

.....
(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To prohibit the enforcement of certain contractual clauses that restrict disclosure of sexual abuse and grooming of a minor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. COMER introduced the following bill; which was referred to the Committee
on _____

A BILL

To prohibit the enforcement of certain contractual clauses that restrict disclosure of sexual abuse and grooming of a minor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Survivor’s Voice Pro-
5 tection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) GROOMING BEHAVIOR.—The term “groom-
2 ing behavior” means a course of conduct, in or af-
3 fecting interstate or foreign commerce, directed at a
4 minor that is intended to establish an emotional con-
5 nection with a minor through manipulation, trust-
6 building, or influence to facilitate future acts of sex-
7 ual conduct or normalize or desensitize the minor to
8 acts of sexual conduct, even if no in-person meeting
9 or act of sexual conduct is completed, and includes
10 directing or conspiring with another person to en-
11 gage in such a course of conduct.

12 (2) NONDISCLOSURE CLAUSE.—The term “non-
13 disclosure clause” means a provision in a contract or
14 agreement that prohibits 1 or more parties to the
15 contract or agreement from disclosing conduct or in-
16 formation covered by the terms and conditions of the
17 contract or agreement.

18 (3) SEXUAL ABUSE.—The term “sexual abuse”
19 means—

20 (A) conduct that constitutes or allegedly
21 constitutes—

22 (i) an offense under chapter 109A,
23 chapter 110, or chapter 110A of title 18,
24 United States Code; or

1 (ii) trafficking of a person under
2 chapter 77 of title 18, United States Code;

3 (B) conduct that constitutes or allegedly
4 constitutes grooming behavior; or

5 (C) any sexual act or sexual contact
6 against an individual that constitutes or alleg-
7 edly constitutes a criminal offense under Fed-
8 eral law or the law of the State in which the act
9 or contact occurs.

10 (4) FIDUCIARY.—The term “fiduciary” means a
11 guardian, trustee, executor, administrator, receiver,
12 conservator, or any person acting in any fiduciary
13 capacity for any person, including an officer, direc-
14 tor, employee, agent, or other participant in the
15 management or conduct of the affairs of such a per-
16 son.

17 (5) MINOR.—The term “minor” means an indi-
18 vidual who has not attained 18 years of age.

19 **SEC. 3. NONDISCLOSURE AGREEMENTS VOID AND UNEN-**
20 **FORCEABLE.**

21 (a) IN GENERAL.—A nondisclosure clause shall be
22 void and unenforceable only to the extent that the non-
23 disclosure clause prohibits—

24 (1) a victim of sexual abuse from disclosing—

25 (A) such sexual abuse; or

1 (B) facts related to such sexual abuse; or
2 (2) any other person from disclosing facts re-
3 lated to such sexual abuse described in paragraph
4 (1) in support of, in furtherance of, or consistent
5 with the right of a victim or alleged victim to dis-
6 close under that paragraph.

7 (b) PERMISSIBLE CONFIDENTIALITY.—Nothing in
8 this section shall be construed to prohibit a person from
9 entering into a contract or agreement that restricts the
10 disclosure of information, including the amount or pay-
11 ment terms of a settlement, by another party to the con-
12 tract or agreement, including an alleged perpetrator, so
13 long as such restriction does not prevent disclosure pro-
14 tected under subsection (a).

15 (c) RETROACTIVE APPLICATION.—

16 (1) IN GENERAL.—This section shall apply to
17 any nondisclosure clause in a contract or agreement
18 entered into before, on, or after the date of enact-
19 ment of this Act.

20 (2) NO ENFORCEMENT ACTIONS.—No person
21 may enforce or attempt to enforce a nondisclosure
22 clause described in subsection (a), regardless of the
23 date on which the contract or agreement containing
24 the nondisclosure clause was entered into.

25 (3) PREEMPTION.—

1 (A) IN GENERAL.—This section supersedes
2 any State law to the extent that such law per-
3 mits enforcement of a provision, the enforce-
4 ment of which is prohibited under this section.

5 (B) RULE OF CONSTRUCTION.—Nothing in
6 this section shall be construed to prohibit a
7 State or locality from enacting legislation
8 that—

9 (i) is consistent with this section; or

10 (ii) provides greater protection to a
11 victim of sexual abuse against a person
12 than is provided under this section.

13 **SEC. 4. FIDUCIARY DUTY TO REPORT.**

14 (a) DUTY TO REPORT.—A fiduciary who, in the
15 course of their fiduciary duties, has reasonable cause to
16 believe that the person to whom they owe such duty has
17 engaged in grooming behavior that a reasonable person
18 would believe is intended to lead to sexual abuse described
19 in subparagraph (A) or (C) of section 2(3), shall report
20 such behavior to the appropriate Federal, State, Tribal,
21 or local law enforcement agency in accordance with rules
22 promulgated by the Attorney General under subsection (f).

23 (b) PRIVATE RIGHT OF ACTION.—An individual who
24 is a victim of sexual abuse described in subsection (d) may
25 bring a civil action against the fiduciary described in sub-

1 section (d)(1) in an appropriate district court of the
2 United States for damages and reasonable attorney fees.

3 (c) ENFORCEMENT BY STATES.—In any case in
4 which the attorney general of a State has reason to believe
5 that an interest of the residents of that State has been
6 or is threatened or adversely affected by sexual abuse de-
7 scribed in subsection (d), the attorney general of the
8 State, as *parens patriae*, may bring a civil action against
9 the fiduciary described in subsection (d)(1) on behalf of
10 the residents of the State in an appropriate district court
11 of the United States to obtain appropriate relief.

12 (d) SEXUAL ABUSE DESCRIBED.—Sexual abuse de-
13 scribed in this subsection is sexual abuse described in sub-
14 paragraph (A) or (C) of section 2(3) with respect to
15 which—

16 (1) a fiduciary failed to report grooming behav-
17 ior that led to such sexual abuse in violation of sub-
18 section (a); and

19 (2) the person to whom the fiduciary owed the
20 fiduciary duty was convicted.

21 (e) STATUTE OF LIMITATIONS.—No action may be
22 maintained under this section unless it is commenced not
23 later than the later of—

24 (1) 10 years after the date of the conviction de-
25 scribed in subsection (d)(2); or

1 (2) 10 years after the victim reaches 18 years
2 of age, if the victim was a minor at the time of the
3 alleged offense.

4 (f) RULEMAKING AUTHORITY.—Not later than 180
5 days after the date of enactment of this Act, the Attorney
6 General shall promulgate rules to clarify the duty under
7 subsection (a), and the deadline by which a fiduciary is
8 required to report under such subsection, which shall be
9 not less than 90 days and not more than 180 days after
10 the date on which the fiduciary first knows about the
11 grooming behavior described in subsection (a).

12 (g) EFFECTIVE DATE.—This section shall take effect
13 on the date that is 180 days after the date of enactment
14 of this Act, except that subsection (f) shall take effect on
15 the date of enactment of this Act.