

Texas House nullifies NDAs in sexual abuse cases

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AUSTIN (BP)—The Texas House of Representatives passed a bipartisan bill banning nondisclosure clauses in sexual abuse settlement agreements April 8.

Known as Trey's Law, the bill outlaws the use of nondisclosure agreements in settlement agreements regarding sexual abuse, regardless of the age of the abused.

The use of NDAs to silence sexual abuse survivors makes such agreements controversial, said Jeff Dalrymple, director of abuse prevention and response for the Southern Baptist Convention Executive Committee.

"In addition to legal considerations, ministry leaders should carefully consider both ethical and moral implications of NDA use. There may be situations in which an NDA could be an appropriate tool for a ministry to use, for instance, to protect the private information of ministry participants or in employment transitions," Dalrymple said.

"However, they should never be used to prevent survivors of abuse from sharing their stories or to allow responsible parties to avoid responsibility for their actions."

'Institutional abuse on top of sexual abuse'

Trey's Law is named in honor of Texas native Trey Carlock, who committed suicide when overcome by the trauma of a nondisclosure agreement related

to sexual abuse at Kanakuk Kamps in Missouri, his sister Elizabeth Carlock Phillips said in committee testimony.

Rep. Jeff Leach, R-Plano, who coauthored the bill with Rep. Ann Johnson, D-Houston, among others, referenced remarks by Carlock Phillips in presenting the bill for a vote on the House floor.

“The use of NDAs in settlement agreements is essentially lawful hush money. It is institutional abuse on top of sexual abuse,” he said, quoting Carlock Phillips. “And I couldn’t agree with her more.

“For too long, this has been the policy of this state,” Leach said. “We have here in Texas allowed for sanctioned blood money, for hush money, in these awful cases of abuse. And today, with the passage of Trey’s Law, that practice comes to an end.”

Leach, according to his online bio, is a member of Cottonwood Creek Church, a Southern Baptist congregation in Allen.

A step toward healing and ‘human flourishing’



Katie Frugé, Texas Baptists director of Center for Cultural Engagement and Christian Life Commission. (Texas Baptists photo)

Katie Frugé, director of Texas Baptists' Christian Life Commission, commended the passage of Trey's Law.

"Human flourishing is one of the four public policy priorities for the Texas Baptists' Christian Life Commission.

"Being allowed to own and share your story is a critical piece to the healing and ultimate flourishing of an individual who has been the victim of sexual abuse," Frugé said.

"No one should have to choose between being allowed to share their story and restorative justice. Trey's Law is a noble step towards returning agency and healing to survivors of sexual abuse."

A companion bill, SB 1587, was referred to the State Affairs Committee March 10, according to Texas Legislature Online.

Several bills with NDA clauses related to sexual abuse are advancing in Missouri, according to that state's legislative website, including Senate Bill 590, which includes a clause nullifying NDAs in childhood sexual abuse, which the Senate Judiciary and Civil and Criminal Jurisprudence Committee passed April 2; House Bill 709, which has the sole purpose of nullifying NDAs, which the Standing Committee on Judiciary passed April 2, and other bills.

Tennessee passed a bill in 2018 nullifying NDAs in childhood sexual abuse and, according to the *New York Times*, is the only state to have done so to

date.

“When Texas leads in areas like this—when we take some risk and we’re stepping out into uncharted legislative territory—other states will follow,” the *New York Times* quoted Leach in an April 8 story about Trey’s Law. “That’s my hope.”

Trey’s Law, according to an amendment Texas representatives approved moments before adopting the bill, could also nullify NDAs retroactively, Leach said in reading the amendment.

“It sets forth a very clear process by which any existing NDAs could ever be enforced to silence any victims in the future,” Leach said, “which hopefully after this bill passes would never happen.”

As amended, according to the text of the bill, NDAs entered into before Trey’s Law’s effectiveness could only be enforced with the permission of a declaratory judgment under Chapter 37 of the Civil Practices and Remedies Code.

But the bill maintains confidentiality of other terms of settlement agreements, including monetary amounts, and expands the scope of sexual abuse covered by the measure to include human trafficking, sexual assault and aggravated sexual assault.