



Legislation Summary:

An Act relative to the defense against abusive waivers (DAWA)

Bill number(s): S1184/H1890

Sponsors: Representative Kenneth I. Gordon and Senator Cindy Friedman

What the bill does, why LWVMA supports or opposes it, and the League position relative to this bill.

The Women's Bar Association has summarized the purpose of this bill:

"This bill would ban mandatory arbitration in the workplace. Massachusetts has strong laws that prohibit discrimination, retaliation, and sexual harassment in the workplace and has enacted powerful remedies and procedures as a bulwark against these abusive practices. Currently, employers can undermine these protections and violate the civil rights of employees by requiring them to sign a pre-dispute waiver of their rights in their employee contract or as a pre-condition of employment. Under these abusive waivers, claims are often handled by mandatory arbitration, which affords employers one-sided protections such as selecting the arbitrator and holding arbitration at the employment site. The DAWA will protect employees by safeguarding and maintaining their rights to seek redress in court under Massachusetts law in cases of discrimination, nonpayment, retaliation, and sexual harassment."

<https://wbawbf.org/content/defense-against-abusive-waivers-dawa>

Mandatory arbitration is written into the contracts of 56.2% private-sector nonunion employees. That means that about 60.1 million American workers no longer have access to the courts to protect their legal employment rights including wage theft, discrimination, and retaliation.

<https://www.epi.org/publication/the-growing-use-of-mandatory-arbitration-access-to-the-court-s-is-now-barred-for-more-than-60-million-american-workers/>

Forced arbitration clauses have restricted class-action lawsuits. "Because arbitration proceedings are private, and because arbitration clauses almost always forbid plaintiffs from joining together, companies can use arbitration to preemptively crush consumer challenges to their practices, no matter how predatory, discriminatory, unsafe—and even illegal—they may be."

<https://www.consumerreports.org/mandatory-binding-arbitration/forced-arbitration-clause-for-concern/>

Some progress has been made in the realm of sexual harassment/abuse with the passage of the federal law commonly known as the Speak Out Act that was signed into law in December of 2022. The bill nullified pre-dispute non-disclosure and non-disparagement agreements but only in cases of sexual harassment/abuse.

The League believes in securing equal rights and equal opportunity for all and social and economic justice and the health and safety of all Americans. LWV supports rights for all under state and federal law regardless of race, color, gender, religion, national origin, age, sexual orientation, or disability. *Impact on Issues: Equality of Opportunity*, p. 122