

119TH CONGRESS  
2D SESSION

# S. 3966

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## AN ACT

To prohibit the enforcement of certain contractual clauses that restrict disclosure of sexual abuse of minors, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Terminating Restrictive Enforcement of Youth Settlements Law” or “TREY’S Law”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6       (a) FINDINGS.—

7           (1) INSTRUMENTALITIES OF INTERSTATE COMMERCE.—Congress finds the following:

9           (A) Sexual abuse of minors, including abuse facilitated through instrumentalities of interstate commerce, is a matter of national concern.

13          (B) Agreements containing nondisclosure and confidentiality provisions, frequently concluded through the instrumentalities of interstate commerce, have been used to silence survivors of sexual abuse and conceal ongoing or repeated abuse.

19          (C) The enforcement of such provisions interferes with reporting to law enforcement agencies, child protection authorities, Federal regulators, Members of Congress, and the courts, and frustrates the enforcement of Federal criminal and civil law.

1           (2) NECESSARY AND PROPER CLAUSE AND EN-  
2       FORCEMENT OF FEDERAL CRIMINAL LAW.—Con-  
3       gress further finds the following:

4           (A) Sexual abuse and trafficking of minors  
5       are prohibited under Federal criminal law, in-  
6       cluding chapter 110 of title 18, United States  
7       Code, and section 1591 of title 18, United  
8       States Code.

9           (B) Nondisclosure and confidentiality  
10      agreements that prohibit or restrict disclosure  
11      of sexual abuse of a minor interfere with re-  
12      porting to law enforcement, child protection au-  
13      thorities, courts, Federal regulators, and Mem-  
14      bers of Congress.

15          (C) Such agreements frustrate the inves-  
16      tigation and prosecution of Federal crimes, chill  
17      cooperation with law enforcement, and function  
18      as private mechanisms to obstruct justice.

19          (D) Congress has authority under clause  
20      18 of section 8 of article I of the Constitution  
21      of the United States (commonly known as the  
22      “Necessary and Proper Clause”) to ensure that  
23      private agreements are not used to impede the  
24      enforcement of Federal criminal and civil law

1 protecting minors from sexual exploitation and  
2 abuse.

3 (3) STATE ACTION AND SECTION 5 OF THE  
4 14TH AMENDMENT.—Congress further finds the fol-  
5 lowing:

6 (A) Survivors of child sexual abuse possess  
7 fundamental constitutional interests, secured by  
8 provisions of the Bill of Rights as incorporated  
9 against the States through the 14th Amend-  
10 ment to the Constitution of the United States,  
11 in reporting crimes, seeking redress through the  
12 courts, cooperating with law enforcement, and  
13 petitioning the government for protection and  
14 enforcement.

15 (B) When State courts or other govern-  
16 mental authorities enforce nondisclosure or con-  
17 fidentiality provisions that prohibit or restrict  
18 disclosure of sexual abuse of a minor, such en-  
19 forcement constitutes State action for purposes  
20 of the 14th Amendment to the Constitution of  
21 the United States.

22 (C) Judicial enforcement of such provisions  
23 may deprive survivors of due process of law,  
24 equal protection of the laws, and meaningful ac-  
25 cess to courts, including rights derived from the

1 First Amendment to the Constitution of the  
2 United States and incorporated against the  
3 States, in violation of the 14th Amendment.

4 (D) Agreements that obstruct justice, sup-  
5 press the reporting of crimes, or conceal crimi-  
6 nal conduct have long been regarded at common  
7 law, including at the time of the founding of the  
8 United States, as void and unenforceable as  
9 against public policy, and fall outside the tradi-  
10 tional scope of protected contractual liberty.

11 (E) At the time of the founding of the  
12 United States, private agreements purporting to  
13 suppress prosecution, conceal felonies, or re-  
14 strain the reporting of crimes were not recog-  
15 nized as valid or enforceable contracts, and no  
16 party possessed a vested right in their judicial  
17 enforcement.

18 (F) Congress has authority under section 5  
19 of the 14th Amendment to the Constitution of  
20 the United States to enact appropriate remedial  
21 and preventive legislation to prevent and rem-  
22 edy constitutional violations arising from State  
23 judicial enforcement of private agreements that  
24 suppress disclosure of criminal conduct involv-  
25 ing minors.

1 (b) PURPOSE.—The purpose of this Act is—

2 (1) to enforce the guarantees of the 14th  
3 Amendment to the Constitution of the United  
4 States, including the right to petition the govern-  
5 ment for redress of grievances and the right of ac-  
6 cess to courts, by preventing State courts and other  
7 governmental authorities from enforcing nondisclo-  
8 sure or confidentiality provisions that suppress dis-  
9 closure of sexual abuse of minors;

10 (2) to ensure, pursuant to the authority of Con-  
11 gress under article I of the Constitution of the  
12 United States, including the Necessary and Proper  
13 Clause, that private agreements are not used to ob-  
14 struct the investigation or prosecution of Federal  
15 crimes involving the sexual abuse or trafficking of  
16 minors;

17 (3) to preserve access to courts and the right  
18 to petition the government for redress of grievances;  
19 and

20 (4) to ensure that survivors of sexual abuse of  
21 minors, and persons with knowledge of such abuse,  
22 may disclose such abuse freely and without fear of  
23 civil liability.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1           (1) MINOR PERSON.—The term “minor person”  
 2           means an individual who has not attained 18 years  
 3           of age.

4           (2) NONDISCLOSURE CLAUSE.—The term “non-  
 5           disclosure clause” means a provision in a contract or  
 6           agreement that prohibits 1 or more parties to the  
 7           contract or agreement from disclosing conduct or in-  
 8           formation covered by the terms and conditions of the  
 9           contract or agreement.

10          (3) SEXUAL ABUSE AGAINST A MINOR PER-  
 11          SON.—The term “sexual abuse against a minor per-  
 12          son” means—

13                (A) conduct that constitutes or allegedly  
 14                constitutes—

15                   (i) an offense under chapter 110 of  
 16                   title 18, United States Code; or

17                   (ii) sex trafficking of a minor person  
 18                   under section 1591 of title 18, United  
 19                   States Code; or

20                (B) any sexual act or sexual contact involv-  
 21                ing a minor person that constitutes a criminal  
 22                offense under Federal law or the law of the  
 23                State in which the act or contact occurs.

1 **SEC. 4. NONDISCLOSURE AGREEMENTS VOID AND UNEN-**  
 2 **FORCEABLE.**

3 (a) IN GENERAL.—A nondisclosure clause shall be  
 4 void and unenforceable as against public policy only to the  
 5 extent that the nondisclosure clause prohibits—

6 (1) a victim or alleged victim of sexual abuse  
 7 against a minor person from disclosing—

8 (A) that act of sexual abuse against a  
 9 minor person; or

10 (B) facts related to that act of sexual  
 11 abuse against a minor person; or

12 (2) any other person from disclosing facts re-  
 13 lated to sexual abuse against a minor person de-  
 14 scribed in paragraph (1) in support of, in further-  
 15 ance of, or consistent with the right of a victim or  
 16 alleged victim to disclose under that paragraph.

17 (b) PERMISSIBLE CONFIDENTIALITY.—Nothing in  
 18 this section shall be construed to prohibit a person, includ-  
 19 ing a victim or alleged victim of sexual abuse against a  
 20 minor person, from entering into a contract or agreement  
 21 that restricts the disclosure of information, including the  
 22 amount or payment terms of a settlement, by another  
 23 party to the contract or agreement, including an alleged  
 24 perpetrator, so long as such restriction does not prevent  
 25 disclosure protected under subsection (a).



1 **SEC. 5. RETROACTIVE APPLICATION.**

2 (a) IN GENERAL.—This Act shall apply to any non-  
3 disclosure clause in a contract or agreement entered into  
4 before, on, or after the date of enactment of this Act.

5 (b) NO ENFORCEMENT ACTIONS.—No person may  
6 enforce or attempt to enforce a nondisclosure clause de-  
7 scribed in section 4(a), regardless of the date on which  
8 the contract or agreement containing the nondisclosure  
9 clause was entered into.

10 (c) PREEMPTION.—

11 (1) IN GENERAL.—This Act supersedes any  
12 State law to the extent that such law permits en-  
13 forcement of a provision, the enforcement of which  
14 is prohibited under this Act.

15 (2) RULE OF CONSTRUCTION.—Nothing in this  
16 Act shall be construed to prohibit a State or locality  
17 from enacting legislation that—

18 (A) is consistent with this Act; or

19 (B) provides greater protection to a victim  
20 of sexual abuse against a minor person than is  
21 provided under this Act.

Passed the Senate May 20, 2026.

Attest:

*Secretary.*

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