

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Arizona	House Bill 2020	Amendment to Arizona Statutes section 12-720	Passed	Sexual assault and sexual harassment at work	Passed: April 25 2018	Rep. Michelle Udall, Introduced by Representatives Syms: Allen J, Bowers, Campbell, Espinoza, Norgaard, Nutt, Shope	Included	https://legiscan.com/AZ/text/HB2020/2018	Full amendment: Section 1. Title 12, chapter 6, article 12, Arizona Revised Statutes, is amended by adding section 12-720, to read: 12-720. Nondisclosure agreements; applicability; use of public monies; definitions A. THE TERMS OF A NONDISCLOSURE AGREEMENT MAY NOT BE USED TO PROHIBIT A PARTY TO THE AGREEMENT FROM DOING ANY OF THE FOLLOWING IN RELATION TO A VIOLATION OR AN ALLEGED VIOLATION OF TITLE 13, CHAPTER 14 OR 35: 1. RESPONDING TO A PEACE OFFICER'S OR A PROSECUTOR'S INQUIRY. 2. MAKING A STATEMENT NOT INITIATED BY THAT PARTY IN A CRIMINAL PROCEEDING. B. AN ACT THAT IS ALLOWED BY SUBSECTION A OF THIS SECTION MAY NOT BE USED TO AVOID OR INVALIDATE A PARTY'S RIGHT TO CONSIDERATION UNDER THE CONTRACT OR TO REQUIRE THE RETURN OF CONSIDERATION THAT HAS ALREADY BEEN PROVIDED TO THE PARTY. C. THIS SECTION MAY NOT BE USED AS AUTHORITY TO ENFORCE A NON DISCLOSURE AGREEMENT. D. PUBLIC MONIES MAY NOT BE USED AS CONSIDERATION IN EXCHANGE FOR A NONDISCLOSURE AGREEMENT THAT IS RELATED TO AN ALLEGATION OF OR ATTEMPTED SEXUAL ASSAULT OR SEXUAL HARASSMENT. E. FOR THE PURPOSES OF THIS SECTION: 1. "CRIMINAL PROCEEDING" INCLUDES A GRAND JURY, PRETRIAL INTERVIEW, DEPOSITION, HEARING, TRIAL AND SENTENCING PROCEEDING PURSUANT TO CRIMINAL LAW. 2. "NONDISCLOSURE AGREEMENT" MEANS A CONFIDENTIALITY AGREEMENT OR CONTRACT PROVISION THAT PROHIBITS THE DISCLOSURE OF INFORMATION BY A PARTY TO THE CONTRACT. https://www.azleg.gov/legtext/53leg/2R/bills/hb2020s.pdf
California	Silenced No More Act Senate Bill 331	An act to amend Section 1001 of the Code of Civil Procedure, and to amend Section 12964.5 of the Government Code, relating to civil actions.	Passed	Sexual harassment in the workplace. Act of harassment or discrimination in housing accommodation.	Passed: October 7 2021		Included in Government Code amendment: Section 12964.5. (2)(b)(1)(B).	https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB331	Code of Civil Procedure: • The validity and enforcement provisions do not apply to settlement amounts (Section 1001(e)). • Only applies to agreements made on or after January 1 2022 Government Code: • Cannot use an NDA in exchange for a bonus or a raise or a condition of employment. • Allows for intentent legal advice (Section 12964.5. (2)(b)(4)) • NDA may still be used when negotiated and intentent legal advice has been received, some say leaving room for companies to pressure employees. "negotiated" means that the agreement is voluntary, deliberate, and informed, the agreement provides consideration of value to the employee, and that the employee is given notice and an opportunity to retain an attorney or is represented by an attorney. (Section 12964.5. (2)(d)(1)(2)). https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB331

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
California	Senate Bill 820	An act to add Section 1001 to the Code of Civil Procedure, relating to civil procedure.	Passed	This bill would prohibit a provision in a settlement agreement that prevents the disclosure of factual information relating to certain claims of sexual assault, sexual harassment, or harassment or discrimination based on sex	Passed September 2018	Gonzalez, Fletcher, Beall		https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB820	This bill would prohibit a provision in a settlement agreement that prevents the disclosure of factual information relating to certain claims of sexual assault, sexual harassment, or harassment or discrimination based on sex. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB820
Colorado	House Bill 22-1317	Amendment: amending 8-2-113 in the Colorado Revised Statutes.	Passed	Limits scope of noncompete agreements	Aug 6 2022	HOUSE BILL 22-1317 BY REPRESENTATIVE(S) Tipper, Bacon, Bernett, Duran, Exum, Gonzales-Gutierrez, Jodeh, Lintine, Sirota, Weissman, Woodrow, Garnett, Herod; also SENATOR(S) Bridges, Hansen, Rodriguez.	N/A	https://leg.colorado.gov/bills/hb22-1317	Confidentiality/Non-Disclosure Covenants. While reasonable confidentiality and non-disclosure covenants remain valid in Colorado, the new law expressly provides these covenants. Noncompete agreements are a type of restrictive covenant between an employer and employee, in which the employee agrees not to work for a competitor or in a similar industry for some specified time and within a certain geographic area. HB 22-1317, Concerning Restrictive Employment Agreements, narrows the exceptions of when a non-compete can be used while continuing to presumptively void “any covenant not to compete that restricts the right of any person to receive compensation for performance of labor for any employer.” The bill provides exceptions allowing noncompete agreements between employers and highly compensated workers for the protection of trade secrets. they do not prohibit the disclosure of: (i) information arising from the worker’s general training, knowledge, skill, or experience; (ii) information that is readily ascertainable to the public; and (iii) information that the worker otherwise has a right to disclose as a protected disclosure. https://leg.colorado.gov/sites/default/files/2022a_1317_signed.pdf
Colorado	Senate Bill 23-172	Stand alone	Passed	Limiting the enforceability of confidential non-disclosure agreements executed in response to complaints of “unfair” or “discriminatory” employment practices;	August 7th 2023	Governor Polis	Included	https://leg.colorado.gov/sites/default/files/2023a_172_signed.pdf	24-34-407. Nondisclosure agreements - requirements for enforcement - penalties for noncompliance. THE NONDISCLOSURE PROVISION EXPRESSLY STATES THAT IT DOES NOT RESTRAIN THE EMPLOYEE OR PROSPECTIVE EMPLOYEE FROM DISCLOSING THE UNDERLYING FACTS OF ANY ALLEGED DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE. https://leg.colorado.gov/sites/default/files/2023a_172_signed.pdf
Connecticut	Senate Bill 697	-	Dead	sexual harassment in the workplace	Introduced 2019	-	-	https://legiscan.com/CT/research/SB00697/2019	

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Federal	HR 8227 Speak Out Act	Stand alone	Passed	Bans pre-hiring NDA on sexual harassment	Introduced July 13 2022	Rep Lois Frankel		https://www.congress.gov/bill/117th-congress/house-bill/8227?s=1&r=60	https://www.congress.gov/117/bills/hr8227/BILLS-117hr8227ih.pdf
Federal	H.R.300. Settlement Agreement Database Act of 2023	Stand alone	Passed in House. Awaiting to pass in Senate	This bill requires executive agencies to submit information regarding settlement agreements to a public database.	Introduced 11 January 2023, Passed House 24 January 2023	Rep. Gary J Palmer		https://www.congress.gov/bill/118th-congress/house-bill/300	Specifically, an agency must submit information regarding any settlement agreement (including a consent decree) entered into by the agency related to an alleged violation of federal law. If an agency determines that information regarding an agreement must remain confidential to protect the public interest, the agency must publish an explanation of why the information is confidential. https://www.congress.gov/118/bills/hr300/BILLS-118hr300pcs.pdf
Hawaii	Act 17 *Note amendment below.	Stand alone	Passed		2020			See link below for updated version	https://www.capitol.hawaii.gov/sessions/session2022/bills/HB2495_SD1_.pdf
Hawaii	Act 228 (Previously Bill HB 2495)	Amendment to Act 17	Passed		Passed July 12 2022			https://www.capitol.hawaii.gov/sessions/session2022/bills/HB2495_SD1_.pdf	https://www.capitol.hawaii.gov/sessions/session2022/bills/HB2495_SD1_.pdf
Illinois	Senate Bill 75, Workplace Transparency Act (WTA)		Passed	1. Ban NDAs in economies development deals. 2. Pre-dispute ban, post dispute ban in cases of discrimination, harassment, retaliation	Jun-19			https://www.ilga.gov/legislation/101/SB/10100SB0075enr.htm	https://ilga.gov/legislation/publicacts/101/PDF/101-0221.pdf
Louisiana	Act No 35 (Previously House Bill 197) , Prohibits certain non disclosure agreements in settlements involving the payment of public funds	Stand alone	Passed	Those who receive payment with public funds	Passed August 1 2019	Representative Franklin Foil	No	http://www.legis.la.gov/legis/ViewDocument.aspx?d=1124465	http://www.legis.la.gov/legis/ViewDocument.aspx?d=1124465

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Maine	Legislative Document (L.D.) 965, "An Act Concerning Non Disclosure Agreements in Employment"	Stand alone	Passed	This bill prohibits an employer from requiring an employee, intern or applicant for employment to enter into a contract or agreement that waives or limits any right to report or discuss discrimination, retaliation or harassment occurring in the workplace or at work-related events.	Aug 8 2022	Representative Harnett Gardiner	No	https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP0711&item=1&snum=130	https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0711&item=1&snum=130
Maryland	H. R. 8146 Accountability for Workplace Misconduct Act,	Stand alone	Introduced June 2022	NDA unenforceable if it relates to disclosing information under existing protections (list in Act) to federal state or legal sources	Introduced June 17 2022	Rep. Maloney, Carolyn		https://www.congress.gov/bill/117th-congress/house-bill/8146/text?r=15&s=1	
Massachusetts	Bill S1020 (and other amendments)	Series of amendments	Passed	Prohibits the use of NDAs in cases involving sexual assault, harassment, and discrimination in both the public and private sectors		Diana DiZoglio, Alyson M. Sullivan and Mike Connolly		https://bostonbar.org/journal/status-of-nondisclosure-agreements-ndas-in-massachusetts/	https://malegislature.gov/Bills/192/S1020
Massachusetts	Bill SD.712... now S.1170	Stand alone	Reintroduced	An Act addressing workplace bullying, mobbing, and harassment, without regard to protected class status while promoting healthy workplaces	Reintroduced 2023	Paul R Feeney		https://www.billtrack50.com/billdetail/1600550	https://www.billtrack50.com/billdetail/1600550

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Nevada	Assembly Bill 60	Amendment to Chapter 50 Nevada Revised Statutes	Passed	Criminal conduct, sexual harassment, discrimination (multiple heads) and retaliation. All civil and workplace contexts	Effective May 21, 2021			https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7313/Text	https://www.leg.state.nv.us/Session/81st2021/Bills/AB/AB60.pdf
New Jersey	Senate Bill 121	Stand alone	Passed	Discrimination, retaliation, or harassment in the workplace	Passed March 18 2019	Senator Loretta Weinberg		https://pub.njleg.gov/bills/2018/PL19/39_PDF	https://pub.njleg.gov/bills/2018/S0500/121_R2.PDF
New Mexico	House Bill 21 PROHIBIT NDA FOR SEXUAL HARASSMENT CASES	Stand Alone	Passed	An act relating to employment law; providing that nondisclosure agreements in sexual harassment or sexual assault cases are unenforceable.	Passed March 4 2020; Effective for agreements entered into after May 20 2020.	Dayan Hochman-Vigil		https://www.nmlegis.gov/Legislation/Legislation?chamber=H&legtype=B&legno=21&year=20 https://legiscan.com/NM/bill/HB21/2020	https://legiscan.com/NM/text/HB21/2020
New York	Senate Bill S8914- The Stop Silencing Survivors Act	Amendment to §5-336, Gen Ob L	Current Committee: Senate Judiciary	Applies to all labor law and human rights violations in the workplace. Applies to contracts of hire that include pre-emptive NDAs for future complaints	First Reading April 28 2022	Alessandra Biaggi	Included	https://www.nysenate.gov/legislation/bills/2021/S8914	The bill would bar employers from using non-disclosure agreements or non-disparagement clauses in a waiver, settlement, agreement or similar resolutions. The agreements can still include language that would bar employers from revealing the identities of employees or the circumstances surrounding the complaint in order to preserve privacy for victims.
Oregon	Senate Bill 1586 Relating to unlawful employment practices.	Amending ORS 243.319, ORS 243.323, ORS 659A.370 and ORS 659A.375.	Passed	Workplace sexual assault and discrimination, including off-premises between employer and employee. New 2022 amendments extend to agreements with past employees (see also special notes)	June 9 2022 Effective Date January 1 2023	Senator Taylor	Included	https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1586	Permits NDAs and non-disparagement in specified areas on request of victim and not as a condition of a settlement. https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/SB1586

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Pennsylvania	Senate Bill 392- "An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for contracts and agreements for nondisclosure of certain information."	Amendment	Referred to judiciary March 11, 2021		Introduced March 11, 2021	Senator Schwank		https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&ind=0&body=S&type=B&bn=0392	<ul style="list-style-type: none"> • Effective for contracts and provisions that were made on or after amendment came into effect. However, if party was a minor at the time of the agreement and the agreement was before the amendment came into effect, the section may be voidable. • NDA permitted if voluntarily brought by individual who would start civil claim for harassment. • Four years limitation period to bring an action for compensatory damages, injunctive relief, reasonable court costs, and attorney fees. • Agreements made under the Right to Know Law are exempt.

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Rhode Island	Senate Bill 2023-S0342	Amended	Passed	The Rhode Island legislature recently moved two bills forward that would limit employers' use of restrictive covenants with employees. that would prohibit the use of nondisclosure or non-disparagement agreements regarding civil rights abuses. This act would prohibit an employer from requiring an employee to execute a nondisclosure agreement or non-disparagement agreement, regarding alleged violations of civil rights or criminal conduct, as a condition of employment.	Passed 16th February 2023	Senators DiMario,Euer, Murray,Gu,Valcerde,Lauria, Ujjifusa,LaMountain,Lawson	Included in section 1,2,3,4,5 under fair employment practices.	http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S0342aa.pdf	EXPLANATION BY THE LEGISLATIVE COUNCIL OF http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S0342aa.pdf N A C T RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES *** 1 This act would prohibit an employer from requiring an employee to execute a nondisclosure agreement or non-disparagement agreement, regarding alleged violations of civil rights or criminal conduct, as a condition of employment. It would also add the definition of http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S0342aa.pdf "confidential" to the fair employment practices statute. http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S0342aa.pdf This act would take effect upon passage
Utah	H.B. 55 Employment Confidentiality Amendments	Stand Alone (with Amendments before passing)	passed	Sexual Harrassment and/or Sexual Assault in Workplace	March 1, 2024	Bill Sponsor: Kera Birkeland (Representative for Utah House District 4) Floor Sponsor: Todd Weiler (Utah State Senate)	Yes	https://le.utah.gov/~2024/bills/static/HB0055.html	1. Would apply to NDAs signed at any time, including after an employee has left a company or entered into a settlement agreement (within 3 business days of settlement agreement). 2. Protects employees from retaliation should they refuse to enter into a confidentiality agreement. 3. States that someone who attempts to enforce a confidentiality clause may be liable for costs and attorney fees under certain conditions. 4. Retrospective operation to January 1, 2023.

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Vermont	Title 21: Labor. Chapter 005:Employment Practices.21 V.S.A. 495h	Addition/Amendment	Passed	The law requires that all employers ensure a workplace free of sexual harassment. In addition to employees, this protection now applies to other types of workers such as volunteers, interns, and independent contractors, thanks to the addition of 21 V.S.A. §495h(a)(2): "All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.	July 2018			https://legislature.vermont.gov/statutes/section/21/005/00495h#:~:text=(a)(1)%20All%20employers,is%20free%20from%20sexual%20harassment	https://legislature.vermont.gov/statutes/section/21/005/00495h#:~:text=(a)(1)%20All%20employers,is%20free%20from%20sexual%20harassment
Virginia	An Act to amend the Code of Virginia by adding a section numbered 40.1-28.01	A BILL to amend and reenact § 8.01-577 of the Code of Virginia, relating to arbitration agreements; unconscionable and unenforceable provisions; sexual harassment and sexual assault. Amended by adding a section numbered 40.1-28.01	Passed	Makes NDAs in pre-disputes NDAs in cases of sexual assault unenforceable	Introduced January 1 2019 Passed February 22 2019 Effective July 1 2019	Karrie K. Delaney		https://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0131&191+ful+CHAP0131	A. No employer shall require an employee or a prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement that has the purpose or effect of concealing the details relating to a claim of sexual assault pursuant to § 18.2-61, 18.2-67.1, 18.2-67.3, or 18.2-67.4 as a condition of employment. Any such provision is against public policy and is void and unenforceable. B. This section shall in no way limit other grounds that exist at law or in equity for the unenforceability of any such agreement or any provision of such agreement. https://law.lis.virginia.gov/pdf/vacode/40.1-28.01/

United States NDA Legislation Overview

Province/state	Name	Stand alone/amended	Stage	Scope	Latest Date	Sponsored By:	Non-disparagement clauses?	Link:	Special notes
Virginia	House Bill 1895	Stand alone	Passed	Amends the Virginia Code Va.Code 30-128.4 to expand restrictions on employment agreements that include confidentiality or non-disparagement provisions related to sexual assault and sexual harassment	1 July 2023	Governor Glen Youngkin		https://www.employmentlawwatch.com/2023/04/articles/us-alert/virginia-further-limits-confidentiality-and-non-disparagement-agreements-and-restricts-the-use-of-employee-social-security-numbers/	On March 6th 2023,the Governor signed House Bill 1895 which expands the coverage of the law to include claims of sexual harassment as defined in Va. Code § 30-129.4.(“unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work https://law.lis.virginia.gov/pdf/vacode/40.1-28.01/”), and also (2) prohibits non-disparagement agreements that have the purpose or effect of concealing details related to a claim of sexual assault or sexual harassment. https://law.lis.virginia.gov/pdf/vacode/40.1-28.01/
Washington	House Bill 1795	Stand alone	Passed	Discrimination, harassment, retaliation, wage and hour violations, sexual assault at work	March 24 2022	Rep Liz Berry, Senator Karen Kaiser	Included	https://app.leg.wa.gov/billssummary?BillNumber=1795&Initiative=false&Year=2021	Includes wage and hour violations and retaliation. Exception for settlement amount. Retroactivity applies only to workplace agreements and allows recovery of damages awarded for breach .Washington's Silenced No More Act, which Gov. Jay Inslee signed into law March 24, will make it unlawful for employers in the state to require, or even request, that workers sign NDAs or no disparagement provisions that restrict workers' right to talk openly about illegal discrimination, harassment, sexual assault, retaliation, wage and hour violations, or any other breaches of public policy. https://lawfilesexternal.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Passed%20Legislature/1795-S.PL.pdf#page=1 1 Unlike laws in California and New York that also restrict use of NDAs by employers, the Washington law goes a step further by barring confidentiality clauses in workplace settlements related to illegal acts, even if requested by an employee. https://www.law360.com/articles/1476428/one-by-one-states-are-banning-ndas-to-protect-workers