

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 8227  
OFFERED BY MR. NADLER OF NEW YORK**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Speak Out Act of  
3 2022”.

**4 SEC. 2. LIMITATION ON JUDICIAL ENFORCEABILITY OF  
5               PREDISPUTE NONDISCLOSURE AND NON-  
6               DISPARAGEMENT CONTRACT CLAUSES RE-  
7               LATING TO SEXUAL ASSAULT DISPUTES AND  
8               SEXUAL HARASSMENT DISPUTES.**

9       (a) IN GENERAL.—With respect to a sexual assault  
10 dispute or sexual harassment dispute, no predispute non-  
11 disclosure clause or predispute nondisparagement clause  
12 shall be judicially enforceable in instances in which con-  
13 duct is alleged to have violated Federal, Tribal, or State  
14 law.

15       (b) CONTINUED APPLICABILITY OF STATE LAW.—  
16 This Act shall not be construed to supersede a provision  
17 of State law that establishes, implements, or continues in  
18 effect a requirement or prohibition except to the extent

1 that such requirement or prohibition prevents the applica-  
2 tion of this Act.

3 (c) CONTINUED APPLICABILITY OF FEDERAL,  
4 STATE, AND TRIBAL LAW.—This Act shall not be con-  
5 strued to supersede a provision of Federal, State, or Trib-  
6 al Law that governs the use of pseudonyms in the filing  
7 of claims involving sexual assault or sexual harassment  
8 disputes.

9 **SEC. 3. DEFINITIONS.**

10 For purposes of this Act:

11 (1) PREDISPUTE NONDISCLOSURE CLAUSE.—

12 The term “predispute nondisclosure clause” means a  
13 provision in a contract or agreement agreed to be-  
14 fore a lawsuit is filed under Federal, State, or Tribal  
15 law, that requires the parties to the contract or  
16 agreement not to disclose or discuss conduct, the ex-  
17 istence of a settlement involving conduct, or infor-  
18 mation covered by the terms and conditions of the  
19 contract or agreement.

20 (2) PREDISPUTE NONDISPARAGEMENT

21 CLAUSE.—The term “predispute nondisparagement  
22 clause” means a provision in a contract or agree-  
23 ment that requires 1 or more parties to the contract  
24 or agreement not to make a negative statement

1 about another party that relates to the contract,  
2 agreement, claim, or case.

3 (3) SEXUAL ASSAULT DISPUTE.—The term  
4 “sexual assault dispute” means a dispute involving  
5 a nonconsensual sexual act or sexual contact, as  
6 such terms are defined in section 2246 of title 18 of  
7 the United States Code, or similar applicable Tribal  
8 or State law, including when the victim lacks capac-  
9 ity to consent.

10 (4) SEXUAL HARASSMENT DISPUTE.—The term  
11 “sexual harassment dispute” means a dispute relat-  
12 ing to conduct that is alleged to constitute sexual  
13 harassment under applicable Federal, Tribal, or  
14 State law.

15 **SEC. 4. APPLICABILITY.**

16 This Act shall apply with respect to a claim that is  
17 filed under Federal, State, or Tribal law on or after the  
18 date of the enactment of this Act.

