

By: Eckhardt

S.B. No. 209

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 OF
14 SEXUAL ASSAULT OR SEXUAL HARASSMENT VOID AND UNENFORCEABLE. A
15 nondisclosure or confidentiality agreement or other agreement
16 between an employer and an employee is void and unenforceable as
17 against the public policy of this state to the extent the agreement
18 prohibits the employee from notifying, or limits the employee's
19 ability to notify, a local or state law enforcement agency or any
20 state or federal regulatory agency of sexual assault or sexual
21 harassment committed:

22 (1) by an employee of the employer; or

23 (2) at the employee's place of employment.

24 Sec. 25.003. MANDATORY ARBITRATION AGREEMENT COVERING
25 DISPUTE INVOLVING ALLEGATION OF SEXUAL ASSAULT OR SEXUAL HARASSMENT
26 VOID AND UNENFORCEABLE. A mandatory arbitration agreement between
27 an employer and an employee is void and unenforceable as against the

1 public policy of this state to the extent the agreement imposes
2 mandatory arbitration of a dispute involving an allegation of
3 sexual assault or sexual harassment.

4 SECTION 3. (a) The change in law made by this Act by the
5 enactment of Section 21.0605, Labor Code, applies only to an
6 unlawful employment practice that occurs on or after the effective
7 date of this Act.

8 (b) The change in law made by this Act by the enactment of
9 Chapter 25, Labor Code, applies to an agreement entered into
10 before, on, or after the effective date of this Act.

11 SECTION 4. This Act takes effect September 1, 2021.