

1 subsections (a)(1) through (a)(3) of this section.

2 **28-60-3. Mandatory nondisclosure language.**

3 An agreement to settle a sexual harassment, sexual assault, stalking or retaliation claim
4 shall expressly state that:

5 (1) It does not prohibit, prevent, or otherwise restrict the individual who made the claim
6 from doing any of the following:

7 (i) Pursuing a cause of action or complaint arising under local, state or federal laws; or

8 (ii) Testifying, assisting, or participating in any manner with an investigation, proceeding
9 or hearing related to a claim of sexual harassment.

10 **28-60-4. Permissible nondisclosure agreement language.**

11 Notwithstanding § 28-60-2, a provision that prevents the disclosure of information related
12 to the claim may be included within the settlement agreement upon the explicit, unilateral un-
13 coerced consent of the complainant and will not render the provision void. Despite a complainant's
14 request pursuant to this section, a nondisclosure agreement is prohibited when the person accused
15 of acts referred to in § 28-60-2(a)(1) through (a)(3) has been the subject of any other complaint of
16 sexual harassment known, or that should have been known, to the employer.

17 **28-60-5. Permissible post-nondisclosure agreement actions.**

18 (a) At any time after the execution of the settlement, agreement, or contract. The
19 complainant shall have the unilateral right to elect to disclose the information related to the claim
20 despite previously having consented to its nondisclosure, pursuant to § 28-60-4. The election shall
21 not result in the respondent receiving an amount in excess of the amount originally paid to
22 complainant under the nondisclosure agreement.

23 (b) If the complainant elects to disclose the information related to the claim pursuant to
24 subsection (a) of this section, the respondent is no longer bound by any nondisclosure provision
25 previously included at the request of the complainant.

26 (c) This chapter does not prohibit the entry or enforcement of a provision in any settlement,
27 agreement, or contract that precludes the disclosure of the amount paid in a settlement of a claim.

28 **28-60-6. Inapplicability.**

29 This chapter does not apply to the disclosure of a crime victim's medical or personal
30 identifying information or other information that is specifically protected from disclosure by law.

31 **28-60-7. Remedies.**

32 Any person claiming to be aggrieved by a violation of this chapter may commence a civil
33 action for injunctive and equitable relief and for the award of compensatory and exemplary
34 damages within three (3) years after the cause of any such action shall have accrued. A prevailing

1 [plaintiff is entitled to an award of reasonable attorneys' fees and costs.](#)

2 SECTION 2. This act shall take effect upon passage.

=====
LC004591
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- NONDISCLOSURE AGREEMENT

- 1 This act would define nondisclosure agreement and identify mandatory and permissible
- 2 nondisclosure agreement language.
- 3 This act would take effect upon passage.

=====
LC004591
=====