



MEMORANDUM

TO: Members of the Assembly Labor Committee
FROM: Alida Kass, Chief Counsel
SUBJECT: NJCJI Opposition to Assembly Bill 2136
DATE: January 14, 2015

The New Jersey Civil Justice Institute is a statewide, bipartisan coalition of the state's largest employers, small businesses, and leading trade associations advocating for a fair and predictable civil justice system in New Jersey. On behalf of our members, **we respectfully oppose A-2136.**

We appreciate the concern for young people in the workplace and for interns in particular. We certainly don't want interns or anyone else to be mistreated. The entry-level labor market is difficult. It is increasingly common for young people to take jobs where their compensation is really the opportunity to establish themselves, because when they are just starting out they are an unknown quantity. To put it bluntly, interns need jobs from which they can be fired.

The well-intentioned layers of employment protections that currently apply in standard full-time employment have significantly increased the risk and cost of taking on new employees. The desire to ensure that interns have those same protections is understandable. But the more we protect certain people after they've gotten the job, we reduce the probability that they will get the job in the first place. If we deny them the option of taking positions which impose minimal legal risk on their employers, many of them will get no jobs at all.

When we are setting public policy, the critical analysis is what are we getting, and what are we giving away. Is there an inherent problem with the internship model that needs to be corrected, such that the gains of creating litigation remedies in this area is worth the risk of reducing the opportunities for young people to enter the labor market and gain relevant experience?

I would suggest the answer is no - the incentives of internships already line up in a way that encourages employers to treat their interns very well. The reputational risk of not treating an intern appropriately matters – both within a company and at universities and other institutions that place students in internships. The risk of losing an intern also matters. The threat to leave is an inherent regulating mechanism that incentivizes a beneficial work experience and environment. The employer wants the intern to continue to show up to do work. An intern who is not receiving a paycheck is more likely to have the flexibility to quit an unsatisfactory internship and take a new one.

Meanwhile the costs of adjusting those incentives by increasing the litigation risk of hiring interns is significant. This is not a narrowly targeted piece of legislation addressing the specific

concern about sexual harassment of interns. The Law Against Discrimination (LAD) and the Conscientious Employee Protection Act (CEPA) are not especially well-suited to the regulation of internships and they generate a lot of litigation. The fee-shifting mechanisms contained within both statutes incentivize litigation and make claims significantly more expensive to settle. The costs of expanding legislative protections would not be borne exclusively by bad actors. All employers with internship programs would face increased risk and cost, which would ultimately mean fewer internships.

If we want to help interns, we should encourage employers to offer more internships. Unfortunately, this is a bill that would ultimately mean fewer opportunities for those who need them the most. I urge the committee to hold the bill.

The New Jersey Civil Justice Institute respectfully requests that you vote no on A-2136.