



(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

Murphy signs measure barring gag orders for workplace sexual harassment cases  
NJBIZ (New Brunswick, NJ) - March 18, 2019

Employers can no longer silence abuse victims  
The Star-Ledger (Newark, NJ) - March 19, 2019

NJ outlaws gag orders that force victims to remain silent  
The Jersey Journal (Jersey City, NJ) - March 19, 2019

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.  
38  
39  
40

41  
42       \_\_\_\_\_   
43 Bars provisions in employment contracts that waive rights or  
44 remedies; bars agreements that conceal details relating to  
discrimination claims.

# SENATE, No. 121

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/6/2018)**

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. A provision in any employment contract or agreement which  
19 has the purpose or effect of concealing the details relating to a  
20 claim of discrimination, retaliation, or harassment shall be deemed  
21 against public policy and unenforceable.

22

23 3. A person who enforces or attempts to enforce a provision  
24 deemed against public policy and unenforceable pursuant to P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill) shall be  
26 liable for the employee’s reasonable attorney fees and costs.

27

28 4. No person shall take any retaliatory action, including but not  
29 limited to failure to hire, discharge, suspension, demotion,  
30 discrimination in the terms, conditions, or privileges of  
31 employment, or other adverse action, against a person, on grounds  
32 that the person does not enter into an agreement or contract that  
33 contains a provision deemed against public policy and  
34 unenforceable pursuant to P.L. , c. (C. ) (pending before the  
35 Legislature as this bill).

36

37 5. Any person claiming to be aggrieved by a violation of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill) may  
39 initiate suit in Superior Court. An action pursuant to this section  
40 shall be commenced within two years next after the cause of any  
41 such action shall have accrued. All remedies available in common  
42 law tort actions shall be available to prevailing plaintiffs. These  
43 remedies are in addition to any provided by P.L. , c. (C. )  
44 (pending before the Legislature as this bill) or any other statute. A  
45 prevailing plaintiff shall be awarded reasonable attorney fees and  
46 costs.

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

4

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6

STATEMENT

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8       This bill would bar provisions in employment contracts that  
9 waive certain rights or remedies. It would also bar certain  
10 agreements that conceal details relating to discrimination claims.

11       Under the bill, a provision in any employment contract that  
12 waives any substantive or procedural right or remedy relating to a  
13 claim of discrimination, retaliation, or harassment would be deemed  
14 against public policy and unenforceable.

15       The bill provides that no right or remedy under the “Law Against  
16 Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other  
17 statute or case law could be prospectively waived.

18       The above described provisions of the bill would not apply to the  
19 terms of any collective bargaining agreement between an employer  
20 and the collective bargaining representative of the employees.

21       The bill also provides that a provision in any employment  
22 contract or agreement which has the purpose or effect of concealing  
23 the details relating to a claim of discrimination, retaliation, or  
24 harassment, including claims that are submitted to arbitration,  
25 would be deemed against public policy and unenforceable.

26       Under the bill, a person who enforces or attempts to enforce a  
27 provision deemed against public policy and unenforceable would  
28 be liable for the employee’s reasonable attorney fees and costs.

29       The bill provides that no person shall take any retaliatory action,  
30 including but not limited to failure to hire, discharge, suspension,  
31 demotion, discrimination in the terms, conditions, or privileges of  
32 employment, or other adverse action, against a person, on grounds  
33 that the person does not enter into an agreement or contract that  
34 contains a provision deemed against public policy and  
35 unenforceable pursuant to the bill.

36       Under the bill, any person claiming to be aggrieved by a  
37 violation of the bill may initiate suit in Superior Court. An action  
38 would be required to be commenced within two years next after the  
39 cause of any such action shall have accrued. All remedies available  
40 in common law tort actions would be available to prevailing  
41 plaintiffs, in addition to the remedies provided by the bill. A  
42 prevailing plaintiff would be awarded reasonable attorney fees and  
43 costs.

44       The bill would take effect immediately and apply to all contracts  
45 and agreements entered into, renewed, modified, or amended on or  
46 after the effective date.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### **SENATE, No. 121**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 5, 2018

The Senate Labor Committee reports favorably, and with committee amendments, Senate Bill No. 121.

As amended by the committee, this bill would bar provisions in employment contracts that waive certain rights or remedies. It would also bar certain agreements that conceal details relating to discrimination claims.

Under the bill, a provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment would be deemed against public policy and unenforceable.

The bill provides that no right or remedy under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law could be prospectively waived.

The above described provisions of the bill would not apply to the terms of any collective bargaining agreement between an employer and the collective bargaining representative of the employees.

The bill, as amended, also provides that a provision in any employment contract or agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment, including claims that are submitted to arbitration, would be deemed against public policy and unenforceable against the employee, and, if the employee chooses to make disclosures which make it possible to identify the employer, unenforceable against the employer.

Under the bill, a person who enforces or attempts to enforce a provision deemed against public policy and unenforceable would be liable for the employee’s reasonable attorney fees and costs.

The bill provides that no person shall take any retaliatory action, including but not limited to failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action, against a person, on grounds that the person does not enter into an agreement or contract that contains a provision deemed against public policy and unenforceable pursuant to the bill.

Under the bill, any person claiming to be aggrieved by a violation of the bill may initiate suit in Superior Court. An action would be



required to be commenced within two years next after the cause of any such action shall have accrued. All remedies available in common law tort actions would be available to prevailing plaintiffs, in addition to the remedies provided by the bill. A prevailing plaintiff would be awarded reasonable attorney fees and costs.

The bill would take effect immediately and apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 121

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 28, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 121 (1R), with committee amendments.

As amended, this bill would bar provisions in employment contracts that waive certain rights or remedies. It would also bar certain agreements that conceal details relating to discrimination claims.

Under the bill, a provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment would be deemed against public policy and unenforceable.

The bill provides that no right or remedy under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law could be prospectively waived.

The above provisions of the bill would not apply to the terms of any collective bargaining agreement between an employer and the collective bargaining representative of the employees.

The bill also provides that a provision in any employment contract or agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment, would be deemed against public policy and unenforceable. The bill applies to non-disclosure agreements; makes the non-disclosure provisions unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable; and requires that every settlement agreement resolving a discrimination, retaliation, or harassment claim by an employee against an employer include a notice that although the parties may have agreed to keep the settlement and underlying facts confidential, such a provision is unenforceable against the employer if the employee publicly reveals sufficient details so that the employer is reasonably identifiable.

As amended, the bill does not prohibit an employer from requiring an employee to sign a contract in which: (1) the employee agrees not to enter into competition with the employer during or after employment; or (2) the employee agrees not to disclose proprietary

information, which includes only non-public trade secrets, business plan and customer information.

Under the bill, a person who enforces or attempts to enforce a provision deemed against public policy and unenforceable would be liable for the employee's reasonable attorney fees and costs.

The bill provides that no person shall take any retaliatory action, including but not limited to failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action, against a person, on grounds that the person does not enter into an agreement or contract that contains a provision deemed against public policy and unenforceable pursuant to the bill.

Under the bill, any person claiming to be aggrieved by a violation of the bill may initiate suit in Superior Court. An action would be required to be commenced within two years next after the cause of any such action shall have accrued. All remedies available in common law tort actions would be available to prevailing plaintiffs, in addition to the remedies provided by the bill. A prevailing plaintiff would be awarded reasonable attorney fees and costs.

The bill would take effect immediately and apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.

As reported, this bill is identical to Assembly Bill No. 1242 (1R), as amended and reported by the committee on this date.

#### COMMITTEE AMENDMENTS:

The committee amendments clarify that the bill does not prohibit an employer from requiring an employee to sign a contract in which: (1) the employee agrees not to enter into competition with the employer during or after employment; or (2) the employee agrees not to disclose proprietary information, which includes only non-public trade secrets, business plan and customer information.

#### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

# ASSEMBLY, No. 1242

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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.

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18 2. A provision in any employment contract or agreement which  
19 has the purpose or effect of concealing the details relating to a  
20 claim of discrimination, retaliation, or harassment shall be deemed  
21 against public policy and unenforceable.

22

23 3. A person who enforces or attempts to enforce a provision  
24 deemed against public policy and unenforceable pursuant to P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill) shall be  
26 liable for the employee’s reasonable attorney fees and costs.

27

28 4. No person shall take any retaliatory action, including but not  
29 limited to failure to hire, discharge, suspension, demotion,  
30 discrimination in the terms, conditions, or privileges of  
31 employment, or other adverse action, against a person, on grounds  
32 that the person does not enter into an agreement or contract that  
33 contains a provision deemed against public policy and  
34 unenforceable pursuant to P.L. , c. (C. ) (pending before the  
35 Legislature as this bill).

36

37 5. Any person claiming to be aggrieved by a violation of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill)  
39 may initiate suit in Superior Court. An action pursuant to this  
40 section shall be commenced within two years next after the cause of  
41 any such action shall have accrued. All remedies available in  
42 common law tort actions shall be available to prevailing plaintiffs.  
43 These remedies are in addition to any provided by P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill) or any  
45 other statute. A prevailing plaintiff shall be awarded reasonable  
46 attorney fees and costs.

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

4

5

6

STATEMENT

7

8       This bill would bar provisions in employment contracts that  
9 waive certain rights or remedies. It would also bar certain  
10 agreements that conceal details relating to discrimination claims.

11       Under the bill, a provision in any employment contract that  
12 waives any substantive or procedural right or remedy relating to a  
13 claim of discrimination, retaliation, or harassment would be deemed  
14 against public policy and unenforceable.

15       The bill provides that no right or remedy under the “Law Against  
16 Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other  
17 statute or case law could be prospectively waived.

18       The above provisions of the bill would not apply to the terms of  
19 any collective bargaining agreement between an employer and the  
20 collective bargaining representative of the employees.

21       The bill also provides that a provision in any employment  
22 contract or agreement which has the purpose or effect of concealing  
23 the details relating to a claim of discrimination, retaliation, or  
24 harassment, including claims that are submitted to arbitration,  
25 would be deemed against public policy and unenforceable.

26       Under the bill, a person who enforces or attempts to enforce a  
27 provision deemed against public policy and unenforceable would  
28 be liable for the employee’s reasonable attorney fees and costs.

29       The bill provides that no person shall take any retaliatory action,  
30 including but not limited to failure to hire, discharge, suspension,  
31 demotion, discrimination in the terms, conditions, or privileges of  
32 employment, or other adverse action, against a person, on grounds  
33 that the person does not enter into an agreement or contract that  
34 contains a provision deemed against public policy and  
35 unenforceable pursuant to the bill.

36       Under the bill, any person claiming to be aggrieved by a  
37 violation of the bill may initiate suit in Superior Court. An action  
38 would be required to be commenced within two years next after the  
39 cause of any such action shall have accrued. All remedies available  
40 in common law tort actions would be available to prevailing  
41 plaintiffs, in addition to the remedies provided by the bill. A  
42 prevailing plaintiff would be awarded reasonable attorney fees and  
43 costs.

44       The bill would take effect immediately and apply to all contracts  
45 and agreements entered into, renewed, modified, or amended on or  
46 after the effective date.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1242**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 10, 2018

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 1242.

As amended, this bill would bar provisions in employment contracts that waive certain rights or remedies. It would also bar certain agreements that conceal details relating to discrimination claims.

Under the bill, a provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment would be deemed against public policy and unenforceable.

The bill provides that no right or remedy under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law could be prospectively waived.

The above provisions of the bill would not apply to the terms of any collective bargaining agreement between an employer and the collective bargaining representative of the employees.

The bill also provides that a provision in any employment contract or agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment, would be deemed against public policy and unenforceable. As amended, the bill applies to non-disclosure agreements; makes the non-disclosure provisions unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable; and requires that every settlement agreement resolving a discrimination, retaliation, or harassment claim by an employee against an employer include a notice that although the parties may have agreed to keep the settlement and underlying facts confidential, such a provision is unenforceable against the employer if the employee publicly reveals sufficient details so that the employer is reasonably identifiable.

Under the bill, a person who enforces or attempts to enforce a provision deemed against public policy and unenforceable would be liable for the employee’s reasonable attorney fees and costs.

The bill provides that no person shall take any retaliatory action, including but not limited to failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of

employment, or other adverse action, against a person, on grounds that the person does not enter into an agreement or contract that contains a provision deemed against public policy and unenforceable pursuant to the bill.

Under the bill, any person claiming to be aggrieved by a violation of the bill may initiate suit in Superior Court. An action would be required to be commenced within two years next after the cause of any such action shall have accrued. All remedies available in common law tort actions would be available to prevailing plaintiffs, in addition to the remedies provided by the bill. A prevailing plaintiff would be awarded reasonable attorney fees and costs.

The bill would take effect immediately and apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.

This bill was prefiled for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to make it identical to Senate Bill No. 121 (1R) of the 2018-2019 session. The amendments (1) clarify that the bill applies to non-disclosure agreements, (2) make the non-disclosure provisions unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable; and (3) require that every settlement agreement resolving a discrimination, retaliation, or harassment claim by an employee against an employer include a notice that although the parties may have agreed to keep the settlement and underlying facts confidential, such a provision is unenforceable against the employer if the employee publicly reveals sufficient details so that the employer is reasonably identifiable.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 1242

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 28, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1242 (1R), with committee amendments.

As amended, this bill would bar provisions in employment contracts that waive certain rights or remedies. It would also bar certain agreements that conceal details relating to discrimination claims.

Under the bill, a provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment would be deemed against public policy and unenforceable.

The bill provides that no right or remedy under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law could be prospectively waived.

The above provisions of the bill would not apply to the terms of any collective bargaining agreement between an employer and the collective bargaining representative of the employees.

The bill also provides that a provision in any employment contract or agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment, would be deemed against public policy and unenforceable. The bill applies to non-disclosure agreements; makes the non-disclosure provisions unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable; and requires that every settlement agreement resolving a discrimination, retaliation, or harassment claim by an employee against an employer include a notice that although the parties may have agreed to keep the settlement and underlying facts confidential, such a provision is unenforceable against the employer if the employee publicly reveals sufficient details so that the employer is reasonably identifiable.

As amended, the bill does not prohibit an employer from requiring an employee to sign a contract in which: (1) the employee agrees not to enter into competition with the employer during or after employment; or (2) the employee agrees not to disclose proprietary

information, which includes only non-public trade secrets, business plan and customer information.

Under the bill, a person who enforces or attempts to enforce a provision deemed against public policy and unenforceable would be liable for the employee's reasonable attorney fees and costs.

The bill provides that no person shall take any retaliatory action, including but not limited to failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action, against a person, on grounds that the person does not enter into an agreement or contract that contains a provision deemed against public policy and unenforceable pursuant to the bill.

Under the bill, any person claiming to be aggrieved by a violation of the bill may initiate suit in Superior Court. An action would be required to be commenced within two years next after the cause of any such action shall have accrued. All remedies available in common law tort actions would be available to prevailing plaintiffs, in addition to the remedies provided by the bill. A prevailing plaintiff would be awarded reasonable attorney fees and costs.

The bill would take effect immediately and apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.

As reported, this bill is identical to Senate Bill No. 121 (1R), as amended and reported by committee on this date.

#### COMMITTEE AMENDMENTS:

The committee amendments clarify that the bill does not prohibit an employer from requiring an employee to sign a contract in which: (1) the employee agrees not to enter into competition with the employer during or after employment; or (2) the employee agrees not to disclose proprietary information, which includes only non-public trade secrets, business plan and customer information.

#### FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.



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## Newark, N.J.

# Governor Murphy Takes Action on Legislation

03/18/2019

**TRENTON** – Today, Governor Phil Murphy signed the following bills into law

**AJR-149 (Schepisi, Jasey, Johnson/Pou, T. Kean)** – Designates September of each year as “Brain Aneurysm Awareness Month” in New Jersey.

**AJR-164 (Benson, Zwicker, Lampitt/Diegnan, T. Kean)** – Establishes "New Jersey Advanced Autonomous Vehicle Task Force."

**A-591 (Moriarty, Reynolds-Jackson, Jimenez/Pou, Cruz-Perez)** – Prohibits discrimination against cash-paying consumers.

**A-1400 (A.M. Bucco, Caputo, DeCroce, Johnson/A.R. Bucco, Gopal)** – Revises law governing Class Three special law enforcement officer.

**A-4073 (Holley, Carter, Kennedy, Quijano/Scutari, Cryan)** – Designates portion of State Highway Route 27 in Union County as "Jerry Green Memorial Highway."

**A-4177 (Pintor Marin, Mukherji, Downey/Singleton, Ruiz)** – Allows county homelessness trust funds to be used for code blue emergency shelter services.

**A-4701 (Spearman, Chiaravalloti, Mukherji, Quijano/Ruiz, Cunningham)** – Requires DHS to establish electronic portal to promote surplus food donation collaboration among nonprofit organizations, gleaners, and food retailers.

**A-4734 (Land, Taliaferro, Mukherji/Beach, C.A. Brown)** – Appropriates \$1,190,349 from constitutionally dedicated CBT revenues to NJ Historic Trust for historic site management grants to certain historic preservation projects and associated administrative expenses.

**S-121 (Weinberg, Gill/McKeon, Bramnick, Vainieri Huttle)** – Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

**S-641 (Beach, Bateman/Munoz, Thomson, Lampitt)** – Upgrades penalty for failing to report act of sexual abuse against child.

**S-746 (Diegnan, Cruz-Perez/Vainieri Huttle, Pinkin, Chiaravalloti)** – Permits certain audiologists to dispense and fit hearing aids.

**S-1073 (Smith, Bateman, Codey, Greenstein/McKeon, Pinkin, Tucker)** – Authorizes municipalities, counties, and certain authorities to establish stormwater utilities.

**S-1773 (Diegnan, Gopal/Calabrese, Chiaravalloti, Tully)** – Requires display of identifying information on rear of school bus so public may report bus driver misconduct.

**S-2454 (Madden/Murphy, Houghtaling, Downey)** – Concerns prevailing wage requirements for certain fabrication.

**S-2712 (Ruiz, Madden/Lampitt, Murphy)** – Mandates certain training for DOE arbitrators.

**S-2714 (Ruiz, Madden/Lampitt, Armato, Murphy)** – Requires school districts to notify State Board of Examiners when teaching staff member fails to report child abuse for determination of revocation or suspension of certificate.

**S-2715 (Madden, Ruiz/Lampitt, Reynolds-Jackson)** – Requires Attorney General to develop protocol for retaining footage from school surveillance system.

**S-2773 (Pou/Greenwald, Lopez, Vainieri Huttle)** – Clarifies definition of health care service firms and homemaker-home health aides.

**S-2922 (Vitale, O'Scanlon/Vainieri Huttle, DiMaso)** – Revises standard for presence of medical examiner during removal of anatomical gift from decedent.

Governor Murphy also announced that he has conditionally vetoed the following bills:

**A-4904 (Mukherji, Quijano, Mazzeo/Cryan, Sweeney)** – Concerns property taxes due and owing on real property owned by certain federal employees or contractors under certain circumstances.

[Copy of Statement on A-4904](#)

**S-2129 (Cruz-Perez, Turner/Wimberly, Armato, Lopez, Mazzeo)** – Directs certain unclaimed electric and gas utility deposits in Unclaimed Utility Deposits Trust Fund and societal charge revenues be paid to Statewide nonprofit energy assistance organizations meeting certain eligibility criteria.

[Copy of Statement on S-2129](#)

[Back to Top](#)

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## Governor Phil Murphy

## Statewide

### Home

### Administration

Governor Phil Murphy  
Lt. Governor Sheila  
Oliver  
First Lady Tammy  
Snyder Murphy

### Key Initiatives

Economy & Jobs  
Education  
Environment  
Health  
Law & Justice  
Transportation

### Social

Facebook  
Twitter  
Instagram  
Snapchat  
YouTube

### Contact Us

[NJ Home](#)

[Services A to Z](#)

[Departments/Agencies](#)

[FAQs](#)

[Contact Us](#)

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[Legal Statement &](#)

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[Accessibility](#)

[Cabinet](#)

[Boards, Commissions](#)

[& Authorities](#)

[Internship](#)

[Opportunities](#)

[Governor's Residence](#)

[- Drumthwacket](#)

## [News & Events](#)

[Press Releases](#)

[Public Addresses](#)

[Executive Orders](#)

[Statements on](#)

[Legislation](#)

[Administration Reports](#)

[Transition Reports](#)

[Press Kits](#)

[Scheduling Requests](#)

[Contact Us](#)

[Statement](#)



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