

# New York's Adult Survivors Act to Take Effect on November 24, 2022

November 22, 2022

On November 24, 2022, the New York Adult Survivors Act ("ASA"), a new law signed in May by Governor Kathy Hochul, will go into effect. The law provides individuals with a one-year window within which to assert legal claims based on alleged sexual offenses that would otherwise be time-barred by the statute of limitations. During the one-year period, from November 24, 2022 to November 23, 2023, individuals will be permitted to bring civil actions against individuals and institutions (including employers) for legal claims based on alleged sexual offenses and related negligent and intentional acts on the part of an institution.

The ASA follows the recent passage of similar legislation in New York providing a limited exception to the statute of limitations for claims relating to allegations of sexual misconduct. The ASA is modeled on the New York Child Victims Act (CVA), enacted in 2019, which permitted a one-year window for individuals who had previously time-barred claims of alleged child abuse to assert them in court against individuals and institutions. Also in 2019, New York extended the statute of limitations from three years to 20 years for adults to file certain civil lawsuits relating to sex crimes, but that legislation does not apply retroactively to claims that have already been time-barred.

The one-year window under the ASA applies to otherwise time-barred claims based on sexual offenses, including, but not limited to, sexual misconduct, rape, forcible touching, sexual abuse, sexual assault, and criminal sexual acts. The act allows individuals to bring claims against both the person who allegedly committed the sexual offense and, under certain circumstances, that person's employer, for negligent and intentional acts. Any qualifying action that was previously dismissed because it was time-barred may now be brought again under the ASA. The ASA will *not* allow individuals to bring claims that have already been fully resolved. Individuals whose claims are successful may be able to recover economic, compensatory and punitive damages from both an individual and an institution. The civil actions that could be brought include sexual harassment claims under anti-discrimination employment laws, or common law claims against employers for negligent hiring or negligent supervision, but only to the extent that such claims arise out of alleged conduct that would qualify as a sexual offense under the New York penal law.

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**Recommended Actions.** Companies and other institutions in New York should consider taking the following proactive steps to ensure they are prepared for any potential litigation:

- Educate human resources and legal professionals about the ASA so that complaints regarding previously time-barred covered matters are not ignored.
- Review insurance policies covering employee misconduct and employment disputes.
- Review any records of past reports of sexual offenses and misconduct to assess potential exposure.
- Inform senior management and the board that otherwise time-barred claims, including claims concerning conduct that potentially occurred decades ago, may be brought against the company.

Companies and other institutions should also consider the following best practices to evaluate their current policies and procedures:

- Review employee handbooks and policies to ensure that proper avenues exist for reporting any complaints by employees.
- Review policies and procedures related to investigations when complaints are made.

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For assistance on how best to navigate the ASA and employee-related issues, please do not hesitate to contact us.



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