



In the News

Legal Briefs for Employers: Ban on Pre-Dispute Mandatory Arbitration of Sexual Harassment and Assault Claims

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The U.S. House and Senate passed and President Biden will sign a law the bans employers from enforcing pre-dispute mandatory arbitration of sexual harassment and assault claims. The employee retains the option to arbitrate, if that is desired, but cannot be prevented from having her or his day in court. See <https://www.congress.gov/bill/117th-congress/house-bill/4445/text>

Closer to home, effective Sep. 1, 2021, in Texas, state law analogous to Title VII (which bans sexual harassment, among other things) was amended to:

- Modify the definition of a covered employer from an entity having 15 employees to one or more employees (the federal threshold remains at 15 employees)
- Expand the definition of an employer from just the entity to include "a person who acts directly in the interests of an employer in relation to an employee" (e.g., supervisors, managers, HR personnel)
- Make it a violation of the law if the entity and/or the aforementioned person knew or should've known sexual harassment was occurring and failed to take immediate and appropriate action
- Expand the limitations period for filing complaints from 180 to 300 days (the federal threshold remains 300 days)

These measures and MANY others in other U.S. states are side effects of #metoo but have not received a lot of press, leaving businesses unaware of the potential liability for the entity and certain staff. MWM's Audrey Mross conducts anti-harassment training for employers, live or via Zoom, to deter harmful behaviors and provide part of the defense if misconduct occurs.

To learn more about her training, contact Audrey directly at amross@munckwilson.com or 972.628.3661 or go to:

<https://munckwmdev.wpengine.com/sexual-harassment/>