

New Maryland Law Prohibits Arbitration Agreements for Sexual Harassment Claims, Requires Reporting of Sexual Harassment Settlements

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Recently, Maryland's Governor signed the "Disclosing Sexual Harassment in the Workplace Act," becoming the most recent state to enact tougher sexual harassment laws in the wake of the #MeToo movement. The Act, which will go into effect on October 1, 2018, prohibits employers from including in any agreement, policy, or contract a provision that waives any "substantive or procedural right or remedy" for claims of sexual harassment or retaliation for reporting sexual harassment, effectively barring employers from requiring employees to arbitrate these claims. The Act also prohibits employers from retaliating against any employee who refuses to enter into an agreement that contains such a waiver.

Moreover, Maryland employers with 50 or more employees will be required to file a report with the Maryland Commission on Civil Rights no later than July 1, 2020 (and again on July 1, 2022) listing: 1) the number of settlements made by the employer after an allegation of sexual harassment; 2) the number of times the employer has settled allegations of sexual harassment made against the same employee; and, 3) the number of settlements of sexual harassment that contained non-disclosure or confidentiality provisions. The Commission will compile the data and make each employer's specific submission (including employer identity) available for public inspection upon request.

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