

SENATE, No. 593

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

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District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Bars use of certain funds and nondisclosure agreements to settle sexual assault and harassment claims against certain State officers and employees, members of Legislature, and candidates.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the use of public funds, campaign funds, and
2 nondisclosure agreements to settle sexual assault and harassment
3 claims against certain State officers and employees, members of
4 the Legislature and candidates, amending P.L.1993, c.65 and
5 supplementing Title 52 of the Revised Statutes.

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

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10 1. (New Section) a. As used in this section:

11 "member of the Legislature" means any person elected to serve
12 in the General Assembly or the Senate of this State;

13 "nondisclosure agreement" means an agreement in which the
14 parties agree not to disclose the terms of any settlement, including a
15 monetary settlement, entered into to settle allegations of sexual
16 assault or sexual harassment;

17 "sexual assault" means an act committed under circumstances or
18 conditions set forth in chapter 14 of Title 2C of the New Jersey
19 Statutes, including sexual contact;

20 "sexual harassment" means any solicitation of any sexual act,
21 physical advances, or verbal or non-verbal conduct that is sexual in
22 nature and that either: is unwelcome, offensive to a reasonable
23 person, or creates a hostile workplace environment, and the State
24 officer or employee or special State officer or employee, or member
25 of the Legislature knows, should know, or is told this; or is
26 sufficiently severe or intense to be abusive to a reasonable person in
27 that context. "Sexual harassment" may consist of a single extreme
28 or severe act or of multiple acts and may include, but is not limited
29 to, conduct with another person whether or not such person is in a
30 subordinate position to the State officer or employee, special State
31 officer or employee, or member of the Legislature. "Sexual
32 harassment" may also include conduct of a nonsexual nature if it is
33 based on the sex of an individual;

34 "special State officer or employee" means any person holding an
35 office or employment in a State agency, excluding an interstate
36 agency, for which office or employment no compensation is
37 authorized or provided by law, or no compensation other than a sum
38 in reimbursement of expenses, whether payable per diem or per
39 annum, is authorized or provided by law; or any person, not a
40 member of the Legislature, holding a part-time elective or
41 appointive office or employment in a State agency, excluding an
42 interstate agency;

43 "State agency" means any of the principal departments in the
44 Executive Branch of the State Government, and any division, board,
45 bureau, office, commission, or other instrumentality within or
46 created by such department, the Legislature of the State and any

**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.

1 office, board, bureau or commission within or created by the
2 Legislative Branch, and any independent State authority,
3 commission, instrumentality, or agency; and

4 "State officer or employee" means any person, other than a
5 special State officer or employee holding an office or employment
6 in a State agency, excluding an interstate agency, other than a
7 member of the Legislature.

8 b. A State agency shall not:

9 (1) use public funds to make a payment to a person in settlement
10 of a claim that the person was the victim of sexual assault or sexual
11 harassment by a State officer or employee, or a special State officer
12 or employee, or a member of the Legislature, either prior to the
13 filing of a lawsuit by that person or at any time after a lawsuit is
14 filed; or

15 (2) enter into a nondisclosure agreement with any person to settle
16 a claim that the person was the victim of sexual assault or sexual
17 harassment by a State officer or employee, or a special State officer
18 or employee, or a member of the Legislature, either prior to the
19 filing of a lawsuit by that person or at any time after a lawsuit is
20 filed.

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22 2. Section 17 of P.L.1993, c.65 (C.19:44A-11.2) is amended to
23 read as follows:

24 17. a. All contributions received by a candidate, candidate
25 committee, a joint candidates committee or a legislative leadership
26 committee shall be used only for the following purposes:

27 (1) the payment of campaign expenses;

28 (2) contributions to any charitable organization described in
29 section 170(c) of the Internal Revenue Code of 1954, as amended or
30 modified, or nonprofit organization which is exempt from taxation
31 under section 501(c) of the Internal Revenue Code of 1954, except
32 any charitable organization of which the candidate or a member of
33 the candidate's immediate family is a paid officer, director or
34 employee or receives compensation for goods or services provided
35 to the organization;

36 (3) transmittal to another candidate, candidate committee, or
37 joint candidates committee, or to a political committee, continuing
38 political committee, legislative leadership committee or political
39 party committee, for the lawful use by such other candidate or
40 committee;

41 (4) the payment of the overhead and administrative expenses
42 related to the operation of the candidate committee or joint
43 candidates committee of a candidate or a legislative leadership
44 committee;

45 (5) the pro rata repayment of contributors; or

46 (6) the payment of ordinary and necessary expenses of holding
47 public office.

1 As used in this subsection, "campaign expenses" means any
2 expense incurred or expenditure made by a candidate, candidate
3 committee, joint candidates committee or legislative leadership
4 committee for the purpose of paying for or leasing items or services
5 used in connection with an election campaign, other than those
6 items or services which may reasonably be considered to be for the
7 personal use of the candidate, any person associated with the
8 candidate or any of the members of a legislative leadership
9 committee; and "member of the candidate's immediate family"
10 means the candidate's spouse, child, parent, or sibling, and the
11 child, parent, or sibling of the candidate's spouse.

12 b. No contribution received by a candidate or by the candidate
13 committee or joint candidates committee of a candidate may be
14 used;

15 (1) for the payment of the expenses arising from the furnishing,
16 staffing or operation of an office used in connection with that
17 person's official duties as an elected public official; or

18 (2) to make a payment to a person in settlement of a claim that
19 the person was the victim of sexual assault or sexual harassment by
20 a candidate or an employee of a candidate, prior to the filing of a
21 lawsuit by that person or at any time after a lawsuit is filed.

22 c. Any funds remaining in the campaign depository of a
23 candidate's candidate committee or joint candidates committee upon
24 the death of the candidate shall be used only for one or more of the
25 purposes established in subsection a. of this section by the
26 committee's organizational treasurer or deputy treasurer or whoever
27 has control of the depository upon the death of the candidate.

28 (cf: P.L.2007, c.202, s.1)

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30 3. This act shall take effect immediately.

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STATEMENT

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35 This bill prohibits a State agency in the Executive or Legislative
36 Branch of State government from using public funds as payment in
37 a settlement of a claim that a person was the victim of sexual
38 assault or sexual harassment by a State officer or employee, or a
39 special State officer or employee, or a member of the Legislature,
40 either prior to the filing of a lawsuit by that person or at any time
41 after a lawsuit is filed.

42 The bill also prohibits the use of campaign funds to make a
43 payment to a person in settlement of a claim that the person was the
44 victim of sexual assault or sexual harassment by a candidate or an
45 employee of a candidate, either prior to the filing of a lawsuit by
46 that person or at any time after a lawsuit is filed.

47 In addition, the bill prohibits a State agency from entering into a
48 nondisclosure agreement, in which the parties agree not to disclose

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1 the terms of a settlement, with any person to settle a claim that the
2 person was a victim of sexual assault or sexual harassment by a
3 State officer or employee or a special State officer or employee, or
4 a member of the Legislature, either prior to the filing of a lawsuit
5 by that person or at any time after a lawsuit is filed.