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AB-1682 Settlement agreements: sexual offenses. (2015-2016)

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Assembly Bill No. 1682

CHAPTER 876

An act to amend Section 1002 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 30, 2016. Filed with Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, Mark Stone. Settlement agreements: sexual offenses.

Existing law prohibits a confidential settlement agreement in a civil action with a factual foundation establishing a cause of action for civil damages for an act that may be prosecuted as a felony sex offense. Existing law provides that the prohibition does not affect the ability of parties to enter into a settlement agreement or stipulated agreement requiring nondisclosure of the amount of money paid in settlement of a claim.

This bill would instead prohibit a provision in a settlement agreement that prevents the disclosure of factual information related to the action in a civil action with a factual foundation establishing a cause of action for civil damages for an act that may be prosecuted as a felony sex offense and would additionally make these provisions applicable to a cause of action for civil damages for an act of childhood sexual abuse or sexual exploitation of a minor or an act of sexual assault against an elder or dependent adult, as specified. The bill would prohibit a court from entering an order in any of these types of civil actions that restricts disclosure of this information, as specified. The bill would repeal the provision specifying that a settlement agreement or stipulated agreement that requires nondisclosure of the amount of money paid in settlement of a claim is not prohibited. The bill would make a provision in a settlement agreement that prevents the disclosure of factual information related to the action, as described in the bill, entered into on or after January 1, 2017, void as a matter of law and against public policy. The bill would provide that an attorney's failure to comply with these provisions by demanding that a provision be included in a settlement agreement that prevents the disclosure of factual information related to the action, as specified, as a condition of settlement or advising a client to sign an agreement that includes such a provision may be grounds for professional discipline and would require the State Bar of California to investigate and take appropriate action in cases brought to its attention.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1002 of the Code of Civil Procedure is amended to read:

1002. (a) Notwithstanding any other law, a provision within a settlement agreement that prevents the disclosure of factual information related to the action is prohibited in any civil action the factual foundation for which establishes a cause of action for civil damages for any of the following:

- (1) An act that may be prosecuted as a felony sex offense.

(2) An act of childhood sexual abuse, as defined in Section 340.1.

(3) An act of sexual exploitation of a minor, as defined in Section 11165.1 of the Penal Code, or conduct prohibited with respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of the Penal Code.

(4) An act of sexual assault, as defined in paragraphs (1) to (9), inclusive, of subdivision (e) of Section 15610.63 of the Welfare and Institutions Code, against an elder or dependent adult, as defined in Sections 15610.23 and 15610.7 of the Welfare and Institutions Code.

(b) Notwithstanding any other law, in a civil action described in paragraphs (1) to (4), inclusive, of subdivision (a), a court shall not enter, by stipulation or otherwise, an order that restricts the disclosure of information in a manner that conflicts with subdivision (a).

(c) Subdivisions (a) and (b) do not preclude an agreement preventing the disclosure of any medical information or personal identifying information, as defined in subdivision (b) of Section 530.55 of the Penal Code, regarding the victim of the offense listed in subdivision (a) or of any information revealing the nature of the relationship between the victim and the defendant. This subdivision shall not be construed to limit the right of a crime victim to disclose this information.

(d) Except as authorized by subdivision (c), a provision within a settlement agreement that prevents the disclosure of factual information related to the action described in subdivision (a) that is entered into on or after January 1, 2017, is void as a matter of law and against public policy.

(e) An attorney's failure to comply with the requirements of this section by demanding that a provision be included in a settlement agreement that prevents the disclosure of factual information related to the action described in subdivision (a) that is not otherwise authorized by subdivision (c) as a condition of settlement, or advising a client to sign an agreement that includes such a provision, may be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such case brought to its attention.