

Maryland Businesses with 50+ Employees – Don't Forget to Submit Your Sexual Harassment Disclosure Survey by July 1

By Jessica Summers

Here's something many businesses may have forgotten about. Just over two years ago, Maryland enacted the Disclosing Sexual Harassment in the Workplace Act of 2018. See our prior blog for full details. The law, which went into effect on October 1, 2018, was in direct response to the Me Too movement. The central provision of the law is a prohibition against any agreement or contract that asks an individual to waive any substantive or procedural rights for claims of sexual harassment or related retaliation occurring after agreement has been signed. However, many employers may have forgotten that the law also includes a reporting requirement for businesses with 50 or more employees, which requires such businesses to submit two surveys about their sexual harassment settlements to the Maryland Commission on Civil Rights.

The first of the surveys mandated by the Disclosing Sexual Harassment in the Workplace Act must be submitted by July 1, 2020. And, the obligation to complete the survey applies whether or not the employer has and such settlements. The next survey will be due on July 1, 2022. Absent further action by the legislature, the reporting provisions of the statute will expire on June 30, 2023.

The 2020 survey, which is completed online, requires employers to disclose (1) the number of sexual harassment settlements that the business entered into between October 1, 2018, through July 1, 2020, (2) the number of times that the business has settled a sexual harassment claim against the same employee in the past 10 years, and (3) the number of sexual harassment settlements that included a requirement that the settlement be kept confidential.

Interestingly, the statute provided that the survey should also give a business the opportunity to report if it took any personnel actions with respect to any employee against whom multiple sexual harassment claims had been made – but the electronic survey produced by the Maryland Commission on Civil Rights does not appear to provide a reporting mechanism for doing so. Additionally, the Commission on Civil Rights has not provided any further guidance or instructions from the survey – so businesses may find themselves having to make their own interpretations as they proceed to file.

As to what will happen with the results of the survey, under the statute the Commission on Civil Rights is directed to aggregate the information for public dissemination and create an executive report based on a review of the random selection of the surveys. It is however important to note that the individual employer responses are retained and will be available for public inspection upon request.

If you have any questions or need any assistance in completing the survey, please do not hesitate to contact us.