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LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1112, L.D. 1529, Bill, "An Act Concerning Nondisclosure Agreements in Employment"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA §594-A is enacted to read:

§594-A. Nondisclosure agreements

1. Certain preemployment and employment agreements prohibited. An employer may not require an employee, intern, applicant for employment or applicant for internship to enter into a contract with the employer that contains a nondisclosure agreement, nondisparagement agreement, waiver or other provision that prevents the employee, intern or applicant from disclosing or discussing discrimination, including harassment, occurring in the workplace or at work-related events coordinated by or through the employer.

2. Certain settlement, separation and severance agreements prohibited. An employer may not require an employee, intern, applicant for employment or applicant for internship to enter into a settlement, separation or severance agreement that includes a provision that prevents the disclosure of factual information relating to a claim of discrimination, including harassment, unless the employee, intern or applicant requests such a provision.

A. A nondisclosure provision in a settlement, separation or severance agreement may not explicitly or implicitly:

(1) Limit an individual's ability to provide testimony or evidence or make reports to any federal or state agency that enforces employment or discrimination laws, including, but not limited to, the Maine Human Rights Commission and the Department of Labor; or

(2) Prevent an individual from providing testimony or evidence in a federal or state court proceeding.

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1 disclosing or discussing discrimination, including harassment, occurring in the workplace
2 or at work-related events coordinated by or through the employer.

3 It also prevents an employer from requiring an employee, intern, applicant for
4 employment or applicant for internship to enter into a settlement, separation or severance
5 agreement that includes a provision that prevents the disclosure of factual information
6 relating to a claim of discrimination, including harassment, unless the employee, intern or
7 applicant requests such a provision. Agreements may not explicitly or implicitly limit an
8 individual's ability to provide testimony or evidence or make reports to any federal or
9 state agency that enforces employment or discrimination laws, including, but not limited
10 to, the Maine Human Rights Commission and the Department of Labor, and any
11 agreement must make it clear that an individual retains the right to provide testimony or
12 evidence or make reports to any federal or state agency that enforces employment or
13 discrimination laws, including, but not limited to, the Maine Human Rights Commission
14 and the Department of Labor.

15 It specifies that an individual must be given 21 days to consider any agreement
16 containing nondisclosure provisions and be provided at least 7 days following the
17 execution of the agreement to revoke the agreement. The bill states that an agreement is
18 not effective or enforceable until the revocation period has expired.

19 It requires that an employer retain a copy of any settlement, separation or severance
20 agreement that prevents the disclosure of factual information relating to a claim of
21 discrimination, including harassment, in the individual's personnel file for 6 years.

22 It prohibits an employer from retaliating against an individual who opposes any act or
23 practice that is unlawful under these provisions or interfering with an individual in the
24 exercise or enjoyment of the rights granted or protected by these provisions. It provides
25 the Department of Labor with the duty to enforce these provisions.