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CINCINNATI



## NEWSLETTER

*The mission of the Department of Human Resources is to offer the highest quality of service by developing (with its partners) a work environment that is built on trust and respect for each individual — an environment of invitation, welcome, motivation and well-being for all employees. We strive to promote and support the dignity and rights of each person who works in the Archdiocese of Cincinnati so that each employee can carry out his or her ministry and utilize his or her talents in accordance with God's will.*

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## From Rob Reid: Ohio Employment Law Uniformity Act

The Ohio Employment Law Uniformity Act became effective April 15, 2021 and makes significant changes to Ohio's framework for addressing workplace discrimination claims.

### Statute of Limitations and Exhaustion of Administrative Remedies

The new law includes a two-year, as opposed to the current six-year, limitations period on filing employment discrimination claims in court. However, under the new law, the current 180-day time limit on filing a charge with the Ohio Civil Rights Commission (OCRC) is expanded to two years. In addition, the new law provides that a change of discrimination must be filed with the OCRC (or the EEOC), and the charging party must obtain a right to sue letter from the OCRC (or the EEOC) before filing such claims in court. This is a new requirement under Ohio law.

### Claims Against Supervisors/Managers

This new law removes "any person acting directly or indirectly in the interest of an employer" from the statutory definition of "employer." Instead, the new law defines "employer" as "the state, any political subdivision of the state, a person employing four or more persons within the state, and any agent of the state, political subdivision, or person."

### Damage Caps Applicable to Tort Actions Apply in Employment Discrimination Cases

The new law amends R.C. 2315.21(A) to specifically include civil actions "based on an unlawful discriminatory practice relating to employment" within the definition of a "tort action." This means that the following provisions governing tort actions also apply when litigating employment discrimination claims:

- Requires bifurcation of compensatory and punitive damages at trial.
- Establishes statutory caps on compensatory damages for noneconomic injury.
- Establishes statutory caps on punitive damages, and
- Defines the legal standard for awarding punitive damages and establishes rules for admissible evidence relevant to punitive damages.

### Bostock v. Clayton County (U.S. Supreme Court 2020)

The new law makes no mention to the U.S. Supreme Court's decision in *Bostock v. Clayton County*, in which the Court ruled that employment discrimination based on sexual orientation, gender identity, or gender expression violates Title VII's prohibition on discrimination "because of an individual's sex."

### Sexual Harassment Claims

Enactment of the Ohio Employment Law Uniformity Act, especially the Act's statutory definition of "hostile work environment sexual harassment claim" and related affirmative defense, creates incentive for employers to review and revise their EEO and harassment policies, as needed, and to train employees concerning hostile work environment claims, related investigation requirements, and applicable policies and procedures. Doing so will go a long way toward establishing the following two elements of the statutory affirmative defense: (1) the employer exercised reasonable care to prevent or promptly correct any sexually harassing behavior, and (2) the employee claiming hostile work environment unreasonably failed to take advantage of preventive or corrective opportunities provided by the employer.