

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY -
NONDISCLOSURE AGREEMENTS

Introduced By: Senators Sheehan, Crowley, Seveney, Satchell, and Nesselbush

Date Introduced: February 27, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 9 of the General Laws entitled "COURTS AND CIVIL PROCEDURE
2 - PROCEDURE GENERALLY" is hereby amended by adding thereto the following chapter:

3 CHAPTER 34

4 NONDISCLOSURE AGREEMENTS

5 **9-34-1. Definitions.**

6 As used in this chapter, the following words and terms shall have the following
7 meanings:

8 (1) "Claim" means an internal workplace complaint, potential civil action in a court of
9 competent jurisdiction, or a charge or complaint before the Rhode Island commission for human
10 rights related to sexual assault, sexual harassment, retaliation, or stalking.

11 (2) "Commission" means the Rhode Island commission for human rights.

12 (3) "Complainant" means an individual that has made an internal workplace complaint of
13 sexual harassment, sexual assault, retaliation or stalking, has reported a sexual assault to the
14 police, has filed a charge with the commission, or has made an allegation of sexual assault, sexual
15 harassment, retaliation, or stalking.

16 (4) "Factual information" means information and details that are related to a reported or
17 alleged incident or claim of sexual assault, sexual harassment, retaliation, stalking or the alleged
18 perpetrator thereof.

1 (5) "Nondisclosure agreement" means a provision within a confidentiality agreement,
2 settlement agreement, contract, waiver, or other document that prohibits the disclosure of factual
3 information related to a claim by a party to the agreement.

4 (6) "Perpetrator" means an individual who has sexually assaulted or harassed a
5 complainant or who has allegedly sexually assaulted or harassed the complainant.

6 (7) "Respondent" means the party entering into the settlement, agreement, or contract
7 related to the claim with the complainant.

8 (8) "Settlement" means any agreement where anything of value is given to the
9 complainant raising the claim in exchange for his or her decision to decline to pursue the claim.

10 **9-34-2. Limitations and enforcement.**

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

14 (b) Provided, however, that five (5) years after the execution of a settlement agreement, a
15 complainant may exercise the unilateral right, without penalty, to release any factual information
16 related to his or her claim, including the name of the alleged perpetrator.

17 (c) If the complainant elects to disclose the factual information related to the claim
18 pursuant to subsection (f) of this section, the respondent is no longer bound by any nondisclosure
19 provision.

20 (d) Any person claiming to be aggrieved by a violation of this chapter may initiate suit in
21 superior court. An action pursuant to this chapter shall be commenced within three (3) years after
22 the cause of any such action shall have accrued. All remedies available in common tort actions
23 shall be available to prevailing plaintiffs. A prevailing plaintiff shall be awarded reasonable
24 attorneys' fees and costs.

25 **9-34-3. Severability.**

26 If any provision of this chapter or the application of this chapter to any person or
27 circumstance is held invalid by any court of competent jurisdiction, the remainder of the chapter
28 and the application of the provision to other persons or circumstances shall not be affected. The
29 invalidity of any section or sections or parts of any section of this chapter shall not affect the
30 validity of the remainder of the chapter.

31 SECTION 2. This act shall take effect on January 1, 2020.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY -
NONDISCLOSURE AGREEMENTS

1 This act would place limits on the terms that can be included in an agreement that settles
2 a claim of sexual harassment, retaliation for reporting sexual harassment and stalking. It expressly
3 grants the complainant the right to disclose factual information relating to his or her claim, five
4 (5) years after the execution of the nondisclosure settlement agreement. If the complainant
5 discloses his or her factual information the respondent may no longer be bound by the
6 nondisclosure agreement.

7 This act would take effect on January 1, 2020.

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