



April 30, 2021

Dear Senator Hickman, Representative Sylvester, and Members of the Joint Standing Committee on Labor and Housing,

I join you today on behalf of the Maine Women's Lobby. For over forty years, the Maine Women's Lobby has advocated for public policy which increases the health, wellness, safety, and economic security of Maine women and girls, with a focus on the most marginalized populations and communities.

We write today **in support of LD 965, An Act Concerning Nondisclosure Agreements in Employment**. We thank Representative Harnett for sponsoring this bill.

Sexual harassment in Maine is pervasive. In a recent Maine survey, half (49.2%) of respondents indicated that they experienced sexual harassment in a workplace. More than half (57.6%) of female respondents experienced sexual harassment, as compared to 18.8% of male employees.¹ Not only does sexual harassment disproportionately affect women, but it often affects everything from a victims' financial health to their mental health.

Sexual harassment is underreported. This kind of workplace discrimination is underreported because workers fear facing retribution and retaliation.² In fact, retaliation is the second-highest claim type at the Maine Human Rights Commission: workers have a reason to fear reporting the discrimination that they experience.

Discrimination occurs at the intersection of different kinds of oppression. Discrimination disproportionately occurs in settings with lower-wage and less-resourced people (those working in low-wage jobs or seeking low-income housing for instance), which tends to affect women and people of color at higher rates.

Employment practices such as required non-disclosure agreements can compound these harms. Such requirements create additional barriers to reporting for workers who already face challenges to addressing discrimination and wrongful employment practices.

LD 965 offers a practical approach to addressing these agreements. It ensures that employees cannot inadvertently enter into them; cannot be forced to enter into them; that they cannot be used to silence victims or protect illegal or unethical forms of discrimination or abuse. Still, it recognizes the reality that some victims of workplace discrimination may choose to enter into such agreements and creates parameters by which this can happen.

¹ Pan Atlantic Research. (2018). Report to MaineCanDo on sexual harassment in Maine workplaces. Retrieved from https://www.mecando.org/uploads/1/1/9/0/119005013/par_updated_report_to_maineando.pptx

² Bangor Daily News. (2019). Sex discrimination cases reach new high in Maine. Retrieved from <https://wgme.com/news/local/sex-discrimination-cases-reach-new-high-in-maine>



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We would echo the comments of the Maine Employment Lawyers Association about strengthening the bill: additions such as a prohibition on enforcement of nondisclosure agreements, language to shore up workers' rights to enter into collective bargaining and creating reporting requirements for additional accountability would be welcomed.

Discrimination and harassment are issues of gender equity and required nondisclosure agreements have too often been used to reinforce power differentials that many workers experience, while protecting those who cause harm. **We hope you will vote 'ought to pass' on LD 965.**

Sincerely,

Destie Hohman Sprague, Executive Director
Maine Women's Lobby / mainewomen.org