

2018 Regular Session

SENATE BILL NO. 233

BY SENATOR MORRELL

CRIMINAL JUSTICE. Nullifies nondisclosure agreements to conceal criminal activity.
(8/1/18)

1 AN ACT

2 To amend and reenact R.S. 9:2717, relative to contracts; to allow a court to render null and

3 void certain nondisclosure agreements and nondisclosure contract provisions; to

4 provide for public policy; to provide for retroactive application; and to provide for

5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2717 is hereby amended and reenacted to read as follows:

8 §2717. Contracts against public policy

9 A. (1) Any contract between a political subdivision and a person or entity

10 entered into as a result of fraud, bribery, corruption, or other criminal acts, for which

11 a final conviction has been obtained, shall be absolutely null and shall be void and

12 unenforceable as contrary to public policy.

13 B. (2) Any person whose conviction causes the nullity of the contract as

14 provided in ~~Subsection A of this Section~~ Paragraph (1) of this Subsection shall be

15 responsible for payment of all costs, attorney fees, and damages incurred in the

16 rebidding of the contract.

17 **B.(1) Notwithstanding any provision of law to the contrary, a party may**

1 petition a court for a declaratory judgement that a clause in an agreement,
 2 contract, settlement, or other similar instrument that prevents a party to the
 3 instrument from disclosing factual information related to acts that if proven
 4 would establish a cause of action for civil damages for any act that may be
 5 prosecuted as a criminal offense is null, void, and unenforceable as a matter of
 6 law and shall be considered against public policy.

7 (2) The fact that an agreement, contract, settlement, or similar
 8 instrument states that the providing of consideration is not an admission of
 9 liability for an alleged criminal offense, of the commission of a criminal offense,
 10 or of an awareness of a criminal offense shall not be conclusive in determining
 11 whether the provisions of Paragraph (1) of this Subsection apply.

12 (3) The provisions of this Subsection shall apply to any agreement,
 13 contract, settlement, or similar instrument entered into, revised, or amended
 14 before, on, and after August 1, 2018.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley E. Menou.

DIGEST

SB 233 Engrossed

2018 Regular Session

Morrell

Present law provides that any contract between a political subdivision and a person or entity entered into as a result of fraud, bribery, or other criminal acts, for which a final conviction has been obtained, shall be absolutely null and shall be void and unenforceable as contrary to public policy.

Proposed law retains present law.

Proposed law provides that a party may petition a court for a declaratory judgement that a clause in an agreement, contract, settlement, or other similar instrument that prevents a party to the instrument from disclosing factual information related to acts that if proven would establish a cause of action for civil damages for any act that may be prosecuted as a criminal offense is null, void, and unenforceable as a matter of law and shall be considered against public policy.

Proposed law provides that the fact that an agreement, contract, settlement, or similar instrument states that the providing of consideration is not an admission of liability for an alleged criminal offense, of the commission of a criminal offense, or of an awareness of a criminal offense shall not be conclusive in determining whether the provisions of proposed law apply.

Proposed law provides that the provisions of proposed law apply prospectively and retroactively.

Effective August 1, 2018.

(Amends R.S. 9:2717)