

By: Menéndez

S.B. No. 2515

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain employment agreements relating to sexual harassment and to settlement agreements regarding a claim of sexual harassment.

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

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 25 to read as follows:

CHAPTER 25. AGREEMENTS RELATING TO SEXUAL HARASSMENT

Sec. 25.001. DEFINITIONS. In this chapter:

(1) "Employer" means a person who provides compensation to workers for the performance of work or a service or otherwise enters into an agreement with workers for the performance of work or a service.

(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:

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

(B) submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting employment or performance of work or a service;

(C) the advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's

1 work performance; or

2 (D) the advance, request, or conduct has the  
3 purpose or effect of creating an intimidating, hostile, or  
4 offensive working environment.

5 (3) "Worker" means a person who is hired or otherwise  
6 agrees to perform work or a service for an employer, with or without  
7 compensation. The term includes an employee or other person who  
8 performs work or a service as an independent contractor, unpaid  
9 intern, or volunteer.

10 Sec. 25.002. WAIVER OF RIGHTS. An employer may not require  
11 a worker or prospective worker as a condition of employment or of an  
12 agreement for performance of work or a service to waive any  
13 substantive or procedural right or remedy with respect to a claim of  
14 sexual harassment.

15 Sec. 25.003. NONDISCLOSURE AGREEMENT. An employer may not  
16 require a worker or prospective worker as a condition of employment  
17 or of an agreement for performance of work or a service to enter  
18 into any confidentiality or nondisclosure agreement to the extent  
19 that the agreement:

20 (1) prohibits the worker from notifying, or limits the  
21 worker's ability to notify, a local or state law enforcement agency  
22 or any state or federal regulatory agency of an incident of sexual  
23 harassment; or

24 (2) prohibits the worker from:

25 (A) participating in an investigation of an  
26 incident of sexual harassment; or

27 (B) disclosing to any person, including during

1 any related investigation, prosecution, legal proceeding, or  
2 dispute resolution, facts surrounding any incident of sexual  
3 harassment.

4 Sec. 25.004. MANDATORY ARBITRATION AGREEMENT. An employer  
5 may not require a worker or prospective worker as a condition of  
6 employment or of an agreement for the performance of work or a  
7 service to enter into any mandatory arbitration agreement to the  
8 extent that the agreement imposes mandatory arbitration of a  
9 dispute involving an allegation of sexual harassment.

10 Sec. 25.005. VOID AND UNENFORCEABLE. (a) An agreement  
11 described by Section 25.002, 25.003, or 25.004 is void and  
12 unenforceable as against the public policy of this state.

13 (b) Any provision of a workplace document, including an  
14 employee handbook, an offer of employment, or other agreement, that  
15 violates Section 25.002, 25.003, or 25.004 is void and  
16 unenforceable as against the public policy of this state.

17 Sec. 25.006. SETTLEMENT AGREEMENTS. (a) This section  
18 applies to a settlement agreement related to a claim filed in a  
19 civil action or a complaint filed in an administrative action  
20 involving an incident of sexual harassment.

21 (b) A settlement agreement described by this section:

22 (1) must clearly describe the circumstances under  
23 which the claimant may disclose information regarding the  
24 allegations or settlement; and

25 (2) may not prohibit the claimant from the performance  
26 of work or a service for the employer or any parent company,  
27 subsidiary, division, or affiliate of the employer.

1           SECTION 2. (a) Sections 25.002, 25.003, 22.004, and  
2 22.005, Labor Code, as added by this Act, apply to an agreement,  
3 regardless of whether the agreement was entered into before, on, or  
4 after the effective date of this Act.

5           (b) Section 25.006, Labor Code, as added by this Act,  
6 applies only to a settlement agreement entered into on or after the  
7 effective date of this Act.

8           SECTION 3. This Act takes effect September 1, 2019.