

[First Reprint]
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 nondisclosure agreements to settle sexual assault and harassment claims against certain State officers and employees and members of Legislature; bars use of campaign funds to settle claims.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on March 5, 2020, with amendments.



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:*

9
 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,

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

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SSG committee amendments adopted March 5, 2020.**

bureau, office, commission, or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality, or agency; and

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

b. A State agency shall not ¹]:

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

(2) ¹ enter into a nondisclosure agreement with any person to settle ¹, or as part of the settlement of, ¹ a claim that the person was the victim of sexual assault or sexual harassment by a State officer or employee, or a special State officer or employee, or a member of the Legislature, either prior to the filing of a lawsuit by that person or at any time after a lawsuit is filed.

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

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

(1) the payment of campaign expenses;

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

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

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

(5) the pro rata repayment of contributors; or

1 (6) the payment of ordinary and necessary expenses of holding
2 public office.

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

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

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

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

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

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

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32 3. This act shall take effect immediately.