

Alert

New York Employment Update: Upcoming Windows to Claim Damages as a Result of Certain Sexual Offenses

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New York Governor Hochul signed the Adult Survivors Act¹ (the “Act”) into law. The Act creates a one-year window, starting on Nov. 24, 2022 and ending on Nov. 24, 2023, in which individuals who claim to be victims of certain sexual offenses, as defined in the New York Penal Law, may assert civil claims for physical, psychological or other injuries or conditions suffered as a result of the sexual offense. The Act only creates an exception for otherwise time-barred claims predicated on a sexual offense, such as: sexual misconduct, rape, criminal sexual acts, forcible touching, persistent sexual abuse, sexual abuse, aggravated sexual abuse, sexually motivated felonies, predatory sexual assault and incest.² The Act’s exception applies only where the victim was 18 years of age or older at the time of the alleged sexual offense.

The Act permits individuals to file a civil suit not only against the individual actor who committed the sexual offense, but also against any persons or groups whose “intentional or negligent acts or omissions” caused an injury or condition. Employers may, therefore, be sued where there is a nexus between a sexual offense against the individual and the employment relationship.

The Act is modeled after the New York Child Victims Act, which created a similar window for the revival of time-barred abuse claims for victims under the age of 18. According to the Office of Court Administration, the lookback window under the Child Victims Act (which was extended an additional year because of the pandemic), resulted in over 10,000 new lawsuit filings. We expect that there will similarly be a wave of cases filed under the Adult Survivors Act, potentially from decades ago.

New York City employers should also be aware that the City recently amended its Victims of Gender-Motivated Violence Protection Act (the “VGMVPA”) to include a window for any individual who claims to be a victim of a gender-motivated violent crime to assert civil claims against any party that “commit[ted], direct[ed], enable[d], participate[d] in, or conspire[d] in the commission of a crime of violence motivated by gender.” The VGMVPA window will open on March 1, 2023 and close on March 1, 2025. New York City employers may face liability under the VGMVPA where the employer can be said to have “enabled” the crime to occur. This two-year revival window may result in additional litigation against individuals and institutions, including employers.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

¹ See S. 66A, 2021-2022 Leg. Sess. (N.Y. May 24, 2022), available [here](#).

² See N.Y. Penal Law §§ 130.00 *et seq.*, 255.26-27 (Consol. 2022).

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