



Sen. John Connor

Filed: 5/12/2021

10200HB3418sam001

LRB102 11388 JLS 26418 a

1 AMENDMENT TO HOUSE BILL 3418

2 AMENDMENT NO. _____. Amend House Bill 3418 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workplace Transparency Act is amended by
5 changing Section 1-30 as follows:

6 (820 ILCS 96/1-30)

7 Sec. 1-30. Settlement or termination agreements.

8 (a) An employer may not require a potential, current, or
9 former employee to sign a nondisclosure provision of a
10 settlement agreement relating to a claim of sexual harassment
11 or sexual assault in the workplace brought by the employee or
12 prevent the employee from disclosing a claim of sexual
13 harassment or sexual assault occurring in the workplace or at
14 a work-related event coordinated by or through the employer.

15 (a-5) This Section does not prohibit a settlement
16 agreement relating to a claim alleging sexual harassment or

1 sexual assault in the workplace between an employer and an
2 employee or former employee from containing confidentiality
3 provisions as provided in this subsection. A confidentiality
4 provision is permissible when:

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

6 or

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

10 (a-10) Except as prohibited under subsections (a) and
11 (a-5), an ~~An~~ employee, prospective employee, or former
12 employee and an employer may enter into a valid and
13 enforceable settlement or termination agreement that includes
14 promises of confidentiality related to alleged unlawful
15 employment practices, so long as:

16 (1) confidentiality is the documented preference of
17 the employee, prospective employee, or former employee and
18 is mutually beneficial to both parties;

19 (2) the employer notifies the employee, prospective
20 employee, or former employee, in writing, of his or her
21 right to have an attorney or representative of his or her
22 choice review the settlement or termination agreement
23 before it is executed;

24 (3) there is valid, bargained for consideration in
25 exchange for the confidentiality;

26 (4) the settlement or termination agreement does not

1 waive any claims of unlawful employment practices that
2 accrue after the date of execution of the settlement or
3 termination agreement;

4 (5) the settlement or termination agreement is
5 provided, in writing, to the parties to the prospective
6 agreement and the employee, prospective employee, or
7 former employee is given a period of 21 calendar days to
8 consider the agreement before execution, during which the
9 employee, prospective employee, or former employee may
10 sign the agreement at any time, knowingly and voluntarily
11 waiving any further time for consideration; and

12 (6) unless knowingly and voluntarily waived by the
13 employee, prospective employee, or former employee, he or
14 she has 7 calendar days following the execution of the
15 agreement to revoke the agreement and the agreement is not
16 effective or enforceable until the revocation period has
17 expired.

18 (b) An employer may not unilaterally include any clause in
19 a settlement or termination agreement that prohibits the
20 employee, prospective employee, or former employee from making
21 truthful statements or disclosures regarding unlawful
22 employment practices.

23 (c) Failure to comply with the provisions of this Section
24 shall render any promise of confidentiality related to alleged
25 unlawful employment practices against public policy void and
26 severable from an otherwise valid and enforceable agreement.

1 (d) Nothing in this Section shall be construed to prevent
2 a mutually agreed upon settlement or termination agreement
3 from waiving or releasing the employee, prospective employee,
4 or former employee's right to seek or obtain any remedies
5 relating to an unlawful employment practice claim that
6 occurred before the date on which the agreement is executed.

7 (e) The provisions of this amendatory Act of the 102nd
8 General Assembly apply to agreements entered into on or after
9 the effective date of this amendatory Act of the 102nd General
10 Assembly.

11 (Source: P.A. 101-221, eff. 1-1-20.)".