



Legislative Testimony  
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**Written Testimony Supporting Senate Bill 697,  
An Act Concerning Nondisclosure Agreements in the Workplace**

Senator Kushner, Representative Porter, and distinguished members of the Labor and Public Employees Committee:

My name is David McGuire, and I am executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of Senate Bill 697, An Act Concerning Nondisclosure Agreements in the Workplace.

As an organization that protects the free speech of all those who live and work in Connecticut, the ACLU-CT supports putting restrictions on workplace nondisclosure agreements. An employer should not have the right to require a potential employee to sign a nondisclosure agreement (NDA) regarding sexual harassment or sexual assault as a prerequisite for employment. Employees who survive sexual harassment and assault should have the right to tell their stories.

Survivors of sexual harassment or assault in the workplace should not be forced to stay silent about what they endured. The ACLU-CT believes that such NDAs are poor public policy because they discourage reporting of sexual harassment and assault. In some situations, nondisclosure agreements are illegal. Courts consider some NDAs procedurally or substantively unconscionable contracts. This could be due to the power differential between the parties. Generally, an employer asking an employee to sign an NDA has more bargaining power than the employee being asked to sign it. An NDA could also be found unconscionable if it strongly favors the party that is more powerful.

Many states are considering legislation to prohibit NDAs as a condition of employment, prohibit NDAs that require claims of sexual harassment to be resolved through arbitration, and allow survivors to break NDAs without legal liability. Arizona, Maryland, Tennessee,

Vermont, and Washington have passed such laws. Connecticut should join these states in protecting the voices of employee survivors of sexual harassment and assault.

We urge the committee to support Senate Bill 697.