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## Massachusetts Legislature Considers Prohibiting Mandatory Arbitration of Employment Claims

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A bill prohibiting mandatory arbitration of employment-related claims, introduced in late 2017 before the Massachusetts House of Representatives, continues to gain traction in early 2018. The bill ([House Bill 4058](#)), which proposes legislation that would prohibit enforcement of mandatory arbitration agreements “relating to a claim of discrimination, non-payment of wages or benefits, retaliation, harassment or violation of public policy in employment,” is currently being considered by the state Joint Committee on Labor and Workforce Development. The state Senate Committee on Ways and Means is also currently evaluating a similar bill ([Senate Bill 4058](#)), which contains similar prohibitions regarding the arbitration of employment related claims. Both bills would impose attorneys’ fees as remedies.

Set against the backdrop of the “#MeToo” movement and the recent onslaught of allegations of harassment in the workplace, the proposed legislation in Massachusetts is joined by similar proposed legislation in a number of other states as well as in the federal legislature. The proposed federal legislation (named the “End Forced Arbitration of Sexual Harassment Act”) – and which was introduced with bipartisan support – would prohibit the enforcement of arbitration agreements pertaining to allegations of sexual harassment or discrimination brought under Title VII of the Civil Rights Act of 1964. Notably, the proposed Massachusetts bills go further than the proposed federal bill, insofar as the Massachusetts bills would also prohibit arbitration claims as to wage claims as well as discrimination claims.

Although this proposed federal and Massachusetts legislation has not yet become law (and though it may be months, or even years, before it does if at all), employers should stay on the lookout for any further legislative developments, both on a state and federal level. In light of the considerable momentum and mounting social awareness surrounding the issue of sexual harassment in the workplace, it is possible that the current legal landscape pertaining to arbitration agreements may shift in the near future. To that end, employers should also continue to dedicate significant attention to the enforcement of anti-harassment and discrimination policies, and should consult with counsel in doing so.

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