



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2062

by Rep. Jennifer Gong-Gershowitz

SYNOPSIS AS INTRODUCED:

New Act
775 ILCS 5/6-102

Creates the Freedom to Disclose Act. Provides that an employer may not require an employee or prospective employee to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual violence occurring in the workplace, at work-related events coordinated by or through the employer, or between employees or an employer and employee off the employment premises. Provides that any such nondisclosure agreement is void. Provides that it is a violation of the Whistleblower Act and the Illinois Human Rights Act for an employer to discharge or otherwise retaliate against an employee for disclosing or discussing sexual harassment or sexual violence occurring in the workplace, at work-related events coordinated by or through the employer, or between employees or an employer and an employee off the employment premises. Provides that settlement agreements may contain nondisclosure provisions if specified requirements are met. Provides that an employer's ability to require confidentiality is not limited under certain circumstances. Makes corresponding changes in the Illinois Human Rights Act. Effective immediately.

LRB101 07133 LNS 53884 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Freedom to Disclose Act.

6 Section 5. Definitions. As used in this Act:

7 "Employer" has the same meaning as in Section 2-101 of the
8 Illinois Human Rights Act.

9 "Employee" has the same meaning as in Section 2-101 of the
10 Illinois Human Rights Act.

11 "Sexual harassment" has the same meaning as in Section
12 2-101 of the Illinois Human Rights Act.

13 "Sexual violence" means:

14 (1) one or more acts of violence or physical aggression
15 satisfying the elements of battery under the laws of this
16 State that are committed, at least in part, on the basis of
17 a person's sex, whether or not the act or those acts have
18 resulted in criminal charges, prosecution, or conviction;

19 (2) a physical intrusion or physical invasion of a
20 sexual nature under coercive conditions satisfying the
21 elements of battery under the laws of this State, whether
22 or not the act or acts resulted in criminal charges,
23 prosecution, or conviction; or

1 (3) a threat of an act described in (1) or (2) causing
2 a realistic apprehension that the originator of the threat
3 will commit the act.

4 Section 10. Nondisclosure agreements.

5 (a) Except for settlement agreements under Section 20, an
6 employer may not require an employee or prospective employee as
7 a condition of employment or continued employment to sign a
8 nondisclosure agreement, waiver, or other document that
9 prevents the employee from disclosing sexual harassment or
10 sexual violence occurring in the workplace, at work-related
11 events coordinated by or through the employer, or between
12 employees or an employer and employee off the employment
13 premises.

14 (b) Except for settlement agreements under Section 20, any
15 nondisclosure agreement, waiver, or other document signed by an
16 employee or prospective employee as a condition of employment
17 or continued employment that has the purpose or effect of
18 preventing the employee from disclosing or discussing sexual
19 harassment or sexual violence occurring in the workplace, at
20 work-related events coordinated by or through the employer, or
21 between employees or an employer and an employee off the
22 employment premises is against public policy and is void.

23 Section 15. Violations. It is a violation of the
24 Whistleblower Act and a civil rights violation under Section

1 6-101 of the Illinois Human Rights Act for an employer to
2 discharge or otherwise retaliate against an employee for
3 disclosing or discussing sexual harassment or sexual violence
4 occurring in the workplace, at work-related events coordinated
5 by or through the employer, or between employees or an employer
6 and an employee off the employment premises.

7 Section 20. Settlement agreements. A settlement agreement
8 between an employee or former employee and an employer may
9 contain confidentiality provisions that may otherwise be
10 barred by this Act, provided that confidentiality is the
11 preference of the employee or former employee, and so long as
12 the employer:

13 (1) provides the settlement agreement language to the
14 employee or former employee in writing;

15 (2) notifies the employee or former employee, in writing,
16 of his or her right an attorney to review the settlement
17 agreement; and

18 (3) provides at least 10 business days for the employee or
19 former employee consider the provision.

20 The requirements of this Section apply to any settlement
21 agreement entered on or after the effective date of this Act.

22 Section 25. Limitations. This Act shall not be construed to
23 limit an employer's ability to require confidentiality of:

24 (1) employees who receive complaints of sexual harassment,

1 sexual violence, or other employment discrimination as part of
2 their assigned job duties; or

3 (2) individuals who are notified and requested to
4 participate in an open and ongoing investigation into alleged
5 sexual harassment or other employment discrimination and
6 requested to maintain reasonable confidentiality during the
7 pendency of that investigation.

8 Section 30. The Illinois Human Rights Act is amended by
9 changing Section 6-102 as follows:

10 (775 ILCS 5/6-102)

11 Sec. 6-102. Violations of other Acts. A person who violates
12 ~~the~~ Section 11-117-12.2 of the Illinois Municipal Code, Section
13 224.05 of the Illinois Insurance Code, Section 8-201.5 of the
14 Public Utilities Act, Sections 2-1401.1, 9-107.10, 9-107.11,
15 and 15-1501.6 of the Code of Civil Procedure, Section 4.05 of
16 the Interest Act, the Military Personnel Cellular Phone
17 Contract Termination Act, Section 405-272 of the Civil
18 Administrative Code of Illinois, Section 10-63 of the Illinois
19 Administrative Procedure Act, Sections 30.25 and 30.30 of the
20 Military Code of Illinois, Section 16 of the Landlord and
21 Tenant Act, Section 26.5 of the Retail Installment Sales Act,
22 Section 15 of the Freedom to Disclose Act, or Section 37 of the
23 Motor Vehicle Leasing Act commits a civil rights violation
24 within the meaning of this Act.

1 (Source: P.A. 100-1101, eff. 1-1-19.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.