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:

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

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

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

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

(b) Any provision in an agreement between an employer and an
employee or volunteer not to disclose or discuss conduct, or the
existence of a settlement involving conduct, that the employee or
volunteer reasonably believed under state, federal or common law to be:
Legally impermissible discrimination, legally impermissible
harassment, legally impermissible retaliation directed at an employee or
volunteer, a wage and hour violation or a sexual assault, or that is
recognized as against a clear mandate of public policy, shall be void and
unenforceable. Prohibited nondisclosure and nondisparagement
provisions in an agreement between an employee or volunteer and an
employer are those provisions concerning legally impermissible
conduct that occurs at the workplace, at work-related events
coordinated by or through the employer, between employees or
volunteers, or between an employer and an employee or volunteer,
whether on or off the employment premises. Prohibited nondisclosure
and nondisparagement provisions include those contained in
employment agreements, independent contractor agreements,
agreements to pay compensation in exchange for the release of a legal
claim, or any other form of agreement between the employer and an
employee or a volunteer.

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:

| Section 1 | October 1, 2024 | New section |
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.]