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Biden Bans Mandatory Arbitration For Sexual Harassment And Assault Claims

March 4, 2022 | [Labor And Employment](#)

President Biden signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act on March 3, 2022. He said at the ceremony, “For those who experience sexual harassment or assault, you’re going to have a right today that you did not have yesterday.”

The new law, H.R. 4445, amends the Federal Arbitration Act to make mandatory pre-dispute arbitration agreements for claims of sexual harassment or sexual assault voidable, at the discretion of the claimant.

In an underreported provision, the new law also bans pre-dispute joint, class or collective actions. Such provisions have been increasingly adopted by employers who seek to protect themselves from aggressive class actions filings in many jurisdictions. The law also provides that any challenge under the new law will be decided by a court and not an arbitrator.

The new law applies to any claim that accrues or arises after the enactment of the law.

If you are an employer who has adopted arbitration agreements or has considered doing so, any such arbitration provisions would need to be revised to take this new law into account. For this reason, employers are encouraged to reach out to counsel to update their existing arbitration agreements.