

President Biden Signs Law Limiting Arbitration Agreements for Sexual Assault, Harassment Claims

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Meet the Authors



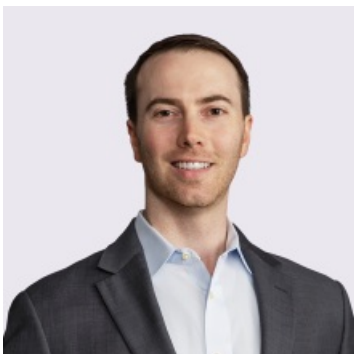
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On March 3, 2022, President Joe Biden signed a law that limits the use of predispute arbitration agreements and class action waivers covering sexual assault and sexual harassment claims.

As anticipated, President Biden has signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021. The Act amends the Federal Arbitration Act (FAA) to give employees who are parties to arbitration agreements with their employers the option of bringing claims of sexual assault or sexual harassment either in arbitration or in court.

What the Law Says

The Act amends the FAA to include a new section, which states, in part:

[A]t the election of the person alleging conduct constituting a sexual harassment dispute or a sexual assault dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute.

What Employers Need to Know

1. The Act gives employees the option to invalidate arbitration agreements and class or collective action waivers with respect to sexual assault and sexual harassment claims. This means employees may choose to either arbitrate these claims or pursue them in court regardless of any contractual agreements with their employers.
2. The Act applies to all claims that arise or accrue after March 3, 2022, regardless of the date of the agreement at issue. The Act, however, does not affect claims that arose or accrued before March 3, 2022.
3. The Act does not affect otherwise valid arbitration agreements for claims that are not related sexual assault and sexual harassment.
4. Future litigation is anticipated over the scope and interpretation of this law.

Where to Find Additional Information

For a more in-depth analysis of this new law, its implications for employers, and what the future of arbitration agreements look like, see our article, [Congress Passes Federal Law Restricting Arbitration Agreements for Sexual Assault, Harassment Claims](#).

Jackson Lewis attorneys will continue to track developments pertaining to employment arbitration agreements and representative actions. If you have questions about the new law or issues related to arbitration agreements, contact a Jackson Lewis attorney to

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