

BILL ANALYSIS

H.B. 4309
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International Relations & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In recent years, survivors have come forward with their stories on sexual assault and sexual harassment in the workplace. However, many survivors with critical information for law enforcement are legally forbidden from disclosing what they know due to certain provisions in nondisclosure agreements. A nondisclosure agreement, also known as a confidentiality agreement, is a contract by which parties agree not to disclose certain information that they have shared with each other. Although these types of agreements are often used to protect trade secrets or company practices, they have been misused in recent years to hide sexual harassment or sexual assault occurring in organizations. Nondisclosure agreements with these provisions may make it more difficult for survivors to come forward and file charges against a perpetrator. H.B. 4309 seeks to reduce inappropriate uses of certain provisions in nondisclosure agreements by voiding provisions that prohibit or limit the employee's ability to notify law enforcement or any regulatory agency of sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 4309 amends the Labor Code to make any provision of a nondisclosure or confidentiality agreement or other agreement between an employer and an employee void and unenforceable as against the public policy of the state if the provision does the following:

- prohibits the employee from notifying, or limits the employee's ability to notify, a local or state law enforcement agency or any state or federal regulatory agency of sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment; or
- prohibits an employee from disclosing to any person, including during any related investigation, prosecution, legal proceeding, or dispute resolution, facts surrounding any sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment, including the identity of the alleged offender.

H.B. 4309 exempts a negotiated settlement agreement or administrative action from the applicability of its provisions. The bill's provisions apply to an agreement entered into before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.