

HR Compliance Monthly Roundup: June 2023



EEO-1 Reporting Portal Tentatively Scheduled to Open

The opening of the EEO-1 Reporting Portal was previously delayed by the Employment Opportunity Commission (EEOC) until mid-July 2023, however, the EEOC has not yet released an official opening date. See more information in our [e-Alert](#).

VETS-4212 Reporting Due in September

Federal contractors and subcontractors with \$150,000 or more in federal contracts are required to file a [VETS-4212](#) report annually. The U.S. Department of Labor's Veterans' Employment and Training Service (VETS) collects the reported data and is used by the Office of Federal Contract Compliance Programs (OFCCP) in Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) compliance evaluations. This reporting is due by September 30, 2023. See more information in our [e-Alert](#).

Voluntary Self-Identification Form Deadline Approaching

The Office of Federal Contract Compliance Programs (OFCCP) has updated its [Voluntary Self-Identification of Disability Form \(CC-305\)](#) for prospective and current employees to voluntarily identify as an individual

with a disability. Federal contractors and subcontractors must begin using this new form by July 25, 2023. See more information in our [e-Alert](#).

COVID-19 Form I-9 Remote Flexibility Ending

On March 2020, the Department of Homeland Security (DHS) announced that in-person physical examination of documents pertaining to the Form I-9 could be inspected remotely if employers were unable to meet in-person due to COVID-19. Starting July 31, 2023, this flexibility ends, and employers will have until August 30, 2023, to physically inspect the documents. See more information in our [e-Alert](#).

DOL Releases Updated FLSA and FMLA Posters

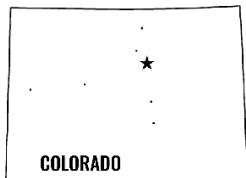
The Department of Labor (DOL) has issued updated workplace posters for the Fair Labor Standards Act (FLSA) and the Family Medical Leave Act (FMLA). The [FLSA poster](#) has been updated to reflect new requirements under the Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act. The [FMLA poster](#) has been revised, though the law itself has not changed. See more information in our [e-Alert](#).

DOL Issues Guidance on PUMP Act

On May 17, 2023, the Department of Labor (DOL) [issued guidance](#) surrounding the [Providing Urgent Maternal Protections for Nursing Mothers Act](#) (PUMP Act) and its enforcement. The PUMP Act expands employer requirements for accommodations for lactating and nursing workers. Additional guidance includes flexibility for the nursing employee regarding break time and an updated Minimum Wage Poster to include employee rights under the PUMP Act. See more information in our previous [e-Alert](#).

Non-Compete Agreements Deemed Too Broad

On May 30, 2023, the National Labor Relations Board (NLRB) [issued a memo](#) stating that non-compete agreements violate federal labor law as they infringe on both unionized and non-unionized employee rights under Section 7 of the National Labor Relations Act (NLRA). Under the NLRA, employees have the right to collectively band together to try to improve the workplace, and non-compete language attempts to deny access to employment opportunities.



Colorado Expands Paid Sick Leave

On August 7, 2023, Colorado amends its paid sick leave law to allow the use of leave for qualifying bereavement and natural disaster-related reasons. This expands the Healthy Families & Workplace Act (HFWA) from the original health and safety-related reasons. Employers are required to provide accrued sick pay and notify their employees of their rights under the HFWA. See more information in our upcoming e-Alert.

Colorado Expands Anti-Discrimination Act

On August 7, 2023, Colorado's amendments to its Colorado Anti-Discrimination Act (CADA) goes into effect. Changes include redefining harassment claims, which removes the provision that harassment had to be severe or pervasive, and limiting the employer's ability to assert an affirmative defense to a harassment claim in instances where the employee accuses a supervisor. Other modifications include removing barriers for disability discrimination and adding marital status as a protected category.

Colorado Prohibits Applicant Age-Related Questions

On June 2, 2023, Colorado passed the Job Application Fairness Act (JAFA) which prohibits employers from asking age-related questions to applicants during the hiring process. Questions prohibited include the applicant's age, date of birth, and dates of attendance or graduation from educational institutes.


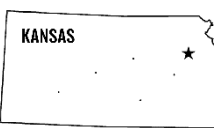


Colorado Amends Equal Pay Act

On January 1, 2024, Colorado's amendments to its Equal Pay for Equal Work Act (the Act) go into effect. Initially effective in 2021, the Act requires employers to post pay transparency requirements for job openings. The amendments strengthen the obligations employers have for providing notice of job opportunities, including defining "job opportunity" to avoid information disclosure discrepancies and requiring employers to notify all eligible employees of the career progression criteria for positions.


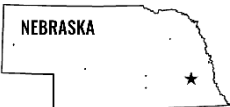


Florida Requires E-Verify for Certain Employers


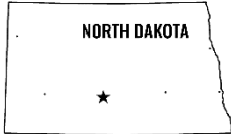
On July 1, 2023, Florida employers with 25 or more employees must begin using E-Verify for new hires. E-Verify allows employers to electronically verify employment eligibility to work in the United States. See more information in our e-Alert.

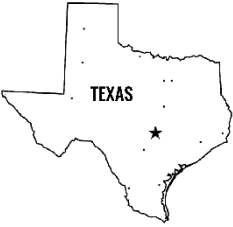

	<p>Chicago Clarifies Sexual Harassment Training Requirements</p> <p>Chicago has released additional clarifications around its sexual harassment prevention training requirements. All employees working in the city and anyone who manages an employee who works in the city, regardless of the manager's location, must complete the training by June 30, 2023. See more information in our e-Alert.</p> <p>Illinois DOL Publishes Paid Leave FAQ</p> <p>On January 1, 2024, Illinois' Paid Leave for All Workers Act goes into effect. The act requires most employers to offer 40 hours of paid leave for any reason to employees. The Illinois Department of Labor has released an FAQ to help guide employers to stay in compliance. The FAQ highlights interplay with paid sick leave ordinances, time-off accruals for part-time and salaried employees, and provides details surrounding when accruals can be used.</p>
	<p>Kansas Passes Law Defining "Sex"</p> <p>On July 1, 2023, Kansas's law defining biological sex goes into effect. Under the law, "sex" is defined as an individual's sex at birth and limited to either male or female. The definition is for purposes of interpreting state law or rules or regulations.</p>
	<p>Maryland Modifies Paid Family and Medical Leave Program</p> <p>On April 29, 2022, Maryland passed the Paid Family and Medical Leave Insurance Program with an October 1, 2023 effective date, for employers with 15 or more employees, to begin contributing to the fund. On May 3, 2023, Maryland approved changes to the program, which includes a delayed implementation, with contributions now beginning October 1, 2024. Other changes include more information around contributions and how the program interacts with other leave laws. See more information in our upcoming e-Alert.</p>
	<p>Minnesota Passes Paid Family and Medical Leave Program</p> <p>On January 1, 2026, Minnesota's Paid Family and Medical Leave (PFML) program goes into effect. The program provides employees up to 20 weeks of PFML per year and applies to all employers, regardless of size and number of employees located in the state. Employees may use the leave for their own serious health conditions and for other types of leaves, such as family care, bonding, safety, or certain military-related events.</p>

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	<p>To be eligible to receive benefits, employees must have earned at least 5.3% of the state average annual wage over a base period, which is defined as the last 4 quarters before the employee's application. The PFML program will be funded by both employers and employees, with contributions starting on the program's effective date, January 1, 2026.</p> <p>Minnesota Bans Non-Compete Agreements On July 1, 2023, Minnesota's ban on employer-employee <u>non-competes</u> goes into effect. The law makes any agreement that restricts employees from working for another employer void and unenforceable. Restrictions only apply to agreements signed on or after July 1, 2023.</p>
	<p>Montana Amends Worker Compensation Act On October 1, 2023, Montana amends its <u>Worker's Compensation Act</u> regarding exemptions. The new provision changes the qualification for the ownership interest exemption. Previously, an officer or manager had to own 20% or more, now they must only own 10% to qualify. Employers must continue to post a sign in the workplace which informs employees about the employer's current provision of workers' compensation insurance.</p> <p>Montana Passes Employee Personal Social Media Protections On October 1, 2023, Montana amends its law which offers <u>protections</u> surrounding social media accounts to employees and applicants. The law limits an employer's ability to view an employee or applicant's social media accounts, as well as protecting both parties from retaliation for refusing to provide an employer access to any personal accounts.</p> <p>Montana Amends Independent Contractor Exemption Law On October 1, 2023, Montana amends its existing law on <u>independent contractor exemption</u> certificate provisions. The law creates additional steps to be classified as an independent contractor, including requiring an exemption certification from the Department of Labor and Industry. The person applying for the exemption certificate must also regularly perform services at a location other than the person's own fixed business location.</p>
	<p>Nebraska Allows Permitless Carry of a Firearm On September 10, 2023, Nebraska amends its concealed carry firearm statute to <u>allow</u> concealed carry of a firearm without a permit. Employers</p>

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	<p>who do not want firearms on the premises must post a notice or make a direct request that the person remove the firearm from the premises. Additionally, employers may prohibit employees from having concealed firearms in company-owned vehicles.</p>
	<p>New York City Prohibits Height and Weight Discrimination On November 22, 2023, New York City amends its anti-discrimination Human Rights Law to include height and weight as protected characteristics. Along with protected categories, such as race, gender, and disability, employers will be prohibited from discriminating on the basis of height and weight in all employment decisions. The law covers employees, applicants, independent contractors, and interns.</p> <p>New York Amends Lactation Accommodation Requirements On June 7, 2023, New York State's Nursing Mothers in the Workplace Act has been amended. New York employers are required to meet new specifications for lactation rooms, such as providing a chair, a working surface, and access to clean running water. Employees must also have access to refrigeration to store pumped milk. Employers must implement a lactation accommodations policy and provide it during the hiring process and to employees upon return from maternity leave.</p> <p>New York Imposes Interest Assessment Surcharge The New York Department of Labor will continue to impose an Interest Assessment Surcharge (IAS) as a way to address the remaining unemployment insurance trust fund deficit which stemmed from the pandemic. The surcharge began mid-June. See more information in our e-Alert.</p>
	<p>North Dakota Expands Vaccination Status Law On August 1, 2023, private North Dakota businesses are prohibited from requiring COVID-19 vaccination documentation and recovery status as a requirement for service. The expansion of the 2021 law now prohibits businesses from requiring vaccination documentation for other diseases under emergency use authorization from the Food and Drug Administration.</p>

	<p>Texas Passes CROWN Act</p> <p>On September 1, 2023, Texas enacts the Creating a Respectful and Open World for National Hair (CROWN) Act. The CROWN Act bans discrimination or implementation of policies that discriminate on the basis of an employee's hair texture or hair style associated with race. Protective hairstyles include braids, locks, and twists.</p>
	<p>Washington Passes THC Protections for Employees</p> <p>On January 1, 2024, Washington's bill protecting employees from pre-employment drug testing for cannabis goes into effect. The bill makes it unlawful for employers to discriminate against applicants based on their cannabis use through drug screening tests, including tests that screen via hair, blood, urine, or other bodily fluids. Exemptions in the bill are in place for jobs that involve federal security clearances, law enforcement, fire departments, first responders, and other safety-focused positions.</p>

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