

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1529

H.P. 1112

House of Representatives, April 9, 2019

An Act Concerning Nondisclosure Agreements in Employment

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.
Cosponsored by Senator BELLOWS of Kennebec and
Representatives: CARDONE of Bangor, MADIGAN of Waterville, PEBWORTH of Blue Hill,
RECKITT of South Portland, WARREN of Hallowell, Senator: CARPENTER of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA c. 7, sub-c. 3-B** is enacted to read:

3 **SUBCHAPTER 3-B**

4 **NONDISCLOSURE AGREEMENTS IN EMPLOYMENT**

5 **§691. Nondisclosure agreements**

6 **1. Certain preemployment and employment agreements prohibited.** It is an
7 unlawful employment practice for an employer to enter into a contract or agreement with
8 an employee or prospective employee:

9 A. As a condition of employment, continued employment, promotion, compensation
10 or benefits; and

11 B. That contains a nondisclosure agreement, nondisparagement agreement, waiver or
12 other provision that has the purpose or effect of preventing the employee from
13 disclosing or discussing discrimination, including harassment, occurring between
14 employees or between an employer and an employee:

15 (1) In the workplace;

16 (2) At work-related events coordinated by or through the employer; or

17 (3) Off the employment premises.

18 **2. Certain settlement, separation and severance agreements prohibited.** Unless
19 entered into at the employee's, prospective employee's or former employee's request, an
20 employer may not enter into a settlement, separation or severance agreement that includes
21 a provision that prevents the disclosure of factual information relating to a claim of
22 discrimination, including harassment.

23 A. A nondisclosure provision in a settlement agreement may not explicitly or
24 implicitly:

25 (1) Limit an individual's ability to provide testimony or evidence, file claims or
26 make reports to any federal or state agency that enforces employment or
27 discrimination laws, including, but not limited to, the Maine Human Rights
28 Commission and the Department of Labor; or

29 (2) Prevent an employee from providing testimony or evidence in state or federal
30 litigation or proceedings, including class or collective actions, against the
31 employer.

32 B. An employer shall include in a settlement agreement that includes any
33 nondisclosure provision additional language that clearly states that an employee
34 retains the right to provide testimony or evidence, file claims or make reports to any
35 federal or state agency that enforces employment or discrimination laws, including,
36 but not limited to, the Maine Human Rights Commission and the Department of
37 Labor.

