

HR Compliance Monthly Roundup: August 2023



USCIS Unveils Revised Form I-9


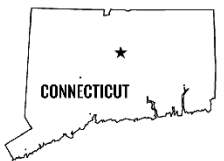
The United States Citizenship and Immigration Services (USCIS) has **announced** a revised **Form I-9** that was released on August 1, 2023, and should be used by November 1, 2023. In addition, qualified E-Verify employers may begin virtually examining I-9 identity and work authorization documents. See our **HR-Alert** for more information.

VETS-4212 Filing Portal Open

Employers that hold a federal government contract or subcontract of \$150,000 or more are required to file a VETS-4212 report annually. The filing portal opened August 1, 2023, and submissions are due September 30, 2023. See our **HR-Alert** for more information.

OSHA Releases Electronic Recordkeeping Rules

The Occupational Safety and Health Administration (OSHA) requires most employers to maintain illness and injury logs and post a summary each year in their place of work, along with requiring employers with 250 or more employees to annually submit the OSHA 300A Summary of Work-related Injuries and Illnesses form. OSHA has **restructured** its guidelines to maintain these requirements and have added the following to take effect on January 1, 2024:

	<ul style="list-style-type: none"> • Establishments with 100 or more employees in certain high-hazard industries will be required to electronically submit additional information each year for Forms 300 and 301 (along with their Form 300A summary) • Establishments with 20-249 employees in certain industries will still be required to electronically submit information from their OSHA Form 300A summary to OSHA each year • Establishments with 250 or more employees not in a designated industry can electronically submit information from their Form 300A summary to OSHA annually • OSHA intends to post the collected establishment-specific, case-specific injury and illness information online in its FOIA Library
	<p>California Reinstates Industrial Welfare Commission California's Budget Bill has been amended to reinstate the Industrial Welfare Commission (IWC) effective October 31, 2024. Although previously defunded, the IWC will provide further protection to employees by regulating wages, hours, and working conditions for California laborers. The new bill directs the IWC to focus on improving efforts for industries with 10 percent of workers at or below the poverty line.</p> <p>California Modifies Fair Employment and Housing Act California's Office of Administrative Law approved the California Civil Rights Council's purposed modifications to its Fair Employment and Housing Act (FEHA) on July 24, 2023. The FEHA governs inquiries into a job applicant's criminal history when making hiring decisions. The key modifications include:</p> <ul style="list-style-type: none"> • Employers cannot consider an applicant's criminal history until after a conditional offer is presented • Employers should consider the additional considerations as a part of the individualized assessment when considering rescinding an offer due to a criminal background check results • If an employer is seeking the Work Opportunity Tax Credit (WOTC) then all documents should be kept in a confidential file and separate from the applicant's general file and the forms should not be used for anything beyond applying for the WOTC
	<p>Connecticut Expands Uses for Paid Sick Time Connecticut's new mandated paid sick leave law for service workers goes into effect on October 1, 2023. Employers with 50 or more employees in the state are required to offer paid sick and safe leave for service workers. The law adds coverage under the use of sick time, including for mental health and for parents whose child is a victim of family violence or sexual assault. See our HR-Alert for more information.</p>

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Connecticut Provides Special Enrollment Period for Striking Employees

Effective October 1, 2023, under [Public Act 23-172](#), Connecticut employees who have lost health insurance coverage from their employer due to a strike, labor dispute, or lockout will be eligible for a special enrollment into the state's health insurance program.

Connecticut Defines Sexual Orientation Under Employment

Connecticut's Fair Employment Practices Act prohibits discrimination based on sexual orientation and other protected classes. The state has [amended](#) the Act to define sexual orientation as a person's identity in relation to the gender(s) to which a person is attracted to, including what a person may have expressed previously or that a person perceives another to hold.

Connecticut Limits Mandatory Overtime for Nurses

Effective October 1, 2023, under Connecticut [Public Act 23-204](#), the five standard circumstances that hospitals can mandate overtime for will no longer apply unless patient safety dictates mandatory overtime. Mandatory overtime will no longer be allowed as a regular practice to cover short staffing or staff leaves. Overtime's definition has expanded to include working more than 12 hours in a 24-hour period and more than 48 hours in a work week. Private hospitals will no longer be allowed to negotiate mandatory overtime in collectively bargained agreements. Additionally, the new amendments protect against retaliation for nurses choosing not to work overtime.

Connecticut Passes New Restrictions on Physician Non-Competes

Connecticut recently passed [Senate Bill 9](#), which adds non-compete restrictions for physicians, advanced practice nurses, and physician assistants. Any agreements issued or renewed after October 1, 2023, are not enforceable if the signing party does not agree with compensation changes or if the agreement expires without renewal.



Delaware Sets Paid Medical and Family Leave Parameters

Delaware's Paid Medical and Family Leave Program (PFML) contributions begin on January 1, 2025, with benefits becoming available at the beginning of 2026. See our prior [HR-Alert](#) for more information. The state has [released guidance](#) on how coverage will be determined, the length and amount of coverage available, and employee notice obligations. Private employers with 10 to 24 employees must provide parental leave only, while employers with 25 or more employees must provide full PFML. Qualifying employees receive up to 12 weeks for parental leave and up to 6 weeks per 24-month period for family caregiving leave, medical, and military leave reasons.



Illinois' Omnibus Bill Amends Various Employment Laws

Illinois' [Omnibus Bill](#) amends several state employment laws. The following amendments take effect January 1, 2024:


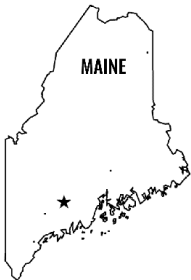
- **Wages of Women and Minors Act:** The amendments repeal this Act completely
- **Equal Pay Act:** Employers will no longer be required to submit an EEO-1 report when applying for an equal pay registration certificate
- **Minimum Wage:** Failure to pay employees wages, which they are entitled to, can cause a penalty of up to 20% of the underpayment. Now all penalties will have to be paid by electronic payment, money order, or certified check. Payments are permitted to be deposited into the Wage Theft Enforcement Fund
- **Personnel Files:** Upon employee request will require employers to mail or email copies of employee personnel files. The employer can charge for the cost to complete the request
- **Labor Law Notices:** Employers must mail or email the Minimum Wage Law, Equal Pay Act, Day and Temporary Labor Services Act, Child Labor Law, and the Illinois Wage Payment and Collection Act notices to all remote or traveling employees. Employers can post these electronically, but they must be accessible the electronic system must be used by the employee regularly




Illinois Amends Day and Temporary Labor Services Act

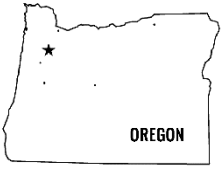

Illinois amended its [Day & Temporary Labor Services Act](#) to expand equal pay rights for day and temporary workers. The amended law also allows the mentioned employees to obtain job specific training and provide them with the right to refuse work opportunities at job sites where an ongoing labor problem or a strike is occurring. Temporary workers on job assignments over 90 days must be compensated at the same rate and have the same benefits as the client's lowest paid employee with similar job functions.



Illinois Enacts Freelance Worker Protection Act

Effective July 1, 2024, Illinois' [Freelance Worker Protection Act](#) (FWPA) provides protections to freelance workers by requiring services or products that are worth \$500 or more to have a written contract. The freelance worker must be paid within 30 days of the completed service or product being provided. Additionally, organizations under contract with a freelance worker are prohibited from discrimination, retaliation, or harassment of freelance worker.

	<p>Illinois Extends Employee Bereavement Leave</p> <p>Effective January 1, 2024, two groups of employees will be entitled to extended unpaid leave. Illinois' Child Extended Bereavement Leave Act will allow parents experiencing child loss extended unpaid bereavement leave depending on several factors, including company size.</p> <ul style="list-style-type: none"> • Employers with 50-250 full-time employees are eligible for up to 6 weeks of unpaid leave • Employers with over 250 employees can receive up to 12 weeks of unpaid leave <p>Illinois' Victims' Economic Security & Safety Act will be extended to allow family members of victims killed in acts of violence to be eligible for up to 10 workdays of unpaid leave.</p> <p>Illinois Amends Smoke Free Illinois Act</p> <p>Effective January 1, 2024, Illinois has amended its Smoke Free Illinois Act to include the use of electronic smoking devices, such as electronic cigarettes. Under the current Act, employees are not allowed to smoke within 15 feet of any entrance to a place of employment.</p>
	<p>Louisiana Adds Medical Testing to Leave Rights</p> <p>Effective August 1, 2023, Louisiana amends its employment discrimination statuses to allow one day of leave to receive genetic testing or medically necessary cancer screenings. Employers are not obligated to pay for the time, although employees can utilize their paid time.</p>
	<p>Maine Expands Equal Pay Law</p> <p>Effective September 19, 2023, Maine's Equal Pay Law will expand to include verbiage prohibiting pay discrimination on the basis of race. The original bill prevented discrimination between employees pay on the basis of gender. Maine's law requires equal wages for comparable work requirements related to skills, effort, and responsibility.</p> <p>Maine Enacts Paid Medical and Family Leave Act</p> <p>Effective May 1, 2026, certain Maine employees will be eligible for up to 12 weeks of family and medical leave per 12-month period. Starting January 1, 2025, employees and employers are required to begin contributing 1% of employees' wages. The contribution will be split evenly between employer and employee. Employers with 15 employees or less are not required to contribute, but employees must still contribute their portion.</p>

	<p>Maine Amends Worker’s Compensation Act Effective September 19, 2023, Maine amends its Worker’s Compensation Act to allow a worker to file a statement, on board-approved forms, that the worker is an independent contractor. This statement creates the rebuttable presumption for one year and the worker is not required to submit a statement but has the opportunity to. Additionally, employers may be required to reimburse insurers for penalties assessed due to the employer’s inability to provide information timely.</p> <p>Maine Permits Tip-Pooling for Non-Service Workers Effective September 19, 2023, Maine employees in the restaurant industry can participate in tip-pooling so long as minimum wage requirements are met. Employers, managers, and supervisors are not permitted to receive tips from the tip pool.</p>
	<p>Baltimore, Maryland Extends Antidiscrimination Ordinance Effective September 22, 2023, Baltimore, Maryland amends its Antidiscrimination Ordinance to redefine discrimination to include protection for individuals with HIV or AIDs status. The Ordinance provides employees equal protection from differential treatment based on race, color, religion, national origin, ancestry, sex, marital status, physical or mental disability, sexual orientation, gender identity/expression, HIV or AIDS status, or source of income. Under the amended law, employers, employment agencies, or labor organizations are prohibited from willingly using an individual’s incorrect name or pronouns. In addition, employers may not request information regarding the applicant’s HIV or AIDS status.</p>
	<p>Massachusetts Finalizes Parental Leave Guidelines The Massachusetts Commission Against Discrimination (MCAD) finalized employer guidelines to assist in the processing of the Massachusetts Parental Leave Act (MPLA). These guidelines clarify several topics, including leave type, job restoration after leave, and time off processes. See our HR-Alert for more information.</p>
	<p>New York Updates WARN Act New York’s Worker Adjustment and Retraining Notification (NY WARN) Act requires private businesses with 50 or more full-time employees in the state to provide 90 days’ notice of closing or layoff to affected employees. The New York State Department of Labor has released updated amendments, including addressing remote employees and employer notices to additional entities. See our HR-Alert for more information.</p> <p>New York’s Pay Transparency Law Approaches New York’s pay transparency law goes into effect on September 17, 2023, and requires covered employers to disclose the minimum and maximum annual salary or hourly range of compensation for all job postings</p>

	<p>physically performed in the state. See our HR-Alert for more information.</p> <p>New York Amends Human Rights Law Definition of Sexual Orientation New York has opted to remove the law’s definition of “sexual orientation,” which previously specified that the “sexual orientation” definition would be inadequate to protect conduct otherwise prohibited by law. The amendment clarifies that the New York Human Rights Law prohibits employment discrimination based upon a person’s actual or perceived sexual orientation.</p>
	<p>Oregon’s Paid Family and Medical Leave Begins Effective September 3, 2023, Oregon’s Paid Family and Medical Leave Insurance (OR PFMLI) begins. Eligible employees may apply for OR PFMLI under various circumstances, including caring for a child during the first year of birth, adoption, or foster care placement or for an employee’s own serious health condition. See our HR-Alert for more information.</p>
	<p>Rhode Island Enhances Wage Payment Laws Effective June 22, 2023, Rhode Island increases wage payment penalties and defines the term independent contractor. Under the amended wage payment law, employers are required to pay employees or the appropriate party any amount exceeding \$1500 on regular pay days, at time of termination, and within 30 days of death.</p> <p>Employers who willfully violate the law are subject to a fine or 3 years of imprisonment. The amended law also provides further guidance on independent contractor misclassifications, adopting the Fair Labor Standards Act (FLSA) definition for independent contractors. Penalties for employer misclassification apply.</p> <p>Rhode Island Expands Healthy and Safe Families & Workplaces Act Rhode Island’s Healthy and Safe Families & Workplaces Act has been updated to expand coverage to interns and apprentices, and to exclude individuals that do not qualify as an “Employee” under the Fair Labor Standards Act (FLSA). All eligible employees working or living in Rhode Island for the past 12 months are eligible for up to 40 hours of paid sick and safe leave, accruing at a rate of 1 hour for every 35 hours worked.</p> <p>Rhode Island Limits Use of Nondisclosure Agreements Effective June 22, 2023, Rhode Island amended its fair employment practices statute making it unlawful to require an employee to execute a nondisclosure agreement or requiring confidentiality agreements regarding civil rights allegations. Other amendments deemed unlawful include requiring employees to execute a non-disparagement</p>

	<p>agreement regarding civil rights or unlawful conduct allegations, and any agreement requiring confidentiality regarding civil rights allegations.</p> <p>Rhode Island Expands Leave for Temporary Caregivers Effective June 22, 2023, Rhode Island has <u>amended</u> its employment practices statute to expand remedies for employees returning to work from temporary caregiver leave. The expansion provides additional solutions for continuation of an employee's medical benefits, reinstatement of status, payment, and other benefits when returning from leave as a temporary caregiver.</p>
	<p>Texas Imposes Penalties for Child Labor Law Violations Effective September 1, 2023, Texas adds penalties for violations of its child labor laws. The <u>amended law</u> imposes a penalty that may not exceed \$10,000 if it is determined that a child is employed at a place of business.</p> <p>Other amendments include the creation of a Child Labor Appeal Tribunals, which will be used for resolving child labor claims, and allowing the state attorney general to seek injunctive relief against an employer for multiple violations.</p>
	<p>Vermont Creates New Retirement Program Vermont's new <u>VT Saves retirement program</u> requires private employers to participate in a Roth IRA. The 5% contribution will be deducted from covered employee's wages unless the employee chooses to opt out. Effective July 1, 2025, covered employers must implement a Roth IRA in the following timeframe:</p> <ul style="list-style-type: none"> • Employers with 5 to 14 covered employees must offer the program to all covered employees beginning July 1, 2026 • Employers with 15 to 24 covered employees must offer the program to all covered employees beginning January 1, 2026 • Employers with 25 or more covered employees must offer the program to all covered employees beginning July 1, 2025 <p>A covered employee is noted to be an individual over the age of 18 years old working part-time, full-time, seasonally, or temporarily. Employers who fail to enroll employees are subject to penalties.</p> <p>Vermont Amends Fair Employment Practice Act Effective July 1, 2023, Vermont amends its <u>Fair Employment Practice Act</u>, which expands pay equity protections, to include discrimination of race, national origin, sexual orientation, gender identity, or a physical or mental condition. The law no longer only prohibits discrimination but adds harassment of a protected classification, with "harass" being defined as</p>

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engaging in unwelcome conduct based on protected classification that causes a hostile work environment or that is intimidating or offensive.

Further, it expands sexual harassment to include written, auditory, or visual conduct of a sexual nature. The amendments also prohibit settlement agreements related to discrimination or harassment from including no-rehire provisions.