

HR, Benefits, and Payroll Compliance Monthly Roundup: May 2023



COVID-19 National Emergency Ends

Effective May 11, 2023, the [COVID-19 national emergency](#) ended. The Biden-Harris Administration also announced it will end COVID-19 vaccination requirements for federal employees and federal contractors. Some state and local requirement may remain in place, however, now is a good time for employers to assess what, if any, COVID protocols are still in place in their workplaces in light of the public health emergency ending.


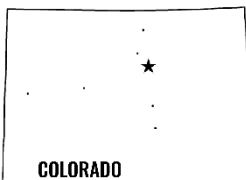

Federal Agencies Issue Joint Statement on AI



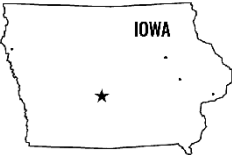

The U.S. Equal Employment Opportunity Commission (EEOC) issued a [joint statement](#) about the growing use of automated decision tools and artificial intelligence (AI) in making employment decisions. This shows that regulators are taking a closer look at how AI is used and its impact. Several states including New York and Illinois have already regulated how AI is used in employment decisions. Employers may want to consider reviewing to what extent AI is used in their recruitment practices.




Enforcement Remedies Take Effect Under the PUMP Act




Effective April 28, 2023, enforcement of the [Providing Urgent Maternal Protections for Nursing Mothers Act \(PUMP Act\)](#) began. The PUMP Act



This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this content, please contact [HR Knowledge](#).

	<p>requires employers with 50 or more employees to provide reasonable break time and private areas for milk expression. See our e-Alert for further details.</p> <p>Federal Contractor Portal Opens Federal contractors and subcontractors are required to register their organization(s) in the Office of Federal Contract Compliance Program (OFCCP) Contractor Portal by June 29, 2023. Organizations must certify on an annual basis whether they have developed and maintained an affirmative action program (AAP) for each establishment and/or functional/business unit, as applicable. See our e-Alert for further details.</p>
	<p>California Court Confirms When Wages are Due The California Supreme Court issued a ruling on March 29, 2023 that allows employers that have paydays that fall on a weekend to pay wages on the following business day that does not fall on a weekend. The ruling from Parsons v. Estenson Logistics also applies to holidays; if an employer's designated payday falls on an observed holiday, wages may be paid on the next business day. This ruling does not amend the regulation, rather it provided clarity and clear guidance on wage payment deadlines.</p> <p>California Issues CPRA Regulations As discussed in our e-Alert, the California Privacy Rights and Enforcement Act (CPRA) expanded employer obligations regarding consumer notice, data protections, vendor management and data security. The new regulations pertain to certain amendments of the California Consumer Privacy Act (CCPA) have been approved by voters. These new regulations do not yet address obligations with respect to HR data.</p>
	<p>Colorado COVID Sick Leave Ends in June 2023 Since January 1, 2021, Colorado's Healthy Families & Workplaces Act has required employers to provide up to 80 hours of supplemental public health emergency leave for conditions relating to COVID-19. That obligation ends on June 9, 2023.</p>
	<p>Delaware Legalizes Recreational Marijuana Effective April 23, 2023, Delaware legalizes recreational marijuana for individuals 21 and up. Employers may prohibit possession, transfer, display, and transportation of marijuana at work or during work hours. Employers may also enforce a drug-free workplace through drug tests and take disciplinary action for positive results.</p>

	<p>Florida Requires E-Verify System Effective July 1, 2023, private employers with 25 or more employees will be required to use E-Verify to verify employment eligibility. This is already a requirement in Florida for public employers. The law applies to new employees hired on or after July 1, 2023. Employers may enroll in E-Verify by visiting the official website. Employers that operate in multiple jurisdictions will need to track this potential trend of using E-Verify in legal requirements.</p> <p>Florida Amends Firearms Law Effective July 1, 2023, Florida amends its concealed carry statute to allow carrying a firearm without a permit. The amendment includes prohibiting an employer from conditioning employment for current or prospective employees' authorization to carry a concealed firearm.</p>
	<p>Chicago's Training Deadline Approaching Effective June 30, 2023, all Chicago employees must receive their first round of required annual Sexual Harassment training, as required by the Illinois Human Rights Act. See our e-Alert with further details.</p> <p>Illinois DOL Amends Business Expense Reimbursement Law Illinois' Department of Labor (IDOL) has amended the Illinois' Wage Payment and Collection Act (IWPCA). The amendment includes a five-factor test to determine whether an expense is reimbursable. Employers must now consider whether the employee has an expectation of payment, whether the expense is required or necessary, whether the employer is receiving value that it would otherwise need to pay for, how long the employer is receiving the benefit, and whether the expense is required of the job. Additionally, the amendment requires employers to maintain reimbursement records for three years.</p>
	<p>Iowa Enacts Consumer Data Protection Law Effective January 1, 2025, Iowa has enacted a Consumer Data Protection law which provides consumer data rights, controller duties, and data processor duties. We will continue monitoring for updates and send an e-Alert once further regulations become available.</p>
	<p>Kentucky Legalizes Medical Cannabis Effective January 1, 2025, medical cannabis becomes legal in Kentucky. The new law applies to qualified patients with certain medical conditions. Employers can set policies that limit the use of cannabis at work, particularly if the employer believes that a card holding employee may impose a safety risk in the workplace.</p>

	<p>Bloomington, Minnesota Sick and Safe Leave Effective July 1, 2023, Bloomington, Minnesota's Earned Sick and Safe Leave Ordinance (ESSL) goes into effect. Employers with five or more employees must provide paid ESSL to employees at a rate of one hour for every 30 hours worked, up to a maximum of 48 hours per year. Employers with less than five employees must provide unpaid ESSL to employees at the same rate. See our e-Alert for further details.</p>
	<p>New Jersey Amends Unemployment for Striking Workers Effective April 24, 2023, New Jersey amended its Unemployment Insurance (UI) law, allowing for UI benefits for workers on strike. The amendment allows UI benefits to be dispersed during an employer lockout regardless of whether a strike immediately preceded the lockout.</p> <p>Additionally, the timeframe for UI benefits to be disqualified following a strike has decreased from 30 to 14 days. UI benefits will also not be disqualified if an agreement is not made based on an employer's failure to comply.</p> <p>New Jersey's Temporary Worker Bill Goes into Effect Effective May 7, 2023, parts of New Jersey's Temporary Worker Bill of Rights legislation go into effect, including the notice and retaliation provisions. Temporary help service firms are required to provide a detailed notice to temporary workers in a designated classification placement; failure to do so could result in civil penalties of \$500 to \$1,000 for each violation.</p> <p>Under the retaliation provision, it is now unlawful for temporary help service firms and/or their third-party clients to retaliate against a temporary employee for exercising their rights granted under the law.</p>
	<p>New York City Delays AEDT Law Enforcement and Issues "Final Rule" The NYC Department of Consumer and Worker Protection pushed out the enforcement date for the city's automated employment decision tools (AEDT) Law, for a second time, to July 5, 2023. As reported in our e-Alert, the law prohibits employers from using AEDTs "unless the tool has been subject to a bias audit," "information about the audit is publicly available" and "certain notices have been provided to employees or job candidates."</p> <p>In addition, they issued the "Final Rule" to help define terms and clarify requirements.</p> <p>New York Releases Requirements Surrounding Sexual Harassment Policies New York employers are required to have a sexual harassment prevention policy. The New York State Department of Labor has released its latest</p>

	<p>model sexual harassment policy, which has been updated to reflect the following required changes:</p> <ul style="list-style-type: none"> • Remote Employees: Notates how sexual harassment can take place in a remote or virtual environment • Gender-based Discrimination: Defines gender spectrum and that sexual harassment includes harassment that is based on gender expression, gender identity, being transgender, and gender role stereotyping • Severe or Pervasive: Notates that harassment does not need to be severe or pervasive to be harassment • Bystander Intervention: Notates 5 methods of bystander intervention • Provides various examples of sexual harassment • State Hotline: Notates the state hotline that can be used for workplace sexual harassment complaints
	<p>Ohio Amends Crime Victim Leave Act Effective April 6, 2023, Ohio amends its statutes to allow employees that are crime victims, members of crime victim's family, or a victim's advocate, to attend criminal proceedings. This amendment prohibits employers from discriminating or retaliating against victims who participate in criminal proceedings or attend due to necessity.</p>
	<p>Tennessee Passes Paid Family Leave Insurance Law Effective January 1, 2024, Tennessee's Paid Family Leave Insurance Law allows licensed life and disability insurers to provide paid family leave insurance. Employers will be able to offer Paid Family Leave Insurance but will not be required to fund it.</p>
	<p>Virginia Prohibits Confidentiality Agreements Surrounding Sexual Harassment Effective July 1, 2023, Virginia prohibits employers from requiring executed nondisclosure or confidentiality agreements that includes intent to conceal claims of sexual harassment as a condition of employment. The law applies to confidentiality and non-disparagement agreements that employees may be required to sign as a condition of employment.</p> <p>Virginia Passes Organ Donation Leave Effective July 1, 2023, Virginia requires employers with 50 or more employees to provide up to 60 business days per calendar year of unpaid leave if an employee donates an organ. The leave also applies to bone marrow donation, which provides up to 30 business days of protected leave in a calendar year.</p>

	<p>While the protected leave is unpaid, employers must restore eligible employees to the position, or equivalent of, which they held prior to the leave. Eligible employees must work at least 12 months and 1,250 hours before qualifying.</p> <p>Virginia Amends Employment Commission Authority Effective July 1, 2023, Virginia gives its Employment Commission attorneys authority to issue subpoenas to compel the attendance of witnesses or necessary documentation needed as evidence in relation to the Virginia Unemployment Compensation Act. This allows any party to file a motion to squash the subpoena prior to the date of production in a circuit court. Employers should be aware of these provisions as related to their employment policies or agreements.</p>
	<p>D.C. Issues Marijuana Employment Protection Bill Effective July 13, 2023, D.C.'s Marijuana Protection Amendment Act adds employment protection for marijuana users. Employers will be prohibited from taking adverse action against employees for recreational marijuana use outside of their place of employment. Exclusions do apply and employers must notify employees of their rights within 60 days of the law going into effect.</p>
	<p>West Virginia Amends Workers Compensation Law Effective June 9, 2023, West Virginia amends its workers compensation law. The law provides reinstatement rights for injured employees if the position is open, and the employee can perform the duties of the role. Reinstatement requests need to be made in writing and sent via the U.S. postal service with a return receipt requested to the employer's main office. The period of recall is no more than 120 days after the employee is able to return to work. The amendment clarifies it is the employee's responsibility to seek reinstatement during the recall period.</p>