

SENATE BILL 1010

K3

8lr2882
CF 8lr2970

By: **Senators Zucker, Middleton, Astle, Benson, Conway, Feldman, Guzzone, King, Lee, and Peters**

Introduced and read first time: February 5, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Sexual Harassment – Contractual Waivers and**
3 **Reporting Requirements**

4 FOR the purpose of providing that a provision in certain employment contracts, policies, or
5 agreements that waive certain rights or remedies to a claim of sexual harassment,
6 discrimination, or retaliation is null and void as being against the public policy of
7 the State; prohibiting an employer from taking certain adverse actions against
8 certain employees; providing that certain employers are liable for certain attorney's
9 fees; requiring certain employers to submit a certain report to the Commission on
10 Civil Rights on or before a certain date each year; requiring the Commission to
11 publish and make accessible to the public on the Commission's website certain
12 reports; defining certain terms; providing for the application of this Act; and
13 generally relating to sexual harassment in the workplace.

14 BY adding to

15 Article – Labor and Employment
16 Section 3–715
17 Annotated Code of Maryland
18 (2016 Replacement Volume and 2017 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article – State Government
21 Section 20–101(a) and (b)
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2017 Supplement)

24 BY adding to

25 Article – State Government
26 Section 20–208
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2014 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

3-715.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PROVISION IN AN EMPLOYMENT CONTRACT, POLICY, OR AGREEMENT THAT WAIVES ANY FUTURE SUBSTANTIVE OR PROCEDURAL RIGHT OR REMEDY TO A CLAIM OF SEXUAL HARASSMENT, DISCRIMINATION, OR RETALIATION IS NULL AND VOID AS BEING AGAINST THE PUBLIC POLICY OF THE STATE.

(2) PARAGRAPH (1) OF THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

(B) (1) AN EMPLOYER MAY NOT TAKE ADVERSE ACTION AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE FAILS OR REFUSES TO ENTER INTO AN AGREEMENT THAT CONTAINS A WAIVER THAT IS VOID UNDER SUBSECTION (A) OF THIS SECTION.

(2) ADVERSE ACTION PROHIBITED UNDER THIS SUBSECTION INCLUDES:

(I) FAILURE TO HIRE;

(II) DISCHARGE;

(III) SUSPENSION;

(IV) DEMOTION;

(V) DISCRIMINATION IN THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT; OR

(VI) ANY OTHER RETALIATORY ACTION THAT RESULTS IN A CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE A REASONABLE EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN ACTION, OR TESTIFYING IN AN ACTION REGARDING A VIOLATION OF THIS SECTION.

(C) AN EMPLOYER WHO ENFORCES OR ATTEMPTS TO ENFORCE A PROVISION THAT VIOLATES SUBSECTION (A) OF THIS SECTION SHALL BE LIABLE FOR

1 THE EMPLOYEE'S REASONABLE ATTORNEY'S FEES AND COSTS.

2 **Article – State Government**

3 20–101.

4 (a) In Subtitles 1 through 11 of this title the following words have the meanings
5 indicated.

6 (b) “Commission” means the Commission on Civil Rights.

7 **20–208.**

8 (A) IN THIS SECTION, “EMPLOYER” MEANS AN EMPLOYER WITH **50** OR MORE
9 EMPLOYEES.

10 (B) ON OR BEFORE JANUARY 1 EACH YEAR, AN EMPLOYER SHALL SUBMIT A
11 REPORT TO THE COMMISSION ON:

12 (1) THE NUMBER OF SETTLEMENTS MADE BY OR ON BEHALF OF THE
13 EMPLOYER AFTER AN ALLEGATION OF SEXUAL HARASSMENT BY AN EMPLOYEE;

14 (2) THE NUMBER OF TIMES THE EMPLOYER HAS PAID A SETTLEMENT
15 TO RESOLVE A SEXUAL HARASSMENT ALLEGATION AGAINST THE SAME EMPLOYEE
16 OVER THE PAST **20** YEARS OF EMPLOYMENT; AND

17 (3) THE NUMBER OF SETTLEMENTS MADE AFTER AN ALLEGATION OF
18 SEXUAL HARASSMENT THAT INCLUDED A PROVISION REQUIRING BOTH PARTIES TO
19 KEEP THE TERMS OF THE SETTLEMENT CONFIDENTIAL.

20 (C) THE COMMISSION SHALL PUBLISH AND MAKE ACCESSIBLE TO THE
21 PUBLIC ON THE COMMISSION'S WEBSITE EACH EMPLOYER'S ANNUAL REPORT
22 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any
24 employment contract, policy, or agreement executed, implicitly or explicitly extended, or
25 renewed on or after the effective date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2018.