

HOUSE BILL 21

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO EMPLOYMENT LAW; PROVIDING THAT NONDISCLOSURE AGREEMENTS IN SEXUAL HARASSMENT HLVMC→~~OR SEXUAL ASSAULT~~←HLVMC HLVMC→, **DISCRIMINATION OR RETALIATION**←HLVMC CASES ARE UNENFORCEABLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] WORKPLACE SEXUAL HARASSMENT HLVMC→, **DISCRIMINATION**←HLVMC AND HLVMC→~~SEXUAL ASSAULT~~←HLVMC HLVMC→**RETALIATION**←HLVMC CLAIMS--NONDISCLOSURE AGREEMENTS AND CERTAIN ACTIONS PROHIBITED.--

.215855.1AIC February 5, 2020 (4:45pm)

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A. HJC→An←HJC HJC→A private←HJC employer shall not, as a term of employment, require an employee to sign a nondisclosure provision of a settlement agreement relating to a claim of sexual harassment HLVMC→~~or sexual assault~~←HLVMC HLVMC→, **discrimination or retaliation**←HLVMC in the workplace brought by the employee or prevent the employee from disclosing a claim of sexual harassment HLVMC→~~or sexual assault~~←HLVMC HLVMC→, **discrimination or retaliation**←HLVMC occurring in the workplace or at a work-related event coordinated by or through the employer.

B. This section does not prohibit a settlement agreement between an employee or former employee alleging sexual harassment HLVMC→~~or sexual assault~~←HLVMC HLVMC→, **discrimination or retaliation**←HLVMC from containing confidentiality provisions. A confidentiality provision is permitted when:

(1) it relates to the monetary amount of a settlement; or

(2) at the employee's request, it prohibits disclosure of facts that could lead to the identification of the employee.

~~HJC→HLVMC→C. At the sole request of the employee and notwithstanding any other provisions of law, a settlement agreement subject to this section may contain a confidentiality provision that prevents the disclosure of factual information~~

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~~related to the underlying sexual harassment, discrimination or retaliation claim.~~

~~D. Except as provided in Subsection C of this section, a confidentiality provision in a settlement agreement subject to this section is void and unenforceable as a matter of law. ←HLVMC←HJC~~

HJC→C. At the sole request of the employee, a settlement agreement subject to this section may contain a confidentiality provision that prevents the disclosure of factual information related to the underlying sexual harassment, discrimination or retaliation claim. The provisions of this subsection shall not be construed to prevent disclosure of information that is the subject of the confidentiality provision if disclosure is required to be made in a judicial, administrative or other governmental proceeding pursuant to a valid subpoena or other applicable order as otherwise required by law.

D. Except as provided in Subsections B and C of this section, a confidentiality provision in a settlement agreement subject to this section is void and unenforceable as a matter of law. ←HJC

SECTION 2. APPLICABILITY.--The provisions of this act apply to agreements entered into HLVMC→between a private employer and an employee or former employee←HLVMC on or after May 20, 2020.