar
13 agreement, shall be deemed against public policy and unenforceable.

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

17 c. **【**This section shall not apply to the terms of any collective
18 bargaining agreement between an employer and the collective
19 bargaining representative of the employees.**】** (Deleted by amendment,
20 P.L. , c.) (pending before the Legislature as this bill)

21 ¹d. Notwithstanding subsection a. of this section, any employment
22 contract that is a result of a collectively bargained agreement may
23 contain a provision requiring mediation or arbitration of a claim of
24 discrimination, retaliation, or harassment. Section 2 of P.L.2019, c.39
25 (C.10:5-12.8) shall apply to any collectively bargained agreement to
26 mediate or arbitrate a claim of discrimination, retaliation, or
27 harassment.¹

28 (cf: P.L.2019, c.39, s.1)

29

30 2. Section 2 of P.L.2019, c.39 (C.10:5-12.8) is amended to read
31 as follows:

32 2. a. A provision in any employment contract or settlement
33 agreement which has the purpose or effect of concealing the details
34 relating to a claim of discrimination, retaliation, or harassment,
35 including, but not limited to, a non-disclosure or non-disparagement
36 provision, or other similar agreement, (hereinafter referred to as a
37 "non-disclosure or non-disparagement provision") shall be deemed
38 against public policy and unenforceable against a current or former
39 employee (hereinafter referred to as an "employee") who is a party
40 to the contract or settlement. If the employee publicly reveals
41 sufficient details of the claim so that the employer is reasonably
42 identifiable, then the non-disclosure or non-disparagement
43 provision shall also be unenforceable against the employer.

44 b. Every settlement agreement resolving a discrimination,
45 retaliation, or harassment claim by an employee against an

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:

¹**Assembly AJU committee amendments adopted September 29, 2022.**

1 employer shall include a bold, prominently placed notice that
2 although the parties may have agreed to keep the settlement and
3 underlying facts confidential, such a provision in an agreement is
4 unenforceable against the employer if the employee publicly reveals
5 sufficient details of the claim so that the employer is reasonably
6 identifiable.

7 c. Notwithstanding any other provision of law to the contrary,
8 this section shall not be construed to prohibit an employer from
9 requiring an employee to sign an agreement:

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

12 (2) in which the employee agrees not to disclose proprietary
13 information, which includes only non-public trade secrets, business
14 plan and customer information.

15 (cf: P.L.2019, c.39, s.2)

16

17 3. This act shall take effect immediately and shall apply to all
18 contracts and agreements entered into, renewed, modified, or
19 amended on or after the effective date.