



February 20, 2018

The Honorable Dereck E. Davis
Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401

RE: HB 1596 – Labor and Employment – Sexual Harassment – Contractual Waivers and Reporting Requirements – Oppose

Dear Delegate Davis:

There are many aspects of this bill that are troubling. It prohibits waiver of claims of sexual harassment, discrimination, and retaliation in employment contracts, policies, or agreements. First, no employer has any employment contract or policy that mandates waivers of claims for these actions. The implication of this casts an aspersion on business and is wholly unnecessary.

Secondly, the prohibition on waivers includes employment agreements. This could be interpreted to include agreements arising out of employment where the employee makes one of the listed claims and the employee and employer come to a settlement in which the employer compensates the employee in consideration of the settlement. No employer is going to enter into one of these agreements and provide consideration to the employee, if, after the settlement, the employee can sue the employer even after having received compensation. The effect of this prohibition would be that no such agreements would ever be entered, which is a catastrophic injustice to employees and employers alike.

Unintended consequences could include pushing more claims into the court system. Further, Section 2 of the bill states that it applies to agreements implicitly or explicitly extended after the effective date of this Act. This purports to affect employment settlement agreements already entered and for which compensation has been made. The constitutionality of this provision is dubious, but it still has the potential to vitiate already signed agreements.

Lastly, the requirement to report on the number of settlements made by or on behalf of employers gives the false impression that any settlement made by an employer means that sexual harassment in fact occurred. Cases are settled for a variety of reasons, not all related to the merits of the claim. Any number reported for settlements gives a false impression of the environment of the company, especially large ones who have many employees.

For these reasons, the Carroll County Chamber of Commerce, a business advocacy organization of over 600 members, opposes this bill and therefore requests that you give it an unfavorable report.

Sincerely,

A handwritten signature in black ink that reads 'Mike McMullin'.

Mike McMullin
President
Carroll County Chamber of Commerce

CC: Delegate Haven Shoemaker
Senator Justin Ready

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