

ASSEMBLY BILL NO. 248—ASSEMBLYMEN FRIERSON, MONROE-MORENO, FLORES; JAUREGUI, NEAL, 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 under certain circumstances. (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 under certain circumstances; 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



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civil action. This bill exempts a settlement agreement that results from successful mediation or conciliation by the Nevada Equal Rights Commission from the requirements of this bill under certain circumstances.

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:

Except as otherwise provided in NRS 233.190:

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



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

4 ***7. As used in this section:***

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

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

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

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

