

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 849 Session of 2019

INTRODUCED BY KLUNK, CEPHAS, TOEPEL, OBERLANDER, KRUEGER, SAPPEY, HILL-EVANS, KINSEY, ROTHMAN, KIRKLAND, DELOZIER, SOLOMON, FREEMAN, DONATUCCI, BULLOCK, SCHLOSSBERG, FRANKEL, MURT, RYAN, STEPHENS, MEHAFFIE, ECKER, DEASY, MULLINS, MOUL AND GILLEN, MARCH 14, 2019

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 4, 2019

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 any  
19 employee or prospective employee, as a condition of employment,  
20 to sign an agreement or waiver that ~~does either of the~~ <--  
21 ~~following:~~

22 ~~(1) Prohibits~~ PROHIBITS, prevents or otherwise restricts <--  
23 the employee or prospective employee from opposing,  
24 disclosing, reporting or participating in an investigation of  
25 sexual harassment.

26 ~~(2) Except as otherwise permitted by Federal or State~~ <--  
27 ~~law, purports to waive a substantive or procedural right or~~  
28 ~~remedy available to the employee with respect to a claim of~~  
29 ~~sexual harassment.~~

30 (b) Voluntary agreements.--Nothing in subsection (a) shall

1 be construed to prohibit an employer, employee or prospective  
2 employee from: <--

3 ~~(1) Voluntarily entering into an agreement or waiver~~  
4 ~~prohibited involuntarily under subsection (a).~~

5 ~~(2) Voluntarily~~ VOLUNTARILY entering into a settlement <--  
6 agreement with a nondisclosure provision agreed to by each  
7 party as part of the settlement of a SEXUAL HARASSMENT CLAIM, <--  
8 complaint or proceeding.

9 ~~(c) Settlement agreements. An agreement to settle a claim~~ <--  
10 ~~of sexual harassment may not contain terms which prohibit,~~  
11 ~~prevent or otherwise restrict the employee from working for the~~  
12 ~~employer or any parent company, subsidiary, division or~~  
13 ~~affiliate of the employer.~~

14 ~~(d)~~ (C) Void ~~agreements~~ AGREEMENT PROVISION.--Any provision <--  
15 of an agreement or waiver signed after the effective date of  
16 this section which violates any provision of this act shall be  
17 SEVERED FROM THE REMAINDER OF THE AGREEMENT. THE SEVERED <--  
18 PROVISION SHALL BE void and unenforceable.

19 ~~Section 4. This act shall take effect in 60 days.~~ <--  
20 SECTION 4. EFFECTIVE DATE. <--

21 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.