

HOUSE No. 1870

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle M. DuBois

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to non-disclosure agreements relating to a claim of discrimination, non-payment of wages or benefits, retaliation, harassment or violation of public policy in employment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/19/2023</i>

HOUSE No. 1870

By Representative DuBois of Brockton, a petition (accompanied by bill, House, No. 1870) of Michelle M. DuBois relative to non-disclosure agreements relating to a claim of discrimination, non-payment of wages or benefits, retaliation, harassment or violation of public policy in employment. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1967 OF 2021-2022.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

An Act relative to non-disclosure agreements relating to a claim of discrimination, non-payment of wages or benefits, retaliation, harassment or violation of public policy in employment.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws, as appearing in the 2020 Official Edition
2 is hereby amended by adding the following section:-

3 Section 204. (a) For the purposes of this section, the following terms shall have the
4 following meanings, unless the context clearly requires otherwise:-

5 “Retaliatory action”, the discharge, suspension, or demotion of an employee, or other
6 adverse employment action taken against an employee in the terms and conditions of
7 employment.

8 (b) Any provision in a settlement agreement between an employer and an employee,
9 including but not limited to a non-disclosure agreement, that waives a substantive or procedural
10 right or remedy of the employee relating to a claim of discrimination, non-payment of wages or
11 benefits, retaliation, harassment or violation of public policy in employment, including but not
12 limited to prohibiting the disclosure of information relative to any such claim shall be valid and
13 enforceable for only 3 years from the date the agreement takes effect.

14 (c) This section shall not render void or unenforceable the remainder of the contract or
15 agreement. This section shall not apply to the terms of any collective bargaining agreement
16 between an employer and the bona fide collective bargaining representative of that employer's
17 employees.

18 (d) An employer shall not take any retaliatory action against an employee because the
19 employee does not enter into an agreement that includes a provision deemed void or
20 unenforceable pursuant to this section.

21 (g) Whoever violates this section or enforces or attempts to enforce a provision deemed
22 void and unenforceable under this section shall be liable for reasonable attorney's fees and costs
23 associated with litigation.

24 (h) A person aggrieved by a violation of this section may, within 3 years after such
25 violation, institute a civil action in superior court. All remedies available in common law tort
26 actions shall be available to prevailing plaintiffs. The court may also order the payment of
27 reasonable costs and attorney's fees. The rights and remedies contained in this section shall not
28 be exclusive and shall not preempt other procedures or remedies available.

29 SECTION 2. This act shall apply to all settlement agreements, including but not limited
30 to non-disclosure agreements, entered into, renewed, modified, or amended on or after the
31 effective date of this act.