

H.R.5

**ABOLISH NEFARIOUS
NONCONSENSUAL ARBITRATIONS ACT**

IN THE HOUSE OF REPRESENTATIVES

Ms. KENDRICK introduced the following bill;

A BILL

To invalidate arbitration agreements that preclude a party from filing a lawsuit in court involving sexual assault or sexual harassment, **AS AMENDED**.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the “Abolish Nefarious Nonconsensual Arbitrations Act” or the “ANNA Act”.

SECTION 2. DEFINITIONS

PREDISPUTE ARBITRATION AGREEMENT

The term ‘predispute arbitration agreement’ means any agreement to arbitrate a dispute that has not yet arisen at the time of the making of the agreement.

PREDISPUTE JOINT-ACTION WAIVER

The term ‘predispute joint-action waiver’ means an agreement, whether or not part of a predispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or other forum, concerning a dispute that has not yet arisen at the time of the making of the agreement.

SEXUAL ASSAULT DISPUTE

The term ‘sexual assault dispute’ means a dispute involving a nonconsensual sexual act or sexual contact, including when the victim lacks capacity to consent.

SEXUAL ACT

The term ‘sexual act’ means

- (1) Contact between the penis and the vulva or the penis and the anus.
Contact involving the penis occurs upon penetration, however slight.
- (2) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus
- (3) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person
- (4) The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person

SEXUAL CONTACT

The term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

SEXUAL HARASSMENT DISPUTE

The term ‘sexual harassment dispute’ means a dispute relating to any of the following conduct directed at an individual or a group of individuals:

- (1) Unwelcome sexual advances
- (2) Unwanted physical contact that is sexual in nature, including assault

- (3) Unwanted sexual attention, including unwanted sexual comments and propositions for sexual activity
- (4) Conditioning professional, educational, consumer, health care, or long-term care benefits on sexual activity
- (5) Retaliation for rejecting unwanted sexual attention

SECTION 3. APPLICATION

- (1) At the election of the person alleging conduct constituting a sexual assault dispute or sexual harassment dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal or Tribal law and relates to the sexual assault dispute or the sexual harassment dispute.
- (2) The applicability of this Act to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.
- (3) This Act shall apply with respect to any dispute or claim that arises or accrues on or after the date of enactment of this Act.

SECTION 4. ENACTMENT

The provisions of this Act shall go into effect immediately upon passage.