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AUGUSTA, MAINE 04333-0002

(207) 287-1400

TTY: MAINE RELAY 711

**Thom Harnett**

52 Marston Rd

Gardiner, ME 04345

[Thom.Harnett@legislature.maine.gov](mailto:Thom.Harnett@legislature.maine.gov)

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*Testimony of Rep. Thom Harnett introducing*

## **LD 965, An Act Concerning Nondisclosure Agreements in Employment before the Joint Standing Committee on Labor and Housing**

Good morning, Senator Hickman, Representative Sylvester and members of the Labor and Housing Committee. My name is Thom Harnett, and I represent the residents of District 83 which includes the Town of Farmingdale and the City of Gardiner. I am here today to introduce **LD 965, An Act Concerning Nondisclosure Agreements in Employment**.

For those of you who previously served on Labor and Housing, this bill came before you during the 129th Legislature when it was known at LD 1529. Unfortunately it joined the ranks of the many thoughtful pieces of legislation that were left unfinished due to the COVID-19 pandemic.

My comments this morning will be brief as you will hear from others with far more experience regarding this important topic after me. At its core, this bill, if enacted, would prevent employers from forcing prospective employees to waive their rights to ever discuss or make known their experiences regarding harassment in the workplace.

It would declare that it is an unlawful employment practice for an employer to require an employee or prospective employee to enter into a contract or agreement that, as a condition of employment, continued employment, promotion, compensation or benefits, contains a nondisclosure agreement, nondisparagement agreement, waiver or that prevents the employee from disclosing or discussing discrimination, including harassment, occurring between employees or between an employer and an employee in the workplace, at work-related events or off the employment premises.

All persons are entitled to work in a workplace that is free from discrimination and harassment. No person should ever be placed in the position of waiving these fundamental rights to speak out about workplace harassment and discrimination in order to obtain or continue their employment.

If you think it is good public policy for an employer to be able to tell people looking for work or currently working for them, by the way, if you are discriminated against at work or if you are sexually harassed, you cannot tell anyone and must promise me that you will not complain about it to state or federal agencies, then do not vote for this bill.

If on the other hand you believe that all persons are entitled to work in a workplace that is free from discrimination and harassment, and that no person should ever be placed in the position of having to give up the fundamental right to speak out about workplace harassment and discrimination in order to get or keep a job, please support LD 965.

Compulsory nondisclosure agreements are bad public policy and do nothing more than facilitate, promote, and indeed hide incidents of harassment and discrimination in the workplace. Compulsory nondisclosure agreements also prevent survivors of harassment and discrimination from publicizing their accounts, which for many survivors can help provide closure for these horrific experiences. Allowing survivors to share their experiences may also help protect others from being exposed to such behaviors. Nondisclosure agreements can also prevent survivors from sharing their experiences with state and federal agencies charged with preventing and remediating workplace harassment and protect those persons who engage in such behavior and may do so again.

I have attached some links to background information as to why nondisclosure agreements are bad public policy and what other jurisdictions are doing about them and why they are doing it.

[States Take Action Against Nondisclosure Agreements \(shrm.org\)](https://shrm.org)

[California Introduces Bill Banning Non – Disclosure Agreements \(NDA’s\) In Workplace Discrimination Cases|US RENEW NEWS](#)

[Bill would ban confidentiality agreements for Colorado state employees | Legislature | coloradopolitics.com](#)

[#MeToo law restricts use of nondisclosure agreements in sexual misconduct cases - Los Angeles Times \(latimes.com\)](#)

Therefore, I ask you to consider all the testimony you will hear today and then vote Ought to Pass on LD 965.

I thank you for your attention and would be happy to answer any questions you might have.