

By: Neave Criado, Button

H.B. No. 4309

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain nondisclosure or confidentiality provisions in employment agreements.

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. CERTAIN NONDISCLOSURE OR CONFIDENTIALITY PROVISIONS
PROHIBITED IN EMPLOYMENT AGREEMENTS

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:

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

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

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

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

4 Sec. 25.002. PROVISIONS OF CERTAIN AGREEMENTS PROHIBITING
5 REPORTING OR DISCLOSURE OF SEXUAL ASSAULT OR SEXUAL HARASSMENT VOID
6 AND UNENFORCEABLE. Any provision of a nondisclosure or
7 confidentiality agreement or other agreement between an employer
8 and an employee is void and unenforceable as against the public
9 policy of this state if the provision:

10 (1) prohibits the employee from notifying, or limits
11 the employee's ability to notify, a local or state law enforcement
12 agency or any state or federal regulatory agency of sexual assault
13 or sexual harassment committed by an employee of the employer or at
14 the employee's place of employment; or

15 (2) prohibits an employee from disclosing to any
16 person, including during any related investigation, prosecution,
17 legal proceeding, or dispute resolution, facts surrounding any
18 sexual assault or sexual harassment committed by an employee of the
19 employer or at the employee's place of employment, including the
20 identity of the alleged offender.

21 Sec. 25.003. APPLICABILITY. This chapter does not apply to
22 a negotiated settlement agreement or administrative action.

23 SECTION 2. The change in law made by this Act applies to an
24 agreement entered into before, on, or after the effective date of
25 this Act.

26 SECTION 3. This Act takes effect September 1, 2023.