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:

SECTION 1. SHORT TITLE.

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

SEC. 2. LIMITATION ON JUDICIAL ENFORCEABILITY OF PREDISPUTE NONDISCLOSURE AND NON-DISPARAGEMENT CONTRACT CLAUSES RELATING TO SEXUAL ASSAULT DISPUTES AND SEXUAL HARASSMENT DISPUTES.

(a) IN GENERAL.—With respect to a sexual assault dispute or sexual harassment dispute, no predispute nondisclosure clause or predispute nondisparagement clause shall be judicially enforceable in instances in which conduct is alleged to have violated Federal, Tribal, or State law.

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

(c) **CONTINUED APPLICABILITY OF FEDERAL, STATE, AND TRIBAL LAW.**—This Act shall not be construed to supersede a provision of Federal, State, or Tribal Law that governs the use of pseudonyms in the filing of claims involving sexual assault or sexual harassment disputes.

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) **PREDISPUTE NONDISCLOSURE CLAUSE.**—The term “predispute nondisclosure clause” means a provision in a contract or agreement agreed to before a lawsuit is filed under Federal, State, or Tribal law, that requires the parties to the contract or agreement not to disclose or discuss conduct, the existence of a settlement involving conduct, or information covered by the terms and conditions of the contract or agreement.

(2) **PREDISPUTE NONDISPARAGEMENT CLAUSE.**—The term “predispute nondisparagement clause” means a provision in a contract or agreement that requires 1 or more parties to the contract or agreement not to make a negative statement
about another party that relates to the contract, agreement, claim, or case.

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

(4) SEXUAL HARASSMENT DISPUTE.—The term “sexual harassment dispute” means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.

SEC. 4. APPLICABILITY.

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