Understanding Compliance Concerns With NY Severance Bill

By **David Harmon and Mariya Gonor** (May 13, 2025)

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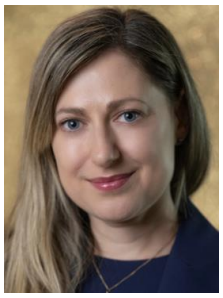

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New York employers may soon face a significant overhaul in how they manage employee separations. In March, the New York State Senate passed the No Severance Ultimatums Act, S.B. 372, which would substantially alter severance agreement practices across the state.

If enacted, the law would require employers to advise departing employees of their right to consult an attorney regarding any severance or separation agreement. It would also impose a mandatory 21-business day period to consider any severance or separation agreement, along with a seven-day revocation period for all terminated employees, regardless of age or position.

This marks a considerable departure from current law. Presently, employers are only obligated to provide a consideration period in limited circumstances, such as for employees who are 40 or older as federal law requires, or when certain confidentiality provisions are included in the agreement.

Under the federal Age Discrimination in Employment Act and the Older Workers Benefit Protection Act, an individual employee age 40 or older must be given 21 calendar days to consider a severance offer and release or claims, or 45 calendar days if the termination is part of a group layoff or a reduction in force, each followed by a seven-day revocation period.

The No Severance Ultimatums Act seeks to expand many of the same protections to all employees in New York, regardless of age. If enacted, New York's law would represent one of the most robust severance protection frameworks in the country.

By comparison, the Illinois Workplace Transparency Act provides a 21-day consideration period and seven-day revocation period, but only for severance agreements involving confidentiality terms related to alleged unlawful conduct.

California's recently amended Fair Employment and Housing Act requires employers with five or more employees to provide at least five business days for an employee to consider an agreement regarding a separation of employment severance agreement, but only under certain circumstances.

Background

S.B. 372, which is sponsored by Sen. Michael Gianaris, D-Queens, and co-sponsored by Sen. Lea Webb, D-Binghamton, is part of the 2025-2026 legislative session.

The bill is currently pending before the Assembly Labor Committee after passing the state Senate on March 4, by a vote of 41 in favor and 20 against it.

The stated purpose of the bill is "[t]o ensure that all New Yorkers are provided protections when reviewing severance agreements, including providing ample time to review such agreements," and to prevent "coercive ultimatums" when considering severance offers.

The bill proposes adding a new Section 215-d to New York Labor Law that would:

- Require employers to inform employees in writing of their right to consult an attorney;
- Provide employees with a mandatory minimum 21-business day consideration period before signing;
- Allow employees to revoke a signed severance agreement within seven days of its execution; and
- Render any severance agreement void and unenforceable if it fails to meet these requirements.

Notably, severance agreements that are negotiated through collective bargaining agreements would be excluded from these requirements.

The bill also seeks to address a long-standing policy gap that has been identified by labor advocates: Employees under the age of 40 currently lack statutory protections when reviewing severance offers.

New York's previous legislative attempts to introduce similar measures, S.B. 7609 in 2023 and S.B. 7609B in 2024, failed to advance beyond the Senate. However, given the current momentum favoring expanded employee rights, the 2025 version of the bill appears far more likely to succeed.

The No Severance Ultimatums Act does not include a specific definition of employer within the bill. However, because it proposes to amend New York Labor Law, the definition under existing law would apply.

Under New York Labor Law Section 190(3), an employer is defined broadly as "any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service."

This definition does not impose a minimum number of employees. As a result, the act would apply to all employers in New York, whether they employ one person or 1,000 people. Thus, the No Severance Ultimatums Act would cover even very small businesses.

Additionally, the act would likely apply to remote or hybrid workers who are located in New York. Under the general principles of New York Labor Law, the protections extend based on the employee's work location rather than the employer's headquarters.

Therefore, an employee who lives and works in New York would be entitled to the rights and protections established by the act, even if they are employed by a company that is headquartered elsewhere.

Notwithstanding the bill and its possible enactment, employers based outside of New York should carefully review and update their severance practices for employees residing or working in New York.

Key Language and Potential Ambiguities

Although the bill's expressed intent is clear, certain drafting choices raise compliance concerns and could complicate implementation.

More specifically, Subsection 2(c) of the bill provides that an employee may sign the agreement:

> prior to the end of such revocation period, as long as such employee's decision to shorten such revocation period is knowing, voluntary, and not induced by the employer through fraud, misrepresentation, or a threat to withdraw or alter such revocation period prior to the expiration of such revocation period, or by providing different terms to such employee if such employee signs such agreement prior to the expiration of such revocation period.

This language introduces ambiguity by incorrectly referencing the "revocation period" instead of the "consideration period," or simply referring to the running of the 21-day period as its federal counterpart does.

Under the Older Workers Benefit Protection Act, an employee may choose to shorten the 21- or 45-day consideration period by signing early. However, the seven-day revocation period following execution is nonwaivable. Employees must always retain their right to the full seven days to revoke a signed agreement.

The New York bill's reference to shortening the revocation period contradicts this established federal framework and risks creating confusion about when an agreement becomes final and when severance payments should be made.

Moreover, because the bill measures the consideration period in business days rather than calendar days, employees could be waiting 30 or more calendar days before the severance process is completed, depending on the presence of holidays.

Furthermore, unlike its federal counterpart, the New York bill does not require the settlement agreement to be drafted in plain language that is geared toward the employee's level of understanding.

What Employers Should Do Now

If the No Severance Ultimatums Act becomes law, New York employers will face significant compliance burdens and operational challenges.

Employers that are accustomed to securing signed severance agreements within a few days would now need to incorporate a substantially longer timeline.

The 21-business day consideration period could extend to approximately 30 or more calendar days, depending on intervening holidays, followed by an additional seven-day revocation period. Workforce transitions, strategic planning and organizational restructuring efforts may all be delayed as a result.

Moreover, noncompliance with the act's provisions would risk invalidating a severance agreement entirely, meaning an employer could pay severance consideration without securing a valid release of claims. This

significantly increases the potential for costly post-termination litigation.

Compliance and Administrative Preparation

Employers will likely need to take a number of steps and evaluate their separation practices to ensure compliance with the new statute.

First, they will likely need to review and update all severance-related practices, checklists and documents, including agreements. More specifically, employers should be mindful that their severance agreement templates are updated to reflect the new statutory requirements.

Human resources policies and separation procedures will likely need to be updated to account for the mandatory waiting periods.

To ensure compliance, employers should provide training to managers, human resources personnel and other internal stakeholders so that employees are properly informed of their rights.

Additionally, payroll practices should be revised to ensure that severance payments are not disbursed until after the expiration of the applicable revocation period.

It will be essential for employers to maintain detailed documentation verifying their compliance with the notice, consideration and revocation requirements in order to defend against potential challenges.

Employee Considerations

From the employee's standpoint, while the proposed law offers enhanced protection and time to consider seeking legal representation, it may also introduce financial uncertainty.

Because of the confusion around waiving the consideration period, many employers may insist that employees wait the full 21 business days before signing, followed by the seven-day revocation period, before they process severance payments.

As such, employees could have to wait more than a month before receiving any severance compensation, potentially causing financial hardship during an already vulnerable period.

Conclusion

Thus, in its current form, the act not only needs terminology adjustments with respect to shortening the consideration period, rather than the revocation period, which appears to be the legislative intent, but the practical effect on both employers and employees must also be examined further.

While the act may attempt to expand employees' rights, the burden it imposes may not rest solely on employers, as employees may be forced to wait for much-needed post-employment compensation and benefits.

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