

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB23-172 be amended as follows:

1 Amend printed bill, page 12, line 14, strike "To" and substitute  
2 "INCLUDING DISCLOSING THE EXISTENCE AND TERMS OF A SETTLEMENT  
3 AGREEMENT, TO".

4 Page 12, line 16, after "PROVIDER," insert "MENTAL OR BEHAVIORAL  
5 HEALTH THERAPEUTIC SUPPORT GROUP,".

6 Page 13, strike lines 3 through 9 and substitute:

7 "(d) THE AGREEMENT INCLUDES A CONDITION THAT IF A  
8 NONDISPARAGEMENT PROVISION IS INCLUDED IN THE AGREEMENT AND THE  
9 EMPLOYER DISPARAGES THE EMPLOYEE OR PROSPECTIVE EMPLOYEE TO A  
10 THIRD PARTY, THE EMPLOYER MAY NOT SEEK TO ENFORCE THE  
11 NONDISPARAGEMENT OR NONDISCLOSURE PROVISIONS OF THE AGREEMENT  
12 OR SEEK DAMAGES AGAINST THE EMPLOYEE OR ANY OTHER PARTY TO THE  
13 AGREEMENT FOR VIOLATING THOSE PROVISIONS, BUT ALL OTHER  
14 REMAINING TERMS OF THE AGREEMENT REMAIN ENFORCEABLE;".

15 Page 13, line 16, strike "AND".

16 Page 13, after line 16 insert:

17 "(II) VARIED BASED ON THE NATURE OR SEVERITY OF THE BREACH;  
18 AND".

19 Renumber succeeding subparagraph accordingly.

20 Page 14, after line 15 insert:

21 "(4) IN ANY ACTION BROUGHT UNDER THIS SECTION, IF THE  
22 EMPLOYER SHOWS THAT THE ACT OR OMISSION GIVING RISE TO THE ACTION  
23 WAS COMMITTED IN GOOD FAITH AND THAT THE EMPLOYER HAS  
24 REASONABLE GROUNDS FOR BELIEVING THAT THE EMPLOYER'S ACT OR  
25 OMISSION DID NOT VIOLATE THIS SECTION, THE COURT MAY, IN ITS  
26 DISCRETION, DECLINE TO AWARD A PENALTY OR REDUCE THE AMOUNT OF  
27 THE PENALTY SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION.".

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