




  
Chairman Phil Mendelson

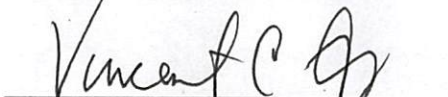
  
Councilmember Charles Allen

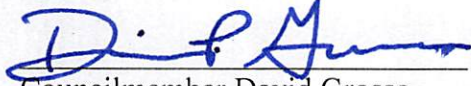
  
Councilmember Elissa Silverman


  
Councilmember Anita Bonds

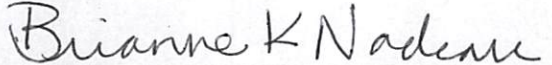
  
Councilmember Mary M. Cheh


  
Councilmember Jack Evans


  
Councilmember Vincent C. Gray


  
Councilmember David Grosso

  
Councilmember Kenyan R. McDuffie

  
Councilmember Brianne K. Nadeau

  
Councilmember Brandon T. Todd

  
Councilmember Robert C. White, Jr.

  
Councilmember Trayon White, Sr.

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To prohibit nondisclosure agreements, waivers, or other documents from preventing the disclosure of factual information related to claims alleging certain sexual offenses, sexual harassment, or discrimination; to prohibit employers from requiring employees, as a condition of their employment, to enter into nondisclosure agreements, waivers, or other documents that prevent them from disclosing factual information related to claims alleging such misconduct; to prohibit retaliation; to provide remedies; and to require the Mayor and the Office of the Attorney General to submit an annual report to the Council regarding payments made with public funds for awards and settlements in connection with claims of such misconduct.

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48 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

49 act may be cited as the "Sexual Misconduct Sunshine Amendment Act of 2019".

50 Sec. 2. Definitions.

51 (1) "Employer" means any person who employs or seeks to employ one or more individuals  
52 for a position in the District. The term "employer" includes any person acting in the interest of the  
53 person, directly or indirectly.

54 (2) "Employee" means any individual employed by or seeking employment from an  
55 employer, including independent contractors, volunteers, and interns.

56 (3) "Sexual harassment" means sexual harassment, as defined in Mayor's Order 2017-313.

57 (4) "Sexual offense" means any of the following offenses: §§ 22-3002 (first degree sexual  
58 abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005  
59 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3009.03 (first degree  
60 sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a  
61 secondary education student); 22-3013 (first degree sexual abuse of a ward, patient, client, or  
62 prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015  
63 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient  
64 or client); or 22-3018 (attempts to commit sexual offenses).

65 Sec. 3. Prohibitions.

66 (a) Unless entered into at the claimant's request, a nondisclosure agreement, waiver, or  
67 other document is void and unenforceable if it prevents the disclosure of factual information related  
68 to a claim alleging any of the following types of misconduct:

69 (1) A sexual offense;

70 (2) An act of sexual harassment;

71 (3) An act of discrimination in violation of the Human Rights Act of 1977, effective  
72 December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*).

73 (b) It shall be unlawful to require an employee, as a condition of employment, to enter into  
74 a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing  
75 factual information related to any claim alleging the misconduct listed under subsection (a) of this  
76 section.

77 (c) It shall be unlawful to coerce, threaten, retaliate against, or interfere with any person in  
78 the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having  
79 aided or encouraged any other person in the exercise or enjoyment of any right granted or protected  
80 under subsections (a) or (b).

81 (d) Notwithstanding any other law, this act does not restrict the entry into or enforcement  
82 of a provision in a nondisclosure agreement, waiver, or other document agreement that prohibits:

83 (1) The disclosure of the amount paid in the settlement of a claim; or

84 (2) Only at the claimant's election, disclosure of:

85 (A) Personally-identifiable information about the parties to the settlement  
86 agreement; or

87 (B) Information revealing the nature of the relationship between the parties.

88 Sec. 4. Enforcement.

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

94           Sec. 5. Reporting.

95           By October 1, 2019, and annually thereafter, the Mayor and the Office of the Attorney  
96 General shall jointly submit a report to the Council describing all payments that are made with  
97 public funds for awards and settlements in connection with a claim of misconduct described in  
98 subsection (a) of section 3 of this act.

99           Sec. 6. Fiscal impact statement.

100           The Council adopts the fiscal impact statement in the committee report as the fiscal impact  
101 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
102 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

103           Sec. 7. Effective date.

104           This act shall take effect following approval by the Mayor (or in the event of veto by the  
105 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
106 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
107 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
108 Columbia Register.