



BOUSQUET HOLSTEIN PLLC

# Alert

## Labor, Employment & Employee Benefits

### New York Enacts Changes to Human Rights Law, Expanding Worker Protections and Rights

Syracuse ♦ Ithaca ♦ New York City

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The New York State Legislature enacted sweeping changes to the state's Human Rights Law ("HRL") in June 2019, and Governor Cuomo signed the legislation into law on August 12, 2019. The changes significantly expand the rights and protections afforded employees. The new law will make it easier for employees to succeed in litigation and increases the damages employees may recover. A short summary of the most significant changes to the law are set forth below.

- In hostile environment cases, an employer may no longer assert as an affirmative defense that the employee unreasonably failed to take advantage of an employer's anti-harassment policy or complaint procedure. Unlike federal law, employers in New York can therefore be held liable for hostile work environment claims even when an employee fails to complain of harassment.
- Breaking away from years of decisional law, the legislation makes it easier for employees to prove unlawful harassment by dropping the requirement that the harassment be "severe or pervasive." Employers, however, will not be held liable if they can prove that a "reasonable victim of discrimination" would consider the harassment to be "petty" or "trivial."
- Prevailing private sector employees will now be entitled to recover their reasonable attorneys' fees. Employers will only be able to recover their attorneys' fees if they can demonstrate that the employee's complaint was "frivolous."
- Prevailing private sector employees will now be entitled to recover punitive damages.
- The HRL will be expanded to cover all employers. Except in cases of sex harassment, only employers with four or more employees were covered by the former law.
- Certain non-employees will be provided the same protection as employees. Non-employees include such groups as independent contractors, vendors and consultants. Except in cases of sex harassment, non-employees were not covered under the former HRL.
- Finally, for sexual harassment claims only, the new legislation expands the statute of limitations from one year to three years for filing a complaint with the New York State Division of Human Rights.

The impact of these changes is likely to be profound. Given the additional protections afforded employees, the easier burden that employees must demonstrate to be successful, and the additional damages they may receive, this legislation is likely to increase the number of workplace complaints that are filed by employees.

If we can provide you with additional insight and information regarding changes to the law and how they may impact your business, please contact :

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Bousquet Holstein PLLC provides representation to employers, large and small, and to employees. Our attorneys make it a priority to become familiar with our clients' businesses. We emphasize addressing employment, discrimination, and labor issues before they become problems and we advise our clients in all areas of human relations and human resource practices to satisfy our clients' business objectives.

Our attorneys are also fully versed in the complex set of rules that regulate the employee benefits area as set forth under ERISA (Employee Retirement Income Security Act of 1974, as amended) and the Internal Revenue Code. We routinely advise clients with regard to the design, implementation, and administration of employee retirement, welfare, and fringe benefit plans.



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