LC004591

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

AN ACT

RELATING TO LABOR AND LABOR RELATIONS -- NONDISCLOSURE AGREEMENT

Introduced By: Senator James C. Sheehan

Date Introduced: February 25, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1	SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR RELATIONS"
2	is hereby amended by adding thereto the following chapter:
3	CHAPTER 60
4	NONDISCLOSURE AGREEMENTS
5	28-60-1. Definitions.
6	When used in this chapter:
7	(1) "Nondisclosure agreement" means a confidentiality agreement or a provision within a
8	confidentiality agreement, settlement agreement, contract, waiver, or other document that prohibits
9	the disclosure of factual information related to a claim by a party to the agreement.
10	(2) "Respondent" means the party entering into the settlement, agreement, or contract
11	related to the claim with the complainant.
12	28-60-2. Nondisclosure prohibitions.
13	A nondisclosure agreement that prevents the disclosure of information related to a claim is
14	hereby prohibited in any settlement, agreement, or contract when the information for the claim
15	establishes a cause of action for any of the following:
16	(1) An act of sexual harassment in violation of chapter 5 of title 28.
17	(2) An act of sexual assault as defined in chapter 37 of title 11.
18	(3) An act of stalking as defined in chapter 59 of title 11.
19	(4) An act of retaliation against a person for reporting any of the acts referenced in

tions (a)(1) through (a)(3) of this section.
28-60-3. Mandatory nondisclosure language.
An agreement to settle a sexual harassment, sexual assault, stalking or retaliation claim
xpressly state that:
(1) It does not prohibit, prevent, or otherwise restrict the individual who made the claim
oing any of the following:
(i) Pursuing a cause of action or complaint arising under local, state or federal laws; or
(ii) Testifying, assisting, or participating in any manner with an investigation, proceeding
ring related to a claim of sexual harassment.
28-60-4. Permissible nondisclosure agreement language.
Notwithstanding § 28-60-2, a provision that prevents the disclosure of information related
claim may be included within the settlement agreement upon the explicit, unilateral un-
d consent of the complainant and will not render the provision void. Despite a complainant's
t pursuant to this section, a nondisclosure agreement is prohibited when the person accused
referred to in § 28-60-2(a)(1) through (a)(3) has been the subject of any other complaint of
harassment known, or that should have been known, to the employer.
28-60-5. Permissible post-nondisclosure agreement actions.
(a) At any time after the execution of the settlement, agreement, or contract. The
ainant shall have the unilateral right to elect to disclose the information related to the claim
e previously having consented to its nondisclosure, pursuant to § 28-60-4. The election shall
sult in the respondent receiving an amount in excess of the amount originally paid to
ainant under the nondisclosure agreement.
(b) If the complainant elects to disclose the information related to the claim pursuant to
tion (a) of this section, the respondent is no longer bound by any nondisclosure provision
usly included at the request of the complainant.
(c) This chapter does not prohibit the entry or enforcement of a provision in any settlement,
nent, or contract that precludes the disclosure of the amount paid in a settlement of a claim.
28-60-6. Inapplicability.
This chapter does not apply to the disclosure of a crime victim's medical or personal
ying information or other information that is specifically protected from disclosure by law.
28-60-7. Remedies.
Any person claiming to be aggrieved by a violation of this chapter may commence a civil

- 1 plaintiff is entitled to an award of reasonable attorneys' fees and costs.
- 2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO LABOR AND LABOR RELATIONS -- NONDISCLOSURE AGREEMENT

This act would define nondisclosure agreement and identify mandatory and permissible nondisclosure agreement language.

This act would take effect upon passage.

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