

## Major Changes Coming to Ohio's Employment Discrimination Statute

**By Karen D. Adinolfi & Aretta K. Bernard**

On January 12, 2021, Ohio Governor Mike DeWine signed into law House Bill 352, which contains significant changes to Ohio Revised Code Chapter 4112, the home of Ohio's Civil Rights Act inclusive of Ohio's employment discrimination statutory law. These changes have had a long road, having been introduced and allowed to languish in sessions of the General Assembly for many years. Listed below is a summary of the major changes in the Bill, that will become effective in April 2021, which will have direct and concrete effects on how Ohio employers prevent, respond to, and defend claims of discrimination. The major changes include:

- Eliminates personal liability for managers and supervisors for alleged violations of Chapter 4112 similar to the federal anti-discrimination statutes;
- Clarifies that claims against individuals can only be made against an individual who retaliates against an employee for exercising a protection against an unlawful discriminatory practice related to employment or who aids and abets in an unlawful discriminatory practice related to employment;
- Creates and mandates a separate charge procedure for charges filed with the Ohio Civil Rights Commission that is similar to the one followed by the Equal Employment Opportunity Commission, including the requirement (with a few exceptions) that a claimant obtain a "right to sue" letter prior to filing suit;
- Shortens the statute of limitations for claims made under Chapter 4112 from the current six years (in most cases) to two years;
- Codifies the employer's affirmative defense to vicarious liability relating to alleged sexual harassment by a supervisor, much like the one that currently exists under Title VII;
- Reduces the procedural avenues by which an employee can assert a claim of age discrimination;
- Codifies and confirms that employment discrimination claims are "tort actions" under other sections of the Ohio Revised Code, entitling employer to certain procedural provisions, such as bifurcation of liability and damages phases at trial and damage caps; and
- Codifies and confirms that the statute of limitations for employment discrimination lawsuit under federal laws such as § 1981a, § 1983 and § 1985 be brought within two years.

While many of these provisions have little to no impact on the day-to-day operations of your business, there are some takeaways.

- If you currently have a robust anti-discrimination policy and training program, keep it up. If you do not, you should put one in place immediately.
- Similarly, continue to hold managers and supervisors accountable for their behavior toward subordinates. While in most cases they may no longer be able to be sued personally, you may still have to answer for their conduct.
- Regularly update and reaffirm your anti-discrimination, EEO, and anti-harassment policies and ensure that your employees acknowledge awareness and receipt of them.
- Be diligent with respect to any charge received from the Ohio Civil Rights Commission or Equal Employment Opportunity Commission and involve counsel to prepare your response and engage with those agencies.

Employers are likely to see an uptick in claims prior to the Bill's effective date, as plaintiffs try to beat the clock with respect to statute of limitations issues and seeking to impose personal liability on managers and supervisors. Roetzel attorneys are here to help. If you have questions or want to discuss these changes further, do not hesitate to let us know.

**Karen Adinolfi**330.849.6773 | [kadinolfi@ralaw.com](mailto:kadinolfi@ralaw.com)**Aretta Bernard**330.849.6630 | [abernard@ralaw.com](mailto:abernard@ralaw.com)**Bob Blackham**216.615.4839 | [rblackham@ralaw.com](mailto:rblackham@ralaw.com)**Amanda Connelly**614.723.2012 | [aconnelly@ralaw.com](mailto:aconnelly@ralaw.com)**Monica Frantz**216.820.4241 | [mfrantz@ralaw.com](mailto:mfrantz@ralaw.com)**Barry Freeman**216.615.4850 | [bfreeman@ralaw.com](mailto:bfreeman@ralaw.com)**Paul Jackson**330.849.6657 | [pjackson@ralaw.com](mailto:pjackson@ralaw.com)**Doug Kennedy**614.723.2004 | [dkennedy@ralaw.com](mailto:dkennedy@ralaw.com)**Nancy Noall**216.820.4207 | [nnoall@ralaw.com](mailto:nnoall@ralaw.com)**Stephanie Olivera Mittica**330.849.6671 | [solivera@ralaw.com](mailto:solivera@ralaw.com)**Nathan Pangrace**216.615.4825 | [npangrace@ralaw.com](mailto:npangrace@ralaw.com)