

About CHILD USA

CHILD USA is the leading national nonprofit think tank fighting for the civil rights of children. Our mission is to employ in-depth legal analysis and cutting-edge social science research to protect children, prevent future abuse and neglect, and bring justice to survivors.

About CHILD USAAdvocacy

CHILD USAAdvocacy is a 501(c)(4) advocacy organization dedicated to ending child abuse and neglect by advocating for better laws for child protection. We draw on the combined expertise of the nation's leading child advocates, specifically our sister organization, CHILD USA. We are committed to protecting children's civil liberties and keeping children safe from abuse and neglect.

The Speak Out Act (S. 4524)

Sponsor: Sen. Kirsten Gillibrand (D-NY); **Co-Sponsors:** Sen. Marsha Blackburn (R-TN), Sen. Mazie Hirono (D-HI), and Sen. Lindsey Graham (R-SC)

CHILD USA and CHILD Advocacy support the Speak Out Act (S. 4524), a bipartisan bill that, signed into law by President Biden on December 7, 2022, will allow victims of sexual assault and sexual harassment to discuss their experiences without fear of legal repercussions.

THE PROBLEM: Prior law allowed the use of non-disclosure agreements (NDAs) to force victims of sexual harassment and sexual assault to sign away their rights to speak publicly about their experiences. NDAs have contributed to a culture of secrecy around sexual violence by silencing victims, concealing wrongdoing, and protecting the reputational interests of powerful individuals and institutions over public safety interests.

THE SOLUTION: The Speak Out Act counters the harmful effects of NDAs by limiting their use in cases of sexual harassment and sexual assault claims. The Act will:

- ❖ Prohibit the use of pre-dispute NDAs between employers and current, former, and prospective employees, as well as independent contractors;
- ❖ Prohibit the use of pre-dispute NDAs between providers of goods and services and consumers, and;
- ❖ Invalidate existing pre-dispute NDAs in cases that have not yet been filed.

The Act recognizes that for too long NDAs have played a disturbing role in silencing victims of sexual violence—

including child sexual abuse. We hope that lawmakers will continue to build on this work and will work to increase the protection of minors by:

- ❖ Expanding the existing language prohibiting the use of pre-dispute NDAs to include grooming and abuse;
- ❖ Extending protections to interns, fellows, volunteers, and trainees; and
- ❖ Adding language that limits or prohibits the use of NDAs in settlement agreements for claims arising from child sexual abuse.

We urge lawmakers to adopt these additional changes to these laws to help ensure access to justice and healing for victims.

5 REASONS TO REJECT NDAS

- 1 NDAS SILENCE VICTIMS' VOICES**
preventing them reporting, speaking to family, friends, and even therapists about their experiences, or warning others.
- 2 NDAS PERPETUATE A CLIMATE OF SEXUAL VIOLENCE**
allowing predators to continue their abusive behaviors within the organization or move with impunity to another organization.
- 3 NDAS DEPRIVE THE PUBLIC OF VITAL INFORMATION**
preventing researchers, lawmakers, and the public from identifying the prevalence and nature of sexual violence and exposing harmful practices that facilitate abuse.
- 4 NDAS FAIL TO PROTECT VICTIMS**
they protect the reputations of perpetrators and their employers, not the victim who would be protected by a one-sided confidentiality clause.
- 5 NDAS CHILL THE CLIMATE**
for anyone wishing to speak out about sexual violence, particularly in the workplace.

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