



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3418

Introduced 2/22/2021, by Rep. Jonathan Carroll

SYNOPSIS AS INTRODUCED:

820 ILCS 96/1-30

Amends the Workplace Transparency Act. Provides that nondisclosure requirements may not be imposed in settlements relating to claims of sexual harassment or sexual assault in the workplace except as they relate to the monetary amount of the settlement or, at the employee's request, when they prohibit disclosure of facts that could lead to the identification of the employee.

LRB102 11388 JLS 16721 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Workplace Transparency Act is amended by
5 changing Section 1-30 as follows:

6 (820 ILCS 96/1-30)

7 Sec. 1-30. Settlement or termination agreements.

8 (a) An employer may not, as a term of employment, require
9 an employee to sign a nondisclosure provision of a settlement
10 agreement relating to a claim of sexual harassment or sexual
11 assault in the workplace brought by the employee or prevent
12 the employee from disclosing a claim of sexual harassment or
13 sexual assault occurring in the workplace or at a work-related
14 event coordinated by or through the employer.

15 (a-5) This Section does not prohibit a settlement
16 agreement relating to a claim alleging sexual harassment or
17 sexual assault in the workplace between an employer and an
18 employee or former employee from containing confidentiality
19 provisions as provided in this subsection. A confidentiality
20 provision is permitted when:

21 (1) it relates to the monetary amount of a settlement;

22 or

23 (2) at the employee's request, it prohibits disclosure

1 of facts that could lead to the identification of the
2 employee. ~~An employee, prospective employee, or former~~
3 ~~employee and an employer may enter into a valid and~~
4 ~~enforceable settlement or termination agreement that~~
5 ~~includes promises of confidentiality related to alleged~~
6 ~~unlawful employment practices, so long as:~~

7 ~~(1) confidentiality is the documented preference of~~
8 ~~the employee, prospective employee, or former employee and~~
9 ~~is mutually beneficial to both parties;~~

10 ~~(2) the employer notifies the employee, prospective~~
11 ~~employee, or former employee, in writing, of his or her~~
12 ~~right to have an attorney or representative of his or her~~
13 ~~choice review the settlement or termination agreement~~
14 ~~before it is executed;~~

15 ~~(3) there is valid, bargained for consideration in~~
16 ~~exchange for the confidentiality;~~

17 ~~(4) the settlement or termination agreement does not~~
18 ~~wave any claims of unlawful employment practices that~~
19 ~~accrue after the date of execution of the settlement or~~
20 ~~termination agreement;~~

21 ~~(5) the settlement or termination agreement is~~
22 ~~provided, in writing, to the parties to the prospective~~
23 ~~agreement and the employee, prospective employee, or~~
24 ~~former employee is given a period of 21 calendar days to~~
25 ~~consider the agreement before execution, during which the~~
26 ~~employee, prospective employee, or former employee may~~

1 ~~sign the agreement at any time, knowingly and voluntarily~~
2 ~~waiving any further time for consideration; and~~

3 ~~(6) unless knowingly and voluntarily waived by the~~
4 ~~employee, prospective employee, or former employee, he or~~
5 ~~she has 7 calendar days following the execution of the~~
6 ~~agreement to revoke the agreement and the agreement is not~~
7 ~~effective or enforceable until the revocation period has~~
8 ~~expired.~~

9 (b) An employer may not unilaterally include any clause in
10 a settlement or termination agreement that prohibits the
11 employee, prospective employee, or former employee from making
12 truthful statements or disclosures regarding unlawful
13 employment practices.

14 (c) Failure to comply with the provisions of this Section
15 shall render any promise of confidentiality related to alleged
16 unlawful employment practices against public policy void and
17 severable from an otherwise valid and enforceable agreement.

18 (d) Nothing in this Section shall be construed to prevent
19 a mutually agreed upon settlement or termination agreement
20 from waiving or releasing the employee, prospective employee,
21 or former employee's right to seek or obtain any remedies
22 relating to an unlawful employment practice claim that
23 occurred before the date on which the agreement is executed.

24 (e) The provisions of this amendatory Act of the 102nd
25 General Assembly apply to agreements entered into on or after
26 the effective date of this amendatory Act of the 102nd General

1 Assembly.

2 (Source: P.A. 101-221, eff. 1-1-20.)