

ASSEMBLY BILL NO. 248—ASSEMBLYMEN FRIERSON, MONROE-MORENO, FLORES; JAUREGUI, NEAL, SPRINKLE, SWANK AND THOMPSON

MARCH 12, 2019

Referred to Committee on Judiciary

SUMMARY—Prohibits a settlement agreement from containing provisions that prohibit or restrict a party from disclosing certain information. (BDR 2-1004)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to settlement agreements; prohibiting settlement agreements from containing provisions that prohibit or restrict a party from disclosing certain information relating to conduct that would qualify as a sexual offense under certain circumstances or discrimination on the basis of sex or a retaliation claim thereof; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill prohibits a settlement agreement from containing provisions that prohibit or restrict a party from disclosing certain information relating to a civil or administrative action, if such an action relates to conduct that would otherwise qualify as a sexual offense punishable as a felony under certain circumstances, discrimination on the basis of sex by an employer or a landlord or an act of retaliation by such an employer or a landlord for a claim of discrimination thereof. This bill makes any such provision void and unenforceable if it is contained within a settlement agreement entered into on or after July 1, 2019. This bill also prohibits a court from entering any order that prohibits or restricts the disclosure of such factual information.

This bill authorizes a claimant to request a provision within such a settlement agreement that shields his or her identity from public disclosure. If such a request is made, this bill requires the settlement agreement to contain a provision concerning the claimant's anonymity. This bill does not prohibit a settlement agreement from containing provisions that prohibit a party from disclosing the settlement amount. This bill also does not prohibit a court from determining the factual basis of the civil action.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 10 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A settlement agreement must not contain a provision that prohibits or otherwise restricts a party from disclosing factual information relating to a claim in a civil or administrative action if the claim relates to any of the following:

(a) Conduct that if criminal liability were imposed would constitute a sexual offense pursuant to NRS 179D.097 and would be punishable as a felony, regardless of whether there was a criminal investigation, prosecution or conviction of such conduct;

(b) Discrimination on the basis of sex by an employer or a landlord; or

(c) Retaliation by an employer or a landlord against the claimant for his or her reporting of discrimination on the basis of sex.

2. If a settlement agreement is entered into on or after July 1, 2019, any provision in such an agreement that prohibits or otherwise restricts a party from disclosing factual information pursuant to subsection 1 is void and unenforceable.

3. A court shall not enter an order that prohibits or otherwise restricts the disclosure of factual information in a manner that conflicts with subsection 1.

4. Except as otherwise provided in subsection 5, upon the request of the claimant, the settlement agreement must contain a provision that prohibits the disclosure of:

(a) The identity of the claimant; and

(b) Any facts relating to the action that could lead to the disclosure of the identity of the claimant.

5. If a governmental agency or a public officer is a party to the settlement agreement pursuant to subsection 1, a claimant shall not request and the settlement agreement must not contain a provision pursuant to subsection 4.

6. Nothing in this section shall be construed to prohibit:

(a) A court from considering any pleading or other record to determine the factual basis of a civil claim pursuant to subsection 1; or

(b) An entry or enforcement of a provision in a settlement agreement pursuant to subsection 1 that prohibits disclosure by a party of the settlement amount.

7. As used in this section:



1 (a) *“Claimant” means a person who filed a claim in a civil*
2 *action or an administrative action pursuant to subsection 1.*

3 (b) *“Employer” has the meaning ascribed to it in NRS 33.220.*

4 (c) *“Landlord” means an owner of real property, or the*
5 *owner’s representative, who provides a dwelling unit on the real*
6 *property for occupancy by another for valuable consideration.*

7 **Sec. 2.** This act becomes effective on July 1, 2019.



