1	L.D. 1529
2	Date: (Filing No. H-)
3	LABOR AND HOUSING
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	129TH LEGISLATURE
8	SECOND SPECIAL SESSION
9 10	COMMITTEE AMENDMENT "" to H.P. 1112, L.D. 1529, "An Act Concerning Nondisclosure Agreements in Employment"
11 12	Amend the bill by striking out everything after the enacting clause and inserting the following:
13	'Sec. 1. 26 MRSA §594-A is enacted to read:
14	§594-A. Nondisclosure agreements
15 16 17 18	1. Employer defined. As used in this section, unless the context otherwise indicates, "employer" means a person in this State that employs individuals and includes the State and political subdivisions of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.
19	2. Certain preemployment and employment agreements prohibited. An employer
20 21 22	may not require an employee, intern or applicant for employment to enter into a contract or agreement that waives or limits any right to report or discuss discrimination, retaliation or harassment occurring in the workplace or at work-related events.
23	3. Certain settlement, separation and severance agreements prohibited. An
24 25	employer may not require an employee, intern or applicant for employment to enter into a settlement, separation or severance agreement that includes a provision that:
26 27	A. Limits an individual's right to report, testify or provide evidence to a federal or state agency that enforces employment or discrimination laws;
28 29	<u>B.</u> Prevents an individual from testifying or providing evidence in federal and state court proceedings in response to legal process; or
30	C. Prohibits an individual from reporting conduct to a law enforcement agency.
31 32 33 34	 <u>4. Mutuality of nondisclosure agreements.</u> A settlement, separation or severance agreement may include a provision that prevents the subsequent disclosure of factual information relating to a claim of discrimination, retaliation or harassment, but only if: <u>A.</u> The employee, intern or applicant for employment initiates a request for such a matrix.
35	provision;

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1 2	B. The provision applies to all parties to the agreement to the extent otherwise permitted by law;
3 4	<u>C. The agreement clearly states that the individual retains the right to report, testify or provide evidence to federal and state agencies that enforce employment or</u>
5	discrimination laws and to testify and provide evidence in federal and state court
6	proceedings; and
7	D. The employer retains a copy of the agreement for 6 years following the execution
8	of the agreement or the end of employment, whichever is later. Records required to be
9	kept by this paragraph must be accessible to any representative of the Department of
10	Labor at any reasonable hour.
11	5. Enforcement. The Department of Labor shall enforce this section.
12	6. Penalties. An employer that violates this section:
13	A. May be assessed a fine of up to \$1,000 for each violation of this section, which
14	must be paid to the Treasurer of State; and
15	B. Shall pay liquidated damages to the individual in an amount equal to 3 times the
16	amount of the total assessed fines, except that for an employer's discharge of or refusal
17	to hire an individual who declines to enter into a contract or agreement that waives or
18	limits any right to report or discuss discrimination, retaliation or harassment occurring
19	in the workplace or at work-related events, the individual may elect:
20	(1) To receive liquidated damages pursuant to this paragraph; or
21	(2) Employment or reinstatement with back wages.'
22 23	Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.
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23 24 25 26	number to read consecutively. SUMMARY This amendment replaces the bill. It prohibits an employer from requiring an employee, intern or applicant for employment to enter into a contract or agreement that waives or
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