



LABOR & EMPLOYMENT LAW ALERT

Governor Signs New Anti-Discrimination Laws in Furtherance of the Women's Equality Agenda

New York State employers should be aware that Governor Andrew Cuomo signed into law several bills on October 21, 2015 that collectively aim to protect women's rights under state law. The laws, known in Albany as the "women's equality agenda," have several objectives.

- **Pay equity:** S.1/A.6075 seeks to eliminate a perceived loophole in current law that allows employers to prohibit employees from discussing their salaries under threat of termination or suspension. Specifically, the bill allows employees to discuss their wages with each other and increases the amount of damages available to an employee if an employer willfully violates the law.
- **Protection for victims of sexual harassment:** This bill (S.2/A.5360) protects all employees from sexual harassment in the workplace regardless of the size of the employer. Currently, the definition of "employer" under the State Human Rights Law excludes employers with fewer than four employees, thus prohibiting individuals from filing harassment complaints with the Division of Human Rights against those very small employers. This new law expands the definition of "employer" to cover all employers within New York in sexual harassment cases so that an employee of any business can file a workplace sexual harassment complaint.
- **Easier collection of attorneys' fees:** S.3/A.7189 allows successful plaintiffs to recover their attorneys' fees in employment or credit discrimination cases based on sex. Under existing New York State law, plaintiffs cannot recover their attorney fees at trial for employment discrimination cases, making it costly to bring a case, absent parallel federal claims supporting the recovery of attorneys' fees. This may result in more cases under the State Human Rights Law being tried before the Division of Human Rights rather than being diverted into the courts.
- **Prohibition of family status discrimination:** This bill (S.4/A.7317) prohibits employment discrimination based on familial status. Currently, New York State law only prohibits discrimination based on familial status in the areas of housing and credit. However, the State Legislature is apparently of the view that employees often suffer at the hands of employers from stereotyping relative to their status as parents or guardians of children

under the age of eighteen. This new law also prohibits employment agencies, licensing agencies, or labor organizations from discriminating against workers based on their familial status.

- End housing discrimination for domestic violence victims: S.5/A.6354-B prohibits landlords from discriminating against victims of domestic violence. Currently, under New York State law an individual could be denied housing on the basis of his or her status as a victim of domestic violence. This new bill protects victims of domestic violence from discrimination when they attempt to rent or lease housing, and provides them with an affirmative defense in eviction proceedings and a private right of action. Additionally, this bill creates a Task Force to study the impact that source of income has on access to housing.
- Strengthening order-of-protection laws: This bill (S.6/A. 6262) creates a pilot program to allow domestic violence victims to seek temporary orders of protection through electronic means rather than having to appear in court in person. In addition, this bill ensures that orders of protection are translated into another language, when needed, and makes clear that a victim of domestic violence who has an order of protection against her/his abuser cannot be accused of violating her/his own order of protection.
- Strengthening of human trafficking laws: S.7/A.506 strengthens existing laws in New York State to combat human trafficking. It eliminates the requirement that coercion be proven in a sex trafficking prosecution when the victims are minors, increases penalties for the crime, and creates an affirmative defense in prostitution prosecutions if the defendant was a trafficking victim. In addition, the new law makes it easier for victims of human trafficking to receive support services, and requires training for law enforcement personnel to adequately address human trafficking crimes.
- Additional protections against pregnancy discrimination: This bill (S.8/A. 4272) requires employers to provide reasonable accommodations for pregnant employees. Moreover, this new law clarifies that employers must perform a reasonable accommodation analysis for pregnant employees.

These new laws are expected to create new challenges to employers and others, and will also give rise to a host of new issues and questions, as the law related to women's equality continues to develop.

Please do not hesitate to contact one of our Firm's employment law attorneys identified below if you would like more information on these rapidly changing areas of the law:

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