

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 999 Session of  
2017

---

INTRODUCED BY SCHWANK, WILLIAMS, LEACH, FONTANA, BROWNE,  
TARTAGLIONE, HUGHES, HAYWOOD, BREWSTER, FARNESE, STREET,  
YUDICHAK, COSTA, BOSCOLA, RAFFERTY AND BLAKE,  
DECEMBER 7, 2017

---

REFERRED TO JUDICIARY, DECEMBER 7, 2017

---

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in particular rights and  
3 immunities, providing for contracts or agreements for  
4 nondisclosure of certain conduct.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a section to read:

9 § 8316.2. Contracts or agreements for nondisclosure of certain  
10 conduct.

11 (a) Void agreements.--A provision of an agreement, contract,  
12 settlement or similar instrument that is executed, amended,  
13 revised or otherwise entered into after the effective date of  
14 this section and is contrary to this section shall be void and  
15 unenforceable. On and after the effective date of this section,  
16 no person may enter into, revise or amend an agreement,  
17 contract, settlement or similar instrument which includes a  
18 provision that:

1           (1) prohibits or attempts to prohibit the disclosure of  
2 the name of any person suspected of sexual misconduct;

3           (2) suppresses or attempts to suppress information  
4 relevant to an investigation into a claim of sexual  
5 misconduct;

6           (3) impairs or attempts to impair the ability of any  
7 person to report a claim of sexual misconduct to an  
8 appropriate person;

9           (4) purports or attempts to waive a substantive or  
10 procedural right or remedy of any person relating to a claim  
11 of sexual misconduct; or

12           (5) requires or attempts to require any person to  
13 expunge information pertaining to a claim of sexual  
14 misconduct from documents maintained by the person, unless  
15 due investigation determines the claim to be false.

16       (b) Applicability.--Nothing in subsection (a) shall apply to  
17 a provision in an agreement, contract, settlement or similar  
18 instrument that prohibits the disclosure of either the name of a  
19 person who reports or makes a claim of sexual misconduct or the  
20 amount of any monetary consideration provided in a settlement of  
21 the claim.

22       (c) Voidable agreements.--An agreement, contract, settlement  
23 or similar instrument containing a provision contrary to this  
24 section that was entered into on or before the effective date of  
25 this section shall be voidable by a party who entered into it  
26 under any one of the following circumstances:

27           (1) While under duress in the execution of the  
28 agreement, contract, settlement or similar instrument.

29           (2) While incompetent or impaired at the time of  
30 execution of the agreement, contract, settlement or similar

1 instrument.

2 (3) While a minor at the time of execution of the  
3 agreement, contract, settlement or similar instrument,  
4 regardless of whether the person was represented at the time  
5 by counsel, a guardian or a parent.

6 (d) Execution and use prohibited.--It is unlawful to cause,  
7 induce or procure a person to execute an agreement, contract,  
8 settlement or similar instrument proscribed by this section, or  
9 to cause, induce or procure a person to give, pay, transfer or  
10 deliver any money or thing of value in payment, satisfaction,  
11 settlement or compromise of a claim or cause of action brought  
12 to enforce or recover upon a proscribed agreement, contract,  
13 settlement or similar instrument, or to receive, take or accept  
14 any money or thing of value in payment, satisfaction, settlement  
15 or compromise of such claim or cause of action.

16 (e) Actions to enforce prohibited.--It is unlawful to  
17 commence or cause to be commenced, either as a litigant or  
18 attorney, in a court of this Commonwealth a proceeding or action  
19 seeking to enforce or recover upon an agreement, contract,  
20 settlement or similar instrument proscribed by this section,  
21 knowing it to be such, whether the agreement, contract,  
22 settlement or similar instrument was executed within or without  
23 this Commonwealth.

24 (f) Nonapplicability.--No record described under this  
25 section shall be exempt from disclosure under any provision of  
26 the act of February 14, 2008 (P.L.6, No.3), known as the Right-  
27 to-Know Law.

28 (g) Definition.--As used in this section, the term "sexual  
29 misconduct" means harassment, stalking or assault of a person  
30 with the intent to engage the person in conduct of a sexual

1 nature.

2 Section 2. This act shall take effect in 60 days.