

BILL ANALYSIS

S.B. 835
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, there is no state law prohibiting perpetrators or institutions involved with child sexual abuse from creating and engaging the victim in nondisclosure agreements (NDA) as a part of a lawsuit settlement. Victims who sign NDAs, including Trey Carlock, who experienced severe mental health problems after enduring years of sexual abuse and was coerced into signing an NDA, are further prohibited from speaking out about their abuse or discovery in a settled case. His family cites the pressure to remain silent about the abuse and its effects because of the NDA as the main factor in his decision to end his life. While the federal Speak Out Act of 2022 prohibits the use of NDAs for adult cases of sexual harassment and assault in the workplace, those who experienced continual sexual abuse as children are still at risk of being silenced by NDAs. S.B. 835, cited as Trey's Law, seeks to prevent a person, including a party, liable for the sexual abuse of a child from applying a nondisclosure or confidentiality agreement or a nondisclosure or confidentiality provision of any other agreement to a settlement of any case by deeming void and unenforceable certain related provisions of any agreement that prohibit a party from disclosing an act of sexual abuse, including certain acts committed against a child, or facts related to such an act of sexual abuse to any other person.

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

S.B. 835 amends the Civil Practice and Remedies Code to establish that any provision of a nondisclosure or confidentiality agreement or nondisclosure or confidentiality provision of an employment agreement, settlement agreement, or any other agreement is void and unenforceable as against the public policy of the state to the extent the provision prohibits a person, including a party, from disclosing an act of sexual abuse or facts related to an act of sexual abuse to any other person. The bill establishes that nothing in its provisions may be construed to prohibit a person, including a party, from agreeing to keep confidential any other provision of a settlement agreement, including the amount or payment terms of a settlement.

S.B. 835 defines "act of sexual abuse" as follows:

- conduct that constitutes "abuse" under Family Code provisions relating to investigations of reports of child abuse or neglect, including an act or omission by a person involving:
 - sexual conduct harmful to a child's mental, emotional, or physical welfare;
 - failure to make a reasonable effort to prevent sexual conduct harmful to a child;

- compelling or encouraging the child to engage in sexual conduct as defined by Penal Code provisions relating to prostitution offenses;
- causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene, as defined by applicable Penal Code provisions, or pornographic;
- causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by applicable Penal Code provisions; or
- knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under applicable state law or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under that law; or
- conduct that constitutes one or more of the following Penal Code offenses:
 - indecency with a child;
 - sexual assault;
 - aggravated sexual assault;
 - sexual performance by a child;
 - compelling prostitution; or
 - a trafficking of persons offense involving an actor who knowingly:
 - traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in certain prostitution offenses;
 - traffics a child or disabled individual and by any means causes the trafficked child or disabled individual to engage in, or become the victim of, certain offenses; or
 - receives a benefit from participating in a venture that involves either of those activities or engages in sexual conduct with a child, disabled individual, or other person so trafficked.

S.B. 835 applies to an agreement entered into before, on, or after the bill's effective date. The bill prohibits a person, including a party, from enforcing or attempting to enforce an agreement or a provision of an agreement under the bill's provisions entered into before the bill's effective date unless the person obtains a declaratory judgment that is final and not subject to appeal and declares that the agreement or provision is enforceable.

EFFECTIVE DATE

September 1, 2025.