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New York Sexual Harassment Legislation

By [Pat Shea](#)

In the early morning hours on Saturday the New York legislature passed a budget bill that contains significant new provisions addressing sexual harassment. Governor Cuomo is expected to sign the bill. The key provisions impacting private employers are the following:

- Employers are required to adopt sexual harassment policies and provide training on harassment prevention for all employees at least once a year. Parties bidding on contracts with the state must do so within 90 days of enactment; other employers have 180 days to do so after the state develops model policies.
- The law prohibits mandatory predispute arbitration of sexual harassment claims, but has a savings clause that says the provision will not apply where “inconsistent with federal law.” Since the Federal Arbitration Act preempts state laws that specifically prohibit enforcement of arbitration agreements, we expect the savings clause to exempt agreements covered by the FAA.
- The legislation bars settlement agreements which resolve claims, “the factual foundation for which involves sexual harassment,” from containing any provision “that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the complainant’s preference.” The complainant’s preference must be reflected in a written agreement that the complainant has 21 days to consider and seven days to revoke.

The last two restrictions take effect 90 days after the bill is signed. We intend to provide a further discussion on the new law in the near future.

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