

Governor Cuomo Signs Bill Amending the Human Rights Law

On August 12, 2019, Governor Cuomo signed the legislation that was passed by the New York State Assembly and Senate on June 19, 2019, making sweeping changes to the New York Human Rights Law. We [previously posted a summary](#) of the significant amendments to the Human Rights Law and the potential impact that these amendments could have on the litigation of discrimination and harassment claims filed with the Division of Human Rights and in court. Now that the legislation has been signed by the Governor, we now know the dates when each of the various amendments will become effective.

As explained in our previous blog post, the legislation broadens the legal definition of “harassment” to eliminate the “severe or pervasive” standard. Any harassment based on a protected characteristic that rises above “petty slights or trivial inconveniences” will now potentially be actionable under the statute. This expanded definition of “harassment” will take effect 60 days after the date of the Governor’s signature, on October 11, 2019.

The new legislation also opens up the possibility that an employer may still be found liable for alleged harassment even if the employee did not report the alleged harassment to the employer prior to filing a complaint under the Human Rights Law. This provision will also take effect on October 11, 2019.

The new legislation also expands the definition of “employer” under the Human Rights Law by eliminating the requirement that an entity have at least four employees in order to be covered by the law. This expanded definition of “employer” will take effect 180 days after the date of the Governor’s signature, on February 8, 2020.

The new legislation also expands certain prohibitions that were previously applicable only to sexual harassment claims. For example, the new legislation makes it unlawful to insert a non-disclosure provision into a settlement agreement in order to resolve any type of employment discrimination or harassment claim, unless the inclusion of the non-disclosure provision is the complainant’s preference. Mandatory arbitration clauses, which were prohibited last year for sexual harassment claims, will also now be prohibited for all types of employment discrimination and harassment claims. It will also now be an unlawful discriminatory practice for an employer to permit any type of discrimination against non-employees in its workplace (contractors, subcontractors, vendors, consultants, or any other individuals providing services pursuant to a contract in the workplace) based on any protected characteristic. These new prohibitions will take effect on October 11, 2019.

The new legislation also increases the potential financial penalties applicable to employment discrimination claims to include punitive damages and reasonable attorneys’ fees. These increased financial penalties will take effect on October 11, 2019.

Finally, for sexual harassment claims only, the new legislation expands the statute of limitations from one year to three years for filing a complaint with the Division of Human Rights. The statute of limitations for filing employment discrimination or harassment claims directly with a court is currently three years, but complainants will also now be

able to take advantage of the administrative complaint process for sexual harassment claims for three years after the alleged harassment occurred. This new statute of limitations for filing administrative complaints of sexual harassment will take effect in one year, on August 12, 2020.

The impact of these changes will be profound, and will almost certainly lead to an increase in the number of workplace harassment complaints that are filed. It is more important than ever that employers comply with their obligation to conduct training sessions for their employees regarding appropriate workplace conduct at least annually. Bond attorneys are available to conduct in-person training sessions prior to the October 9 deadline for any employer that has not yet conducted the training sessions. In addition, Bond's labor and employment practice has developed an [online training program](#) that is compliant with all aspects of the Human Rights Law, including the new legal standard for harassment claims.

If you have any questions about this Information Memo, please contact [Theresa E. Rusnak](#), [Subhash Viswanathan](#), any of the [attorneys](#) in our [Labor and Employment Law Practice](#), or the attorney in the firm with whom you are regularly in contact.



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