

Legal Update Article

Ohio Governor Signs Employment Law Uniformity Act Into Law, Establishing Two-Year Limitations Period

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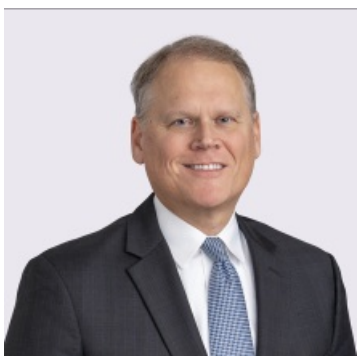
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Meet the Authors



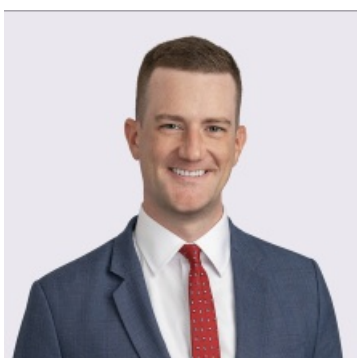
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Employment Litigation

Ohio Governor Mike DeWine has signed the [Employment Law Uniformity Act](#) into law. The Act will go into effect April 12, 2021, and applies to all future discrimination claims filed on or after that date.

The new Act, which has long been sought by the Ohio Chamber of Commerce, affects Ohio employers by amending the procedure surrounding employment discrimination claims in the state as follows:

- The Act shortens the statute of limitations for workplace discrimination claims from six years to two years. The six-year limitation had been among the longest in the United States.
- Employees can no longer sue their employers directly in court based on alleged discriminatory practices before exhausting administrative remedies first by filing a charge with the Ohio Civil Rights Commission (OCRC). This new process will allow the OCRC to consolidate charges of the same alleged violation, relieving employers from defending the same claims in multiple venues.
- Employees must obtain a “right to sue” letter from the OCRC before suing, although employees may seek injunctive relief beforehand. This procedure is similar to what is in place under federal law and many states.
- The Act provides a statutory affirmative defense to hostile work environment claims as set forth by the U.S. Supreme Court in *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998). Employers would not be responsible for such claims if:
 - The employer had robust anti-discrimination policies;
 - The employer properly trained employees on appropriate workplace behavior and complaint procedures;
 - The employer exercised reasonable care in preventing or correcting harassment in the workplace; and
 - The employee failed to invoke the employer’s complaint procedures or other preventive or corrective opportunities
- The Act substantially eliminates the potential for personal liability for supervisors and managers, superseding the Ohio Supreme Court’s decision in *Genaro v. Cent. Transp., Inc.*, 84 Ohio St.3d 293 (1999). If supervisors or managers acted outside the scope of their employment, however, retaliated against the employee, or otherwise engaged in discriminatory practice, they may still face personal liability.
- Finally, the Act streamlines Ohio’s age discrimination statutes and removes two alternate methods for filing age discrimination claims, aligning the process for filing age discrimination claims in Ohio to the procedure for bringing all other discrimination claims, all subject to the new two-year statute of limitations.

For additional guidance on this major development, please contact the Jackson Lewis attorney with whom you regularly work.

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