

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Today's podcast is on SB 820 from the 2018 legislative session concerning a prohibition on confidential settlement agreements.

Governor Jerry Brown signed SB 820 by State Senator Connie Leyva on September 30th as Chapter 953. The bill prohibits a provision within a settlement agreement that prevents the disclosure of factual information related to specified claims or complaints in either a civil action or administrative action.

The bill is effective January 1, 2019 and it specifically allows plaintiffs in these types of actions to retain the right to request provisions in settlement agreements that shield their identity. Note that the Assembly amendments expanded the claims that are covered by the bill, extended the scope to cover court orders, and also narrowed an exception that's available at the request of the claimant.

Now, SB 820 makes a provision in the settlement agreement that prevents the disclosure of factual information related to the claim for those agreements entered into on or after 1/1/19 to be void as a matter of law and against public policy. The new law provides that a court may consider the pleadings and other papers in the record or any other findings of the court in determining the factual foundation of the causes of action specified in these provisions.

SB 820 applies if the claim relates to an act of sexual assault, sexual harassment, workplace harassment, or discrimination based on sex, or retaliation for reporting harassment or discrimination based on sex. The bill does not prohibit the entry or enforcement of any agreement that includes the disclosure of the amount that was paid in settlement of the claim.

The bill also creates an exception where it is not applicable if a party is a government agency or public official. For a provision that shields the identity of the claimant and all facts that could lead to the discovery of his or her identity if that provision within the settlement agreement that is made at the request of the claimant.

That's a brief summary of Senate Bill 820 from the 2018 legislative session. Thanks for joining.