

New Bill May Eliminate Effectiveness And Use Of Severance And Separation Agreements

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In September 2016, New Jersey Senators Nia H. Gill and Loretta Weinberg introduced S2535 (Senate Bill), a bill to amend Title 34 to prohibit employers from utilizing severance pay agreements to limit a former employee's right to sue for gender based workplace discrimination and harassment.

Specifically, S2535 provides that a severance agreement "which results in the employee releasing any claims, or barring any potential claims in the future, that the employee may have against the employer regarding gender discrimination or harassment" is void as a matter of law. Notably, S2535 would only affect claims brought in state court under the New Jersey Law Against Discrimination.

It is important to point out that this pending legislation will not impact the Civil Rights Act of 1974, Title VII. That longstanding federal legislation renders gender based discrimination unlawful.

Whereas the general purpose of severance pay agreements is to provide closure for both the employer and employee, such a change in the law would potentially dissuade employers from offering severance pay agreements knowing that it might lead to the full and complete resolution that is the central purpose of the severance or separation agreement.

This bill is currently in the preliminary legislative stages. As such, the bill has a long and likely difficult journey to becoming law. Please contact Timothy Ford at Einhorn Barbarito with any questions regarding the potential legal impact of this bill. If passed, the ramifications would be sweeping. Stay tuned, as we will provide further status updates on the bill.