

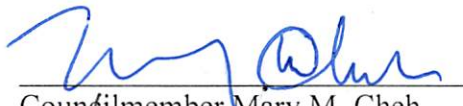


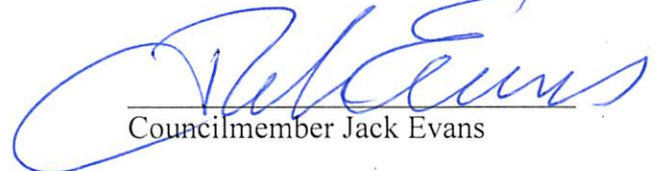
1   
2 Chairman Phil Mendelson


  
Councilmember Charles Allen


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6 Councilmember Elissa Silverman

  
Councilmember Anita Bonds

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10 Councilmember Mary M. Cheh

  
Councilmember Jack Evans

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14 Councilmember Vincent C. Gray

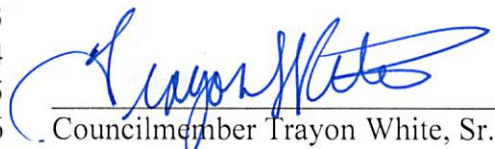
  
Councilmember David Grosso

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18 Councilmember Kenyan R. McDuffie

  
Councilmember Brianne K. Nadeau

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22 Councilmember Brandon T. Todd

  
Councilmember Robert C. White, Jr.

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26 Councilmember Trayon White, Sr.

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30 A BILL

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34 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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39 To prohibit nondisclosure agreements, waivers, or other documents from preventing the disclosure  
40 of factual information related to claims alleging certain sexual offenses, sexual harassment,  
41 or discrimination; to prohibit employers from requiring employees, as a condition of their  
42 employment, to enter into nondisclosure agreements, waivers, or other documents that  
43 prevent them from disclosing factual information related to claims alleging such  
44 misconduct; to prohibit retaliation; to provide remedies; and to require the Mayor and the  
45 Office of the Attorney General to submit an annual report to the Council regarding

46 payments made with public funds for awards and settlements in connection with claims of  
47 such misconduct.

48  
49 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
50 act may be cited as the "Sexual Misconduct Sunshine Amendment Act of 2018".

51 Sec. 2. Definitions.

52 (1) "Employer" means any person who employs or seeks to employ one or more individuals  
53 for a position in the District. The term "employer" includes any person acting in the interest of the  
54 person, directly or indirectly.

55 (2) "Employee" means any individual employed by or seeking employment from an  
56 employer, including independent contractors, volunteers, and interns.

57 (3) "Sexual harassment" means sexual harassment, as defined in Mayor's Order 2017-313.

58 (4) "Sexual offense" means any of the following offenses: §§ 22-3002 (first degree sexual  
59 abuse); 22-3003 (second degree sexual abuse); 22-3004 (third degree sexual abuse); 22-3005  
60 (fourth degree sexual abuse); 22-3006 (misdemeanor sexual abuse); 22-3009.03 (first degree  
61 sexual abuse of a secondary education student); 22-3009.04 (second degree sexual abuse of a  
62 secondary education student); 22-3013 (first degree sexual abuse of a ward, patient, client, or  
63 prisoner); 22-3014 (second degree sexual abuse of a ward, patient, client, or prisoner); 22-3015  
64 (first degree sexual abuse of a patient or client); 22-3016 (second degree sexual abuse of a patient  
65 or client); or 22-3018 (attempts to commit sexual offenses).

66 Sec. 3. Prohibitions.

67 (a) Unless entered into at the claimant's request, a nondisclosure agreement, waiver, or  
68 other document is void and unenforceable if it prevents the disclosure of factual information related  
69 to a claim alleging any of the following types of misconduct:

70 (1) A sexual offense;

71 (2) An act of sexual harassment;  
72 (3) An act of discrimination in violation of the Human Rights Act of 1977, effective  
73 December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*).

74 (b) It shall be unlawful to require an employee, as a condition of employment, to enter into  
75 a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing  
76 factual information related to any claim alleging the misconduct listed under subsection (a) of this  
77 section.

78 (c) It shall be unlawful to coerce, threaten, retaliate against, or interfere with any person in  
79 the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having  
80 aided or encouraged any other person in the exercise or enjoyment of any right granted or protected  
81 under subsections (a) or (b).

82 (d) Notwithstanding any other law, this act does not restrict the entry into or enforcement  
83 of a provision in a nondisclosure agreement, waiver, or other document agreement that prohibits:

- 84 (1) The disclosure of the amount paid in the settlement of a claim; or  
85 (2) Only at the claimant's election, disclosure of:  
86 (A) Personally-identifiable information about the parties to the settlement  
87 agreement; or  
88 (B) Information revealing the nature of the relationship between the parties.

89 Sec. 4. Enforcement.

90 A person aggrieved of a violation of this act may, within 3 years after the violation, bring  
91 an action in a court of competent jurisdiction for compensatory damages, injunctive relief, and  
92 reasonable court costs and attorney's fees. The rights and remedies provided in this section shall

93 not be exclusive and shall not preempt other procedures and remedies available under other  
94 applicable laws.

95           Sec. 5. Reporting.

96           By October 1, 2019, and annually thereafter, the Mayor and the Office of the Attorney  
97 General shall jointly submit a report to the Council describing all payments that are made with  
98 public funds for awards and settlements in connection with a claim of misconduct described in  
99 subsection (a) of section 3 of this act.

100           Sec. 6. Fiscal impact statement.

101           The Council adopts the fiscal impact statement in the committee report as the fiscal impact  
102 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
103 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

104           Sec. 7. Effective date.

105           This act shall take effect following approval by the Mayor (or in the event of veto by the  
106 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
107 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
108 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
109 Columbia Register.