

CLIENT ALERT: New Law Bans Pre-Dispute Arbitration Clauses for Sexual Assault and Sexual Harassment Claims

On March 3rd President Biden signed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act into law, amending the Federal Arbitration Act by banning pre-dispute employment arbitration agreements for sexual harassment and sexual assault claims. The Act, [H.R. 4445](#), passed the House by a 335-97 vote on February 10th.

The Act applies to any new claims, regardless of when the underlying behavior occurred, and voids any pre-dispute arbitration agreements in place that relate to claims of sexual harassment or sexual assault. In practical terms, the new law will enable employees to choose whether they want to bypass the arbitration process and go directly to court. Some employees may wish to keep their case confidential and select arbitration to maintain their privacy. Any pending arbitrations may proceed. In addition to individual claims, the legislation also applies to joint, class, and collective actions.

Please note that this new law applies to sexual harassment and sexual assault claims only; sexual discrimination and other employment claims may still be subject to pre-dispute arbitration agreements. If your organization uses an arbitration agreement for new hires, you will want to amend the agreement and also get advice regarding the agreements that are already in place with your employees.