

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 938 Session of  
2021

---

INTRODUCED BY KLUNK, CEPHAS, BULLOCK, CIRESI, SCHLEGEL CULVER,  
DALEY, T. DAVIS, DEASY, DELOZIER, DeLUCA, FRANKEL, GALLOWAY,  
GILLEN, HANBIDGE, HILL-EVANS, INNAMORATO, KINKEAD, LEE,  
N. NELSON, O'MARA, OBERLANDER, ROTHMAN, RYAN, SAPPEY,  
SCHLOSSBERG, SCHWEYER, STEPHENS AND THOMAS, MARCH 17, 2021

---

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 17, 2021

---

AN ACT

1 Providing for nondisclosure agreements relating to sexual  
2 harassment.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Disclosing  
7 Sexual Harassment in the Workplace Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Employee." An individual employed by an employer.

13 "Employer." An individual, partnership, association,  
14 corporation, business trust, the Commonwealth, an agency,  
15 authority or instrumentality of the Commonwealth, a political  
16 subdivision, an agency, authority or instrumentality of a

1 political subdivision or a person or group of persons acting,  
2 directly or indirectly, in the interest of an employer in  
3 relation to any employee.

4 "Sexual harassment." Unwelcome sexual advances, requests for  
5 sexual favors and other verbal or physical conduct of a sexual  
6 nature constitute sexual harassment when:

7 (1) submission to the conduct is made either explicitly  
8 or implicitly a term or condition of an individual's  
9 employment;

10 (2) submission to or rejection of the conduct by an  
11 individual is used as the basis for employment decisions  
12 affecting the individual; or

13 (3) the conduct has the purpose or effect of  
14 unreasonably interfering with an individual's work  
15 performance or creating an intimidating, hostile or offensive  
16 working environment.

17 Section 3. Nondisclosure agreements.

18 (a) Involuntary agreements.--An employer may not require an  
19 employee or prospective employee, as a condition of employment,  
20 to sign an agreement or waiver that prohibits, prevents or  
21 otherwise restricts the employee or prospective employee from  
22 opposing, disclosing, reporting or participating in an  
23 investigation of sexual harassment.

24 (b) Voluntary agreements.--Nothing in subsection (a) shall  
25 be construed to prohibit an employer, employee or prospective  
26 employee from voluntarily entering into a settlement agreement  
27 with a nondisclosure provision agreed to by each party as part  
28 of the settlement of a sexual harassment claim, complaint or  
29 proceeding.

30 (c) Void agreement provision.--Any provision of an agreement

1 or waiver signed after the effective date of this section which  
2 violates any provision of this act shall be severed from the  
3 remainder of the agreement. The severed provision shall be void  
4 and unenforceable.

5 Section 4. Effective date.

6 This act shall take effect in 60 days.