



Maine Women's Lobby

THE VOICE OF MAINE WOMEN

Testimony of Whitney Parrish
Maine Women's Lobby
In support of LD 1529
An Act Concerning Nondisclosure Agreements in Employment
April 24, 2019

Senator Bellows, Representative Sylvester, and distinguished members of the Joint Standing Committee on Labor and Housing: my name is Whitney Parrish, Director of Policy and Program for the Maine Women's Lobby. The Maine Women's Lobby is a nonprofit, nonpartisan, statewide membership organization devoted to raising the economic, social, and political status of Maine's 678,000 women and girls.

I am pleased to speak to you today in support of LD 1529, *An Act Concerning Nondisclosure Agreements in Employment*.

According to the National Women's Law Center (NWLC), mandatory nondisclosure agreements (NDAs) have in many workplaces become a standard tactic to preempt workers from taking legal action or disclosing sexual harassment and assault charges. They also serve to shield employers from liability or increased liability in the case of ongoing discriminatory conduct.

No occupation is immune from sexual harassment and other discrimination, but we do know that the incidence of harassment appears to be higher in workplaces with stark power imbalances between workers and employers and is exacerbated by the devaluation of work performed by women.ⁱ Seventy percent (70%) of individuals who experience sexual harassment at work never report it to a manager or supervisor.ⁱⁱ Seventy-five percent (75%) of employees who speak up about workplace mistreatment experienced some form of retaliation,ⁱⁱⁱ so it's not shocking that we do not have many people who are able to come forward and talk about these incredibly embarrassing, traumatizing, and often lifechanging violations. As in all cases of power-based personal violence, survivors often think they will not be believed and that they will be blamed for their own victimization. Nondisclosure agreements can

ⁱ #MeTooWhatNext: Strengthening Workplace Sexual Harassment Protections and Accountability. National Women's Law Center. 2017. Accessed at <https://nwlc.org/resources/metoowhatnext-strengthening-workplace-sexual-harassment-protections-and-accountability/>

ⁱⁱ U.S. EEOC, Select Task Force on the Study of Harassment in the Workplace Report of Co-Chairs, Chair R. Feldblum & Victoria A. Lipnic. 2016. Accessed at https://www.eeoc.gov/eeoc/task_force/harassment/report.cfm

ⁱⁱⁱ Ibid.

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perpetuate trauma and prevent survivors of harassment and discrimination from gaining closure. They also stand to cause further isolation by silencing survivors.

As mentioned, LD 1529 would not prohibit NDAs altogether. The goal here is to restore the balance of power between employers and employees and allow for employees who are survivors of harassment and discrimination to determine whether an NDA is in their best interest. We want survivors to be able to seek healing and justice on their own terms, and healing and justice look different for everyone. For example, some survivors may want an NDA to shield themselves from career impacts or receive financial support for therapy and recovery.^{iv}

While there are both pros and cons to nondisclosure agreements, mandatory NDAs should be banned. What is appropriate and necessary for one employee may not work for another, and we must always strive to honor and protect the needs and choices of employees who are survivors of harassment and discrimination. We do encourage the committee to consider expanding protections to independent contractors, volunteers, and interns since too many of these individuals are also impacted by workplace harassment, discrimination, and NDAs. We urge you to vote ought to pass on LD 1529. Thank you for your time.

^{iv} National Sexual Assault Conference, Policy. Raliance. Retrieved from <https://www.raliance.org/non-disclosure-agreements-after-metoo/>

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