

AMENDED IN SENATE AUGUST 10, 2016
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~~ *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~~ *instead* prohibit a ~~confidentiality or secrecy~~ 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 ~~confidentiality or secrecy~~ provision in a settlement agreement, 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.
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 *that prevents the*
5 *disclosure of factual information related to the action* is prohibited
6 in any civil action the factual foundation for which establishes a
7 cause of action for civil damages for any of the following:
8 (1) An act that may be prosecuted as a felony sex offense.
9 (2) An act of childhood sexual abuse, as defined in Section
10 340.1.
11 (3) An act of sexual exploitation of a minor, as defined in
12 Section 11165.1 of the Penal Code, or conduct prohibited with
13 respect to a minor pursuant to Section 311.1, 311.5, or 311.6 of
14 the Penal Code.

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

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

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

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

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