

SUBJECT: Prohibiting the use of certain provisions in nondisclosure agreements

COMMITTEE: International Relations & Economic Development — favorable, without amendment

VOTE: 8 ayes — Button, Ordaz, Bumgarner, Clardy, Hayes, Meza, C. Morales, Shine

0 nays

1 absent — Plesa

WITNESSES: For — (*Registered, but did not testify:* Cynthia Van Maanen, Travis County Democratic Party; and 8 individuals)

Against — None

BACKGROUND: Concerns have been raised that certain nondisclosure agreements may contain provisions prohibiting an employee from reporting workplace sexual assault or harassment.

DIGEST: HB 4039 would specify that any provision of a nondisclosure or confidentiality agreement or other agreement between an employer and an employee was void and unenforceable if the provision:

- prohibited or limited the employee from notifying certain law enforcement or regulatory agencies of sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment; or
- prohibited an employee from disclosing facts surrounding any sexual assault or harassment committed by an employee of the employer or at the employee's place of employment, including the identity of the alleged offender.

The bill would also define "sexual assault" and "sexual harassment" for the purpose of certain nondisclosure or confidentiality provisions

prohibited in employment agreements.

The provisions of the bill would not apply to a negotiated settlement of administrative action.

The bill would take effect September 1, 2023, and would apply only to an agreement entered into before, on, or after the effective date.