

# Sexual Harassment Claims, Individual and Classwide, Can No Longer Be Forced to Arbitration by Employers

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Employers will no longer be able to enforce mandatory arbitration provisions or class action waivers where an employee alleges workplace sexual harassment or sexual assault. The Senate passed H.R. 4445 today, “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021,” sending it to President Biden to sign into law.

The law amends the Federal Arbitration Act to ban agreements requiring arbitration where the agreement was signed before the alleged sexual harassment or sexual assault. In other words, an employee can sign an arbitration agreement consenting to arbitration after the illegal conduct has occurred.

Courts, and not arbitrators, will be charged with deciding whether the arbitration agreement or class action waiver should be enforced under the “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021.” The act will apply to any claims that arise or accrue on or after the date of President Biden’s signature.

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