

Client Alert

New York State Governor Signs Legislation to Address Workplace Harassment, Discrimination, and Retaliation

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Last week, New York Governor Kathy Hochul signed two pieces of legislation aimed at combatting workplace harassment, discrimination, and retaliation that impact private employers. The first bill, effective July 14, 2022, directs the New York State Division of Human Rights (the "NYSDHR") to establish and operate a toll free confidential hotline to provide counsel and assistance to individuals with complaints of workplace sexual harassment. The second bill, effective immediately, expands the retaliation prohibition under the New York State Human Right Law (the "NYSHRL") to include disclosing an employee's personnel file because the employee has opposed discriminatory practices, filed a complaint, or testified or assisted in a proceeding under the NYSHRL.

The hotline will operate during regular business hours and be staffed by pro bono attorneys with experience in counseling related to sexual harassment matters to provide counsel and assistance to callers. The NYSDHR will also work with the New York State Department of Labor to ensure that information regarding the hotline is included in any materials that employers must post or provide to employees regarding sexual harassment. As such, employers in New York State should expect to add information regarding the hotline to their postings or policies after the law takes effect later this year.

The law expanding the definition of retaliation provides an exception if "disclosure is made in the course of commencing or responding to a complaint in any proceeding" under the NYSHRL "or any other civil or criminal action or other judicial or administrative proceeding as permitted by applicable law." The purpose of the law is to prevent the release of personnel records in an effort to discredit individuals who assert claims of workplace discrimination, harassment, or retaliation. The law also provides additional recourse to individuals with claims of unlawful retaliation, by allowing them to file a complaint directly with the New York State Attorney General. If the Attorney General believes an employer has violated, or is about to violate, provisions regarding unlawful retaliation, she may commence an action in the New York State Supreme Court.

The Governor made clear in signing this legislation that one of her top priorities is combatting workplace harassment and discrimination in New York State. A number of other measures aimed at furthering this goal are currently pending in the state legislature, including a bill to extend the statute of limitations for initiating a lawsuit from three to six years and another bill that would ban no rehire clauses in settlement agreements. Private employers in New York State should continue to monitor these developments to ensure that their policies and practices are compliant.

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