



General Assembly

February Session, 2024

Raised Bill No. 361

LCO No. 2549



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE IMPERMISSIBLE USE OF
NONDISCLOSURE AGREEMENTS IN THE WORKPLACE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) As used in this section:

2 (1) "Employee" means any person engaged in service to an employer
3 in this state in the business of the employer. "Employee" includes a
4 current, former or prospective employee, or an independent contractor;

5 (2) "Employer" means any person engaged in any activity, enterprise
6 or business who employs one or more employees, and includes any
7 person who acts, directly or indirectly, in the interest of an employer to
8 any of the employees of such employer and any successor in interest of
9 an employer; and

10 (3) "Volunteer" means any person who provides services to an
11 employer without compensation for such services. "Volunteer" includes
12 an intern providing service to an employer.

13 (b) Any provision in an agreement between an employer and an

14 employee or volunteer not to disclose or discuss conduct, or the
15 existence of a settlement involving conduct, that the employee or
16 volunteer reasonably believed under state, federal or common law to be:
17 Legally impermissible discrimination, legally impermissible
18 harassment, legally impermissible retaliation directed at an employee or
19 volunteer, a wage and hour violation or a sexual assault, or that is
20 recognized as against a clear mandate of public policy, shall be void and
21 unenforceable. Prohibited nondisclosure and nondisparagement
22 provisions in an agreement between an employee or volunteer and an
23 employer are those provisions concerning legally impermissible
24 conduct that occurs at the workplace, at work-related events
25 coordinated by or through the employer, between employees or
26 volunteers, or between an employer and an employee or volunteer,
27 whether on or off the employment premises. Prohibited nondisclosure
28 and nondisparagement provisions include those contained in
29 employment agreements, independent contractor agreements,
30 agreements to pay compensation in exchange for the release of a legal
31 claim, or any other form of agreement between the employer and an
32 employee or a volunteer.

33 (c) It shall be a violation of this section for an employer to: (1)
34 Discharge or otherwise discriminate or retaliate against an employee or
35 volunteer for disclosing or discussing conduct that the employee or
36 volunteer reasonably believed to be legally impermissible
37 discrimination, legally impermissible harassment, legally impermissible
38 retaliation directed at an employee or volunteer, a wage and hour
39 violation or a sexual assault, or that is recognized as against a clear
40 mandate of public policy, occurring in the workplace, at work-related
41 events coordinated by or through the employer, between employees or
42 volunteers, or between the employer and an employee or volunteer,
43 whether on or off the employment premises; (2) request or require that
44 an employee or volunteer enter into any agreement provision that is
45 prohibited by this section; or (3) enforce a provision of an agreement
46 prohibited by this section, whether through a lawsuit, a threat to enforce
47 or any other attempt to influence a party to comply with a provision in

48 any agreement that is prohibited by this section.

49 (d) The provisions of this section shall not prohibit: (1) An employer
50 and an employee or volunteer from protecting trade secrets, proprietary
51 information or confidential information that does not involve illegal
52 acts; and (2) the enforcement of a provision in any agreement that
53 prohibits the disclosure of the amount paid in settlement of a claim.

54 (e) Any employer who, on or after October 1, 2024, violates the
55 provisions of this section shall be liable in a civil cause of action for
56 actual or statutory damages of ten thousand dollars, whichever is more,
57 as well as reasonable attorneys' fees and costs.

58 (f) A nondisclosure or nondisparagement provision prohibited under
59 subsection (b) of this section and entered into prior to October 1, 2024
60 shall be void and unenforceable only where such provision was entered
61 into at the outset of employment or during the course of employment.
62 For a nondisclosure or nondisparagement provision void and
63 unenforceable under this subsection, an employee may recover only
64 damages relating to preventing the enforcement of the provision. The
65 provisions of this subsection shall not apply to a nondisclosure or
66 nondisparagement provision contained in an agreement to settle a legal
67 claim.

68 (g) A nondisclosure or nondisparagement provision in any
69 agreement signed by an employee or volunteer who is a resident of this
70 state is governed by the laws of this state.

71 (h) The provisions of this section are to be liberally construed so as to
72 effectuate its remedial purpose.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2024	New section
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Statement of Purpose:

To prohibit the use of nondisclosure agreements in certain instances in the workplace.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]