HOUSE BILL 1596

By: Delegates Valderrama, Anderson, Angel, Atterbeary, Barkley, B. Barnes, D. Barnes, Barron, Barve, Beidle, Branch, Brooks, Carr, Chang, Clippinger, Cullison, Davis, Dumais, Fennell, Flanagan, Fraser-Hidalgo, Frick, Frush, Gaines, Gibson, Gilchrist, Glass, Glenn, Gutierrez, Healey, Hettleman, Hill, Hixson, C. Howard, Jackson, Jones, Kaiser, Kelly, Korman, Kramer, Lafferty, J. Lewis, R. Lewis, Lierman, Lisanti, Mautz, McIntosh, McMillan, A. Miller, Moon, Morales, Mosby, Pena-Melnyk, Pendergrass, Proctor, Queen, Reznik, Rosenberg, Sample-Hughes, Sanchez, Simonaire, Stein, Tarlau, Turner, Valentino-Smith, Waldstreicher, Walker, A. Washington, M. Washington, Wilkins, and K. Young, Jameson, Luedtke, and <u>Wilson</u>

Introduced and read first time: February 9, 2018 Assigned to: Economic Matters

Committee Report: Favorable with amendments House action: Adopted Read second time: March 11, 2018

CHAPTER _____

- 1 AN ACT concerning
- 2
 Labor and Employment Sexual Harassment Contractual Waivers and

 3
 Reporting Requirements

 4
 Disclosing Sexual Harassment in the Workplace Act of 2018

 $\mathbf{5}$ FOR the purpose of providing that, except as prohibited by federal law, a provision in 6 certain employment contracts, policies, or agreements that waive certain rights or 7 remedies to a claim of sexual harassment, discrimination, or certain retaliation is 8 null and void as being against the public policy of the State; prohibiting an employer 9 from taking certain adverse actions against certain employees; providing that 10 certain employers are liable for certain attorney's fees; requiring certain employers to submit a certain report to the Commission on Civil Rights on or before a certain 11 date each year; requiring the Commission to publish and make accessible to the 12public on the Commission's website certain reports; defining certain terms; providing 13 14for the application of this Act; and generally relating to sexual harassment in the 15workplace.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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1	BY adding to
2	Article – Labor and Employment
3	Section 3–715
4	Annotated Code of Maryland
5	(2016 Replacement Volume and 2017 Supplement)
6	BY repealing and reenacting, without amendments,
7	Article – State Government
8	Section 20–101(a) and (b)
9	Annotated Code of Maryland
10	(2014 Replacement Volume and 2017 Supplement)
11	BY adding to
12	Article – State Government
13	Section 20–208
14	Annotated Code of Maryland
15	(2014 Replacement Volume and 2017 Supplement)
16	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17	That the Laws of Maryland read as follows:
18	Article – Labor and Employment
19	3–715.
20	(A) (1) Subject to paragraph (2) of this subsection, <u>Except as</u>
21	PROHIBITED BY FEDERAL LAW, A PROVISION IN AN EMPLOYMENT CONTRACT,
22	POLICY, OR AGREEMENT THAT WAIVES ANY FUTURE SUBSTANTIVE OR PROCEDURAL
23	RIGHT OR REMEDY TO A CLAIM OF SEXUAL HARASSMENT, DISCRIMINATION, OR
24	RETALIATION FOR REPORTING OR ASSERTING A RIGHT OR REMEDY BASED ON
25	SEXUAL HARASSMENT IS NULL AND VOID AS BEING AGAINST THE PUBLIC POLICY OF
2 6	THE STATE.
27	(2) PARAGRAPH (1) OF THIS SECTION MAY NOT BE CONSTRUED TO
28	APPLY TO THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.
29	(b) (1) An employer may not take adverse action against an

(B) (1) AN EMPLOYER MAY NOT TAKE ADVERSE ACTION AGAINST AN
EMPLOYEE BECAUSE THE EMPLOYEE FAILS OR REFUSES TO ENTER INTO AN
AGREEMENT THAT CONTAINS A WAIVER THAT IS VOID UNDER SUBSECTION (A) OF
THIS SECTION.

33(2)ADVERSE ACTION PROHIBITED UNDER THIS SUBSECTION34INCLUDES:

35 (I) FAILURE TO HIRE;

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1	(II) DISCHARGE;
2	(III) (III) SUSPENSION;
3	(IV) (III) DEMOTION;
4	
$\frac{4}{5}$	(V) (IV) DISCRIMINATION IN THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT; OR
6	(VI) ANY OTHER RETALIATORY ACTION THAT RESULTS IN
7	A CHANGE TO THE TERMS OR CONDITIONS OF EMPLOYMENT THAT WOULD DISSUADE
8	A REASONABLE EMPLOYEE FROM MAKING A COMPLAINT, BRINGING AN ACTION, OR
9	TESTIFYING IN AN ACTION REGARDING A VIOLATION OF THIS SECTION.
10	(C) AN EMPLOYED WHO ENFORCES OF APPEMDES TO ENFORCE A
10 11	(C) AN EMPLOYER WHO ENFORCES OR ATTEMPTS TO ENFORCE A PROVISION THAT VIOLATES SUBSECTION (A) OF THIS SECTION SHALL BE LIABLE FOR
11 12	THE EMPLOYEE'S REASONABLE ATTORNEY'S FEES AND COSTS.
14	THE EMILOTEE 5 REASONABLE ATTORNET 5 FEES AND COSTS.
13	Article – State Government
14	$\frac{20-101}{20}$
15	(a) In Subtitles 1 through 11 of this title the following words have the meanings
16	indicated.
17	(b) <u>"Commission" means the Commission on Civil Rights.</u>
18	20–208.
19	(A) IN THIS SECTION, "EMPLOYER" MEANS AN EMPLOYER WITH 50 OR MORE
20	EMPLOYEES.
21	(B) ON OR BEFORE JANUARY 1 EACH YEAR, AN EMPLOYER SHALL SUBMIT A
22	REPORT TO THE COMMISSION ON:
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23	(1) THE NUMBER OF SETTLEMENTS MADE BY OR ON BEHALF OF THE
24	EMPLOYER AFTER AN ALLEGATION OF SEXUAL HARASSMENT BY AN EMPLOYEE;
25	(2) THE NUMBER OF TIMES THE EMPLOYER HAS PAID A SETTLEMENT
26	TO RESOLVE A SEXUAL HARASSMENT ALLEGATION AGAINST THE SAME EMPLOYEE
27	OVER THE PAST 20 YEARS OF EMPLOYMENT; AND

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1(3)THE NUMBER OF SETTLEMENTS MADE AFTER AN ALLEGATION OF2SEXUAL HARASSMENT THAT INCLUDED A PROVISION REQUIRING BOTH PARTIES TO3KEEP THE TERMS OF THE SETTLEMENT CONFIDENTIAL.

4 (C) THE COMMISSION SHALL PUBLISH AND MAKE ACCESSIBLE TO THE 5 PUBLIC ON THE COMMISSION'S WEBSITE EACH EMPLOYER'S ANNUAL REPORT 6 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any
employment contract, policy, or agreement executed, implicitly or explicitly extended, or
renewed on or after the effective date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 11 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

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