

# SENATE BILL 1010

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8lr2882  
CF HB 1596

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By: **Senators Zucker, Middleton, Astle, Benson, Conway, Feldman, Guzzone, King, Lee, and Peters**

Introduced and read first time: February 5, 2018

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

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## 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

5 FOR the purpose of providing that, except as provided by federal law, a provision in certain  
6 employment contracts, policies, or agreements that waive certain rights or remedies  
7 to a claim of sexual harassment, ~~discrimination~~, or certain retaliation is null and  
8 void as being against the public policy of the State; prohibiting an employer from  
9 taking certain adverse actions against certain employees; providing that certain  
10 employers are liable for certain attorney's fees; requiring certain employers to submit  
11 a certain ~~report~~ survey to the Commission on Civil Rights on or before a certain date  
12 each year; requiring employers to submit a certain survey electronically; requiring  
13 the Commission to include a certain space in a certain survey for a certain purpose;  
14 requiring the Commission to publish and make accessible to the public ~~on the~~  
15 Commission's website certain reports; certain information in a certain manner;  
16 requiring the Commission to take certain actions related to certain surveys and  
17 submit a certain executive summary to the Governor and certain committees of the  
18 General Assembly on or before a certain date each year; defining certain terms;  
19 providing for the application of this Act; and generally relating to sexual harassment  
20 in the workplace.

21 BY adding to

22 Article – Labor and Employment

23 Section 3–715

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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.



1 Annotated Code of Maryland  
2 (2016 Replacement Volume and 2017 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – State Government  
5 Section 20–101(a) and (b)  
6 Annotated Code of Maryland  
7 (2014 Replacement Volume and 2017 Supplement)

8 BY adding to  
9 Article – State Government  
10 Section 20–208  
11 Annotated Code of Maryland  
12 (2014 Replacement Volume and 2017 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
14 That the Laws of Maryland read as follows:

15 **Article – Labor and Employment**

16 **3–715.**

17 (A) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~ **EXCEPT AS**  
18 **PROHIBITED BY FEDERAL LAW, A PROVISION IN AN EMPLOYMENT CONTRACT,**  
19 **POLICY, OR AGREEMENT THAT WAIVES ANY FUTURE SUBSTANTIVE OR PROCEDURAL**  
20 **RIGHT OR REMEDY TO A CLAIM THAT ACCRUES IN THE FUTURE OF SEXUAL**  
21 **HARASSMENT, DISCRIMINATION, OR RETALIATION FOR REPORTING OR ASSERTING**  
22 **A RIGHT OR REMEDY BASED ON SEXUAL HARASSMENT IS NULL AND VOID AS BEING**  
23 **AGAINST THE PUBLIC POLICY OF THE STATE.**

24 ~~(2) PARAGRAPH (1) OF THIS SECTION MAY NOT BE CONSTRUED TO~~  
25 ~~APPLY TO THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.~~

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

30 (2) ADVERSE ACTION PROHIBITED UNDER THIS SUBSECTION  
31 INCLUDES:

32 (I) FAILURE TO HIRE;

33 (II) DISCHARGE;



1           **(2) (I) AN EMPLOYER SHALL SUBMIT THE SURVEY REQUIRED**  
2 **UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE COMMISSION**  
3 **ELECTRONICALLY.**

4           **(II) THE COMMISSION SHALL INCLUDE IN THE SURVEY A SPACE**  
5 **FOR AN EMPLOYER TO REPORT WHETHER THE EMPLOYER TOOK PERSONNEL**  
6 **ACTION AGAINST AN EMPLOYEE WHO WAS THE SUBJECT OF A SETTLEMENT**  
7 **INCLUDED IN THE SURVEY UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

8           **(C) (1) THE COMMISSION SHALL PUBLISH AND MAKE ACCESSIBLE TO**  
9 **THE PUBLIC; ~~ON THE COMMISSION'S WEBSITE EACH EMPLOYER'S ANNUAL REPORT~~**  
10 **~~REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~**

11           **(I) BY POSTING ON THE COMMISSION'S WEBSITE, THE**  
12 **AGGREGATE NUMBER OF RESPONSES FROM EMPLOYERS FOR EACH ITEM LISTED**  
13 **UNDER SUBSECTION (B) OF THIS SECTION; AND**

14           **(II) BY RETAINING FOR PUBLIC INSPECTION ON REQUEST, THE**  
15 **RESPONSE FROM A SPECIFIC EMPLOYER REGARDING THE NUMBER OF**  
16 **SETTLEMENTS INCLUDED IN THE SURVEY UNDER SUBSECTION (B)(1)(II) OF THIS**  
17 **SECTION.**

18           **(2) ON OR BEFORE DECEMBER 15 EACH YEAR, THE COMMISSION**  
19 **SHALL:**

20           **(I) REVIEW A RANDOM SELECTION OF SURVEYS SUBMITTED**  
21 **UNDER SUBSECTION (B) OF THIS SECTION;**

22           **(II) CREATE AN EXECUTIVE SUMMARY OF THE RANDOMLY**  
23 **SELECTED SURVEYS, REDACTING ANY IDENTIFYING INFORMATION FOR SPECIFIC**  
24 **EMPLOYERS; AND**

25           **(III) SUBMIT THE EXECUTIVE SUMMARY TO THE GOVERNOR AND,**  
26 **IN ACCORDANCE WITH § 2-1246 OF THIS ARTICLE, THE SENATE FINANCE**  
27 **COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE.**

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

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