

AMENDED IN SENATE AUGUST 2, 2016
AMENDED IN SENATE MAY 4, 2016
AMENDED IN ASSEMBLY FEBRUARY 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1682

**Introduced by Assembly Member Mark Stone
(Coauthor: Assembly Member Ting)**

January 20, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, as amended, Mark Stone. Confidential 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 additionally prohibit a confidentiality or secrecy provision in a settlement agreement in a civil action with a factual foundation establishing 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 access to information obtained through

~~discovery, as prescribed.~~ *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 confidentiality or secrecy provision in a settlement agreement, 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 who demands such a confidentiality or secrecy provision in a settlement agreement as a condition of settlement or who advises a client to sign an agreement with such a confidentiality or secrecy provision is presumed to have committed an act involving moral turpitude that is subject to attorney's failure to comply with these provisions 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.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1002 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1002. (a) Notwithstanding any other law, a confidentiality or
- 4 secrecy provision within a settlement agreement is prohibited in
- 5 any civil action the factual foundation for which establishes a cause
- 6 of action for civil damages for any of the following:
- 7 (1) An act that may be prosecuted as a felony sex offense.
- 8 (2) An act of childhood sexual abuse, as defined in Section
- 9 340.1.
- 10 (3) An act of sexual exploitation of a minor, as defined in
- 11 Section 11165.1 of the Penal Code, or conduct prohibited with
- 12 respect to a minor pursuant to Sections Section 311.1, 311.5, or
- 13 311.6 of the Penal Code.
- 14 (4) An act of sexual assault, as defined in paragraphs (1) to (9),
- 15 inclusive, of subdivision (e) of Section 15610.63 of the Welfare
- 16 and Institutions Code, against an elder or dependent adult, as
- 17 defined in Sections 15610.23 and 15610.7 of the Welfare and
- 18 Institutions Code.

1 ~~(b) Notwithstanding any other law, in a civil action described~~
2 ~~in subdivision (a), a court shall not enter, by stipulation or~~
3 ~~otherwise, an order that does any of the following:~~

4 ~~(1) Restricts the disclosure of information obtained through~~
5 ~~discovery.~~

6 ~~(2) Approves a settlement agreement that would restrict the~~
7 ~~disclosure of information obtained through discovery.~~

8 ~~(3) Restricts access to court records regarding information~~
9 ~~obtained through discovery.~~

10 *(b) Notwithstanding any other law, in a civil action described*
11 *in subdivision (a), a court shall not enter, by stipulation or*
12 *otherwise, an order that restricts the disclosure of information in*
13 *a manner that conflicts with subdivision (a).*

14 (c) Subdivisions (a) and (b) do not preclude an agreement
15 preventing the disclosure of any medical information or personal
16 identifying information, as defined in subdivision (b) of Section
17 530.55 of the Penal Code, regarding the victim of the offense listed
18 in subdivision (a) or of any information revealing the nature of the
19 relationship between the victim and the defendant. This subdivision
20 shall not be construed to limit the right of a crime victim to disclose
21 this information.

22 (d) Except as authorized by subdivision (c), a confidentiality or
23 secrecy provision within a settlement agreement described in
24 subdivision (a) that is entered into on or after January 1, 2017, is
25 void as a matter of law and against public policy. ~~An attorney who~~
26 ~~demands a confidentiality or secrecy provision within a settlement~~
27 ~~agreement described in subdivision (a), that is not otherwise~~
28 ~~authorized by subdivision (c), as a condition of settlement or who~~
29 ~~advises a client to sign an agreement with such a confidentiality~~
30 ~~or secrecy provision is presumed to have committed an act~~
31 ~~involving moral turpitude, as set forth in Section 6106 of the~~
32 ~~Business and Professions Code and shall be subject to professional~~
33 ~~discipline and the State Bar of California shall investigate and take~~
34 ~~appropriate action in any such case brought to its attention.~~

35 *(e) An attorney's failure to comply with the requirements of this*
36 *section may be grounds for professional discipline and the State*
37 *Bar of California shall investigate and take appropriate action in*
38 *any such case brought to its attention.*

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