

1                                   A bill to be entitled  
 2           An act relating to nondisclosure and settlement  
 3           agreements; amending s. 448.102, F.S.; providing  
 4           definitions; prohibiting certain nondisclosure  
 5           agreements as a condition of employment; providing  
 6           that a nondisclosure agreement that prevents the  
 7           disclosure of sexual harassment or sexual activity  
 8           under certain conditions is void and unenforceable;  
 9           prohibiting retaliatory action against an employee for  
 10          such disclosure; specifying a cause of action;  
 11          authorizing damages; providing a statute of  
 12          limitations; providing restrictions on settlement  
 13          agreements that involve a claim for certain sexual  
 14          harassment or sexual activity; providing an effective  
 15          date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19           Section 1. Section 448.102, Florida Statutes, is amended  
 20 to read:

21           448.102 Prohibitions.—

22           (1) RETALIATORY PERSONNEL ACTION.—An employer may not take  
 23 any retaliatory personnel action against an employee because the  
 24 employee has:

25           (a)~~(1)~~ Disclosed, or threatened to disclose, to any

26 appropriate governmental agency, under oath, in writing, an  
27 activity, policy, or practice of the employer that is in  
28 violation of a law, rule, or regulation. However, this paragraph  
29 ~~subsection~~ does not apply unless the employee has, in writing,  
30 brought the activity, policy, or practice to the attention of a  
31 supervisor or the employer and has afforded the employer a  
32 reasonable opportunity to correct the activity, policy, or  
33 practice.

34 (b) ~~(2)~~ Provided information to, or testified before, any  
35 appropriate governmental agency, person, or entity conducting an  
36 investigation, hearing, or inquiry into an alleged violation of  
37 a law, rule, or regulation by the employer.

38 (c) ~~(3)~~ Objected to, or refused to participate in, any  
39 activity, policy, or practice of the employer which is in  
40 violation of a law, rule, or regulation.

41 (2) NONDISCLOSURE AND SETTLEMENT AGREEMENTS.—

42 (a) As used in this subsection, the term:

43 1. "Employer" means any private individual, firm,  
44 partnership, institution, corporation, or association that  
45 employs individuals for salary, wages, or other remuneration.

46 2. "Occurring in the workplace" means any place where one  
47 or more persons engages in work as defined by s. 386.203,  
48 including work-related events coordinated by or through the  
49 employer.

50 3. "Sexual activity" has the same meaning as in s.

51 393.135.

52 4. "Sexual harassment" means unwelcome sexual advances,  
53 requests for sexual favors, sexually motivated physical contact,  
54 or other verbal or physical conduct or communication of a sexual  
55 nature if:

56 a. Submission to such conduct or communication is made a  
57 term or condition, either explicitly or implicitly, of obtaining  
58 employment.

59 b. Submission to or rejection of such conduct or  
60 communication by an individual is used as a factor in decisions  
61 affecting the employment of that individual; or

62 c. Such conduct or communication has the purpose or effect  
63 of substantially interfering with an individual's work  
64 performance, or of creating an intimidating, hostile, or  
65 offensive work environment.

66 (b) An employer may not require an employee, as a  
67 condition of employment, to enter into a nondisclosure  
68 agreement, waiver, or other document that prevents the employee  
69 from disclosing or discussing sexual harassment or sexual  
70 activity occurring in the workplace between employees, between  
71 an employer and an employee, or between an employer or employee  
72 and a third party.

73 (c) A nondisclosure agreement, waiver, or other document  
74 entered into by an employee as a condition of employment that  
75 has the purpose or effect of preventing the employee from

76 disclosing or discussing sexual harassment or sexual activity  
77 occurring in the workplace between employees, between an  
78 employer and an employee, or between an employer or employee and  
79 a third party is against public policy and is void and  
80 unenforceable.

81 (d) An employer may not take any retaliatory action,  
82 including, but not limited to, discharge, suspension, demotion,  
83 discrimination in the terms, conditions, or privileges of  
84 employment, or other adverse action, against an employee for  
85 disclosing or discussing sexual harassment or sexual activity  
86 occurring in the workplace between employees, between an  
87 employer and an employee, or between an employer or employee and  
88 a third party.

89 (e) A person aggrieved of a violation of this subsection  
90 may, within 3 years after the violation, bring an action in a  
91 court of competent jurisdiction for compensatory damages,  
92 injunctive relief, and reasonable court costs and attorney fees.  
93 The rights and remedies provided in this subsection shall not be  
94 exclusive and shall not preempt other procedures and remedies  
95 available under other applicable laws.

96 (f) A settlement agreement involving a claim for sexual  
97 harassment or sexual activity occurring in the workplace between  
98 employees, between an employer and an employee, or between an  
99 employer or employee and a third party may not prohibit the  
100 employee from disclosing or discussing the events giving rise to

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101 | the claim.

102 |       Section 2. This act shall take effect July 1, 2018.