

By: Watson

S.B. No. 589

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of certain required nondisclosure and arbitration agreements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 21, Labor Code, is amended by adding Section 21.0605 to read as follows:

Sec. 21.0605. REQUIRING NONDISCLOSURE OR ARBITRATION AGREEMENT. An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, harasses, or in any other manner discriminates against an individual in connection with compensation, terms, conditions, or privileges of employment because the individual refuses to sign an agreement prohibited under Chapter 25.

SECTION 2. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 25 to read as follows:

CHAPTER 25. CERTAIN NONDISCLOSURE AND ARBITRATION AGREEMENTS
PROHIBITED

Sec. 25.001. DEFINITIONS. For the purposes of this chapter:

(1) "Sexual assault" means conduct described by Section 22.011 or 22.021, Penal Code.

(2) "Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1 (A) submission to the advance, request, or
2 conduct is made a term or condition of an individual's employment,
3 either explicitly or implicitly;

4 (B) submission to or rejection of the advance,
5 request, or conduct by an individual is used as the basis for an
6 employment decision;

7 (C) the advance, request, or conduct has the
8 purpose or effect of unreasonably interfering with an individual's
9 work performance; or

10 (D) the advance, request, or conduct has the
11 purpose or effect of creating an intimidating, hostile, or
12 offensive working environment.

13 Sec. 25.002. CERTAIN AGREEMENTS PROHIBITING REPORTING OR
14 DISCLOSURE OF SEXUAL ASSAULT OR SEXUAL HARASSMENT VOID AND
15 UNENFORCEABLE. A nondisclosure or confidentiality agreement or
16 other agreement between an employer and an employee is void and
17 unenforceable as against the public policy of this state to the
18 extent the agreement:

19 (1) prohibits the employee from notifying, or limits
20 the employee's ability to notify, a local or state law enforcement
21 agency or any state or federal regulatory agency of sexual assault
22 or sexual harassment committed by an employee of the employer or at
23 the employee's place of employment; or

24 (2) prohibits an employee from disclosing to any
25 person, including during any related investigation, prosecution,
26 legal proceeding, or dispute resolution, facts surrounding any
27 sexual assault or sexual harassment committed by an employee of the

1 employer or at the employee's place of employment, including the
2 identity of the alleged offender.

3 Sec. 25.003. MANDATORY ARBITRATION AGREEMENT COVERING
4 DISPUTE INVOLVING ALLEGATION OF SEXUAL ASSAULT OR SEXUAL HARASSMENT
5 VOID AND UNENFORCEABLE. A mandatory arbitration agreement between
6 an employer and an employee is void and unenforceable as against the
7 public policy of this state to the extent the agreement imposes
8 mandatory arbitration of a dispute involving an allegation of
9 sexual assault or sexual harassment.

10 Sec. 25.004. CIVIL SETTLEMENT AGREEMENTS. (a) This
11 section applies to a settlement agreement related to a claim filed
12 in a civil action or a complaint filed in an administrative action
13 involving sexual assault or sexual harassment committed by an
14 employee of the employer or at the employee's place of employment.

15 (b) This chapter does not prohibit a settlement agreement to
16 which this section applies that contains a provision that prevents
17 the disclosure of factual information related to the claim or
18 complaint.

19 SECTION 3. (a) Section 21.0605, Labor Code, as added by
20 this Act, applies only to an unlawful employment practice that
21 occurs on or after the effective date of this Act.

22 (b) Sections 25.002 and 25.003, Labor Code, as added by this
23 Act, apply to an agreement entered into before, on, or after the
24 effective date of this Act.

25 SECTION 4. This Act takes effect September 1, 2019.