

Employment Law Trends at the Start of 2024

With each new year, the world of HR and compliance looks a little different than before. Minimum wages increase. New laws go into effect. Trends emerge as state legislatures look at what their neighbors are doing and think, “We should do something similar!” Themes for 2024 include cannabis, victim protection, bereavement leaves, paid leaves, pay transparency, and pay equity. If these topics interest you, read on.



Cannabis

While recreational cannabis was already legal in California and Washington, these states have strengthened employment protections related to its use.

In both Washington and California, most employers now can’t discriminate in hiring based on an applicant’s off-duty cannabis use away from the workplace or because of a positive result for non-psychoactive cannabis metabolites on a pre-employment drug test. Non-psychoactive cannabis metabolites are what’s stored in the body after THC (which causes the “high”) is metabolized. Their presence means that cannabis was consumed but doesn’t indicate that a person is currently impaired. Additionally, employers in California can’t ask about an applicant’s prior use of cannabis or consider information, including criminal history, about an applicant’s or employee’s prior cannabis use. As expected, there are some exceptions, including for safety sensitive

positions and when employers are required by law to test.

States that legalize the recreational use of cannabis haven't typically prohibited discrimination in employment, but we anticipate that more states may jump on this bandwagon.

Victim Protection

Oregon's victim protection law now includes victims of bias. A **victim of bias**, according to Oregon law, is the victim of a crime committed because of their perceived race, color, religion, gender identity, sexual orientation, disability, or national origin—commonly called a hate crime.

Under the expanded law, all employers are prohibited from discriminating against an applicant or employee because they're the victim of bias and must provide reasonable safety accommodations upon request. Employers in Oregon with six or more employees must also provide an employee with reasonable leave if they or their minor child or dependent is a victim of bias and they need time away for related reasons like medical treatment or relocation. This is the first victim protection law to include victims of bias.

Nevada also broadened its safeguards for individuals affected by domestic violence, extending unpaid leave to employees who are victims of sexual assault or who have family or household members who are victims of sexual assault.

Reproductive Loss and Bereavement Leaves

More states are recognizing that people need time away from work following the traumatic or unexpected loss of a family member.

In California, employers with five or more paid employees [must now grant](#) their employees up to five days of reproductive loss leave following a reproductive loss event (loss), which is the day—or for a multiple-day event, the final day—of a failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. Employers must maintain the confidentiality of any employee requesting reproductive loss leave and can't retaliate against them for requesting or taking the leave, or exercising other rights under the law.

Illinois now [entitles](#) employees to an additional amount of unpaid, job-protected leave when they lose a child because of homicide or suicide. The amount of additional leave depends on the size of the employer.

Illinois [also increased](#) the amount of unpaid leave for employees whose family or household member was killed in a violent crime.

Paid Leaves

Paid leaves continues to trend. While a federal paid leave law doesn't appear likely anytime soon, state legislatures have been busy.

Illinois has taken an innovative approach. With limited exceptions, the state [now entitles](#) employees to earn and use at least 40 hours of paid leave during a 12-month period, and employees can use this leave for any reason. Following suit, Cook County has converted their paid sick leave program to an all-purpose paid leave program. And Chicago, not to be outdone, has replaced its 40-hours-of-sick leave ordinance with one that provides 40 hours of paid leave for any purpose *and* 40 hours of sick leave (effective July 1, 2024).

Minnesota [has implemented](#) Earned Sick and Safe Time for employees who work at least 80 hours in a year for their employer.

Colorado's paid Family and Medical Leave Insurance Program (FAMLI) launched last year with employers withholding and remitting premiums. FAMLI has now begun [providing benefits](#) to employees.

California has [increased](#) the amount of sick leave employees can use each year from 24 hours or three days to 40 hours or five days.

Pay Transparency and Pay Equity

Of the topics we've discussed in this article, pay transparency and pay equity may be the most relevant to all employers—even those operating where no pay transparency law applies—because they're changing employee expectations.

Pay transparency laws typically require organizations to include pay ranges in job postings. Aside from providing pay information to job seekers, this often leads to current employees talking about their pay—which they have a legal right to do. When employees have visibility into pay ranges, they're more likely to spot disparities, prompting employers to prioritize pay equity in their organizations.

Colorado expanded its pay transparency law. The state now requires employers to notify employees about all job opportunities (not including career development or progressions) in advance of filling them. Previously, notice was only required for promotional opportunities.

Colorado employers also have new post-selection notice responsibilities. Within 30 days of the selected candidate starting the job, employers must communicate certain information (e.g., name, job title) to the employees that will regularly work with that individual.

Finally, all eligible employees must be notified of a position's requirements for career progression when it's regular or automatic and based on time or other objective metrics. And employees must be told the pay, benefits, full- or part-time status, duties, and access to advancement.

Hawaii made a trio of pay equity updates that took effect at the start of the new year. First, employers of all sizes are now required to ensure equal pay across all protected categories in the state, not just between men and women. Second, instead of requiring that employees or groups of employees be paid the same if they do "equal" work, the state set the standard for equal pay as "substantially similar" work. Third, employers with 50 or more employees now need to include the hourly rate or salary range in job postings.

You can find the details of these and other new employment laws on the platform. As always, keep up with our [Law Alerts](#) for the latest HR and compliance updates.