

# SENATE, No. 1124

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# STATE OF NEW JERSEY

## 221st LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator JOHN F. MCKEON**

**District 27 (Essex and Passaic)**

**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**

Introduced Pending Technical Review by Legislative Counsel.



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 (a) such agreement provides that the terms or conditions of the  
19 settlement are confidential; or

20 (b) the purpose or effect of such agreement is to conceal  
21 information relating to any claim or action concerning the public  
22 interest.

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

27

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

37

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

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

5 5. The Attorney General shall make publicly available on its  
6 website a list of any agreements set forth in paragraph (1) of  
7 subsection b. of section 1 of P.L. , c. (C. ) (pending before  
8 the Legislature as this bill) to settle a claim or action in which a  
9 public entity, or a public employee in his capacity as a public  
10 employee, is a party. The list of the agreements shall be in a  
11 searchable format in a prominent location on the website and shall  
12 include for each settlement agreement:

- 13 a. the date on which the parties entered into the settlement  
14 agreement;
- 15 b. the names of the parties;
- 16 c. a description of the claims;
- 17 d. the total amount each party is obligated to pay; and
- 18 e. the total amount of compensation for any outside legal  
19 counsel.  
20

21 6. Notwithstanding the provisions of any other law to the  
22 contrary, any agreement to settle a claim or action where a public  
23 entity is a party shall be considered a public record within the  
24 meaning of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404  
25 (C.47:1A-5 et al.), except for matters involving national security.  
26

27 7. This act shall take effect on the 90th day following  
28 enactment.  
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31 STATEMENT  
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33 This bill would bar public entities and public employees from  
34 entering into any agreement to settle claims or actions where the  
35 public employee asserts the protections of the “Conscientious  
36 Employee Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.,  
37 informally referred to as the “Whistleblower Act”), if: (1) the  
38 agreement provides for the terms and conditions to be confidential; or  
39 (2) the purpose or the effect of such agreement is to conceal  
40 information relating to any claim or action concerning the public  
41 interest. The bill provides for an exception for agreements involving  
42 matters of national security. Under the bill, such settlement agreements  
43 constitute public records under the open public records laws, P.L.1963,  
44 c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

45 Under current law, set out in P.L.1989, c.336 (C.2A:82-46), the  
46 name, address, and identity of a victim of a sex crime or child abuse  
47 who was under the age of 18 at the time of the offense shall not appear  
48 on the indictment, complaint, or any other public record. The bill

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1 specifically provides that the provisions of the bill are not intended to  
2 affect this requirement.

3       The bill would also require the Attorney General to make such  
4 agreements publicly available online. The bill would require that a list  
5 of the settlement agreements be in a searchable format in a prominent  
6 location on the department's website. The information would include:  
7 (1) the date the parties entered into the agreement; (2) the names of the  
8 parties; (3) a description of the claims; (4) the total amount each party  
9 is obligated to pay; and (5) the total amount of compensation for any  
10 outside legal counsel.

11       In addition, the bill provides that any other agreement to settle a  
12 claim or action where a public entity is a party would be considered a  
13 public record within the meaning of P.L.1963, c.73 (C.47:1A-1 et seq.)  
14 and P.L.2001, c.404 (C.47:1A-5 et al.), except for matters involving  
15 national security.