S-4537.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5996**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Keiser, Darneille, Frockt, Van De Wege, Pedersen, Hunt, Chase, Saldaña, Kuderer, and Hasegawa)

AN ACT Relating to encouraging the disclosure and discussion of sexual harassment and sexual assault in the workplace; and adding a new section to chapter 49.44 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 49.44 RCW to read as follows:

(1) Except for settlement agreements under subsection (4) of this section, an employer may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises.

(2) Except for settlement agreements under subsection (4) of this section, any nondisclosure agreement, waiver, or other document signed by an employee as a condition of employment that has the purpose or effect of preventing the employee from disclosing or discussing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises is against public policy and is void and unenforceable.

(3) It is an unfair practice under chapter 49.60 RCW for an employer to discharge or otherwise retaliate against an employee for disclosing or discussing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises.

(4) This section does not prohibit a settlement agreement between an employee or former employee alleging sexual harassment and an employer from containing confidentiality provisions.

(5) For the purposes of this section:

(a) "Sexual assault" means any type of sexual contact or behavior that occurs without the explicit consent of the recipient.

(b) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) "Sexual harassment" has the same meaning as in RCW 28A.640.020.

(d) "Employee" does not include human resources staff, supervisors, or managers when they are expected to maintain confidentiality as part of their assigned job duties. It also does not include individuals who are notified and asked to participate in an open and ongoing investigation into alleged sexual harassment and requested to maintain confidentiality during the pendency of that investigation.

**--- END ---**