

As we ring in 2024, employers should ensure they are aware of the host of new and changed laws that have gone into effect (or will be going into effect shortly) to ensure compliance.

We covered many of 2023's developments in earlier posts in [May](#) and [June](#); here, we cover new updates and reminders. 2023 saw state and local governments continue to adopt higher minimum wage rates and expand laws protecting employees against discrimination. 2023 was also marked by the passage of laws mandating paid leave for employees and prohibiting discrimination based on employee cannabis use.

In an effort to enhance pay equity, a number of state and local governments adopted pay disclosure laws. Additionally, several states restricted employer use of noncompetition agreements.

2023 was a landmark year for labor organizations, with union activity sprawling from Hollywood to hospitals. Some states adopted pro-union legislation that has affected employers even in non-unionized workplaces, such as New York's ban on "captive audience" meetings.

This year, we anticipate seeing more laws protecting employee cannabis use, requiring pay disclosures and restricting non-competition agreements. We also anticipate seeing more paid leave laws, and continued increases in minimum wage and salary thresholds.

As always, please reach out to one of us or your firm contact for more information, for a copy of our 2024 minimum wage and minimum salary threshold charts (lots of increases effective January 1, 2024) or for assistance with compliance.

## California

- **Paid sick leave increases** – Effective January 1, 2024, California employers are required to provide five days (or 40 hours) of paid sick leave under the HealthyWorkplaces, Healthy Families Act. This is an increase from three days (or 24 hours), which was the employer obligation prior to the amendment. See our previous [post](#) for details.
- **Workplace violence prevention plan** – By July 1, 2024, nearly all California employers are required to design, implement and maintain a workplace violence prevention plan (WVPP). In addition, the new law requires employers to maintain a violent incident log, as well as provide yearly training to employees on how to identify and avoid workplace violence. See our previous [post](#) for details.
- **Reproductive loss leave** – Under S.B. 848, effective January 1, 2024, eligible employees in California may take up to five days of reproductive loss leave following a reproductive loss event. See our previous [post](#) for details.
- **Cannabis use protections** – As we previously reported [here](#), with the passage of S.B. 700, California joined the ranks of states protecting applicants and employees for cannabis use, under certain circumstances.
- **Unenforceable and void noncompete agreements** – Under existing California law, noncompete agreements are generally unenforceable. This fall, Governor Newsom signed two laws that expand employee protections and employer obligations regarding noncompete agreements, effective January 1, 2024. See our previous [post](#) for details.
- **Redefining definition of "laid-off employee" in hospitality and business service industries** – As we previously reported [here](#), with the passage of S.B. 723, what constitutes a "laid-off employee" is redefined and specifies when an employee is entitled to be given the opportunity for reemployment.
- **San Francisco, California, paid parental leave increased** – Effective December 4, 2023, San Francisco employers with 20 or more employees will be required to offer eight weeks of partial wage replacement to bond with a new child, rather than the previous six weeks, under the [San Francisco Paid Parental Leave Ordinance](#). This wage replacement benefit will equal the difference between the employee's California Paid Family Leave Benefit and the employee's normal gross weekly wages, up to a weekly maximum benefit amount. If the employee voluntarily separates from employment within 90 days of the end of the California Paid Family Leave period, the employee will be required to reimburse the company for the full amount of wage replacement provided by the company.

## Colorado

- **Expansion of paid sick leave uses** – Upon the passage of [S.B. 23-017](#), effective August 7, 2023, eligible employees in Colorado may use paid sick leave (PSL) for additional reasons, including for bereavement-related purposes or the employee's need to evacuate their residence due to inclement weather, loss of power, water or heat or other unexpected event.
- **Protecting Opportunities and Workers' Rights Act (POWR) – changes to employment law** – On June 6, 2023, Colorado's Governor Polis signed [Senate Bill 23-172](#), the "Protecting Opportunities and Workers' Rights Act (POWR)," into law, with an effective date of August 7, 2023. Among other things, the POWR amends the Colorado Anti-Discrimination Act (CADA). Under the law, "harass" or "harassment" is redefined, and evidence of severity or pervasiveness is no longer required, and "marital status" has been added as a protected category. Additionally, employers are now prohibited from presenting or attempting to enforce a void nondisclosure agreement; violators can be liable for actual damages, reasonable costs and attorneys' fees and a penalty of US\$5,000 for each violation. Finally, the POWR requires employers to maintain "any personnel or employment record for a minimum of five years and must keep complaints of discrimination or unfair employment practices in a designated repository.

## Connecticut

- **Qualifying reasons for paid sick leave expanded** – Connecticut's paid sick leave law, which applies to "service workers," has been [amended](#) to expand the reasons for taking sick leave, effective October 1, 2023. As of that date, covered employees may use paid sick leave to take a mental health wellness day, or for absences due to their child being a victim of family violence or sexual assault.

## Delaware

- **Domestic violence accommodation** – Effective July 25, 2023, Delaware employers must provide reasonable accommodations to employees or applicants to known limitations related to domestic violence, a sexual offense or stalking, unless the company can demonstrate that the accommodation would impose an undue hardship on the operation of the company. Such accommodations may include the use of accrued leave to address the domestic abuse, sexual offense or stalking, or making reasonable changes in the workplace, including reasonable changes to the schedules or job duties to enable the employee to satisfactorily perform the essential duties of their position.

## Hawaii

- **Equal pay/wage transparency** – Effective January 1, 2024, pursuant to [S.B. 1057](#), private employers with 50 or more employees must disclose a position's hourly rate or salary range in all job postings, except those for internal transfers or promotions. The new law also expands the prohibition against paying different wages to employees based upon sex; as of January 1, 2024, employers are prohibited from paying employees different wages for "substantially similar work" based upon an employee being in a protected category (in H.R.S. 378-2).

## Illinois

- **Paid Leave for All Workers Act** – As we previously reported [here](#), effective January 1, 2024, employers will have to provide their Illinois-based employees with a minimum of 40 hours of paid leave each year.
- **Chicago, Illinois, paid leave and paid sick leave delayed** – On December 13, 2023, the Chicago City Council pushed back the effective date of its new paid leave and paid sick leave [law](#) from January 1, 2024 to July 1, 2024. Effective July 1, 2024, eligible employees working in Chicago will be eligible to accrue paid leave (PL) and paid sick leave (PSL). Employees accrue one hour of PL and one hour of PSL for every 35 hours worked, up to a maximum of 40 hours PL and 40 hours of PSL per 12-month period. Up to 16 hours of accrued, unused PL must be allowed to carry over to the next year. Up to 80 hours of accrued, unused PSL must be allowed to carry over to the next year. PSL begins accruing upon hire and is available for use after 30 days of service with the company. While PL may be used for any reason, PSL may be used for reasons like those covered by other statutory sick leave laws. Of note, upon termination of employment, while PSL does not need to be paid out, PL may need to be paid out depending on the size of the employer. For employers with less than 50 employees in Chicago, unused PL does not have to be paid out upon termination of employment. For employers with between 51 and 100 employees in Chicago, through June 30, 2025, up to 16 hours of accrued, unused PL must be paid out upon termination of employment; thereafter, up to 40 hours of accrued, unused PL must be paid out. Finally, for employers with more than 100 employees in Chicago, up to 40 hours of accrued, unused PL must be paid out upon termination or transfer of employment outside of the City of Chicago.
- **Illinois expands employee rights to bereavement leave** – Effective January 1, 2024, the Illinois Victims' Economic Security and Safety Act has been [expanded](#) to allow eligible employees to take up to two workweeks (10 days) of unpaid leave for bereavement-related purposes if a family or household member is killed in a crime of violence. Under [S.B. 2034](#), also effective January 1, 2024, full-time employees of employers with 50 or more full-time employees in Illinois and who have lost their child to suicide or homicide may take unpaid bereavement leave. Employees must have worked for their employer for at least two weeks. If an employer employs 250 or more full-time employees in Illinois, employees may take up to 12 weeks of unpaid leave, and if an employer employs between 50 and 249 full-time employees in Illinois, employees may take up to six weeks of unpaid leave. Employers may require reasonable notice of the need for leave, and employees may not also take leave under the Illinois Family Bereavement Act, which went into effect in 2022.

- **Illinois blood donation leave now paid; expanded to organ donors** – Governor Pritzker approved [H.B. 3516](#), which, inter alia, expanded the state’s Blood Donation Leave Act to cover eligible employees who are organ donors. The expansion requires employers of 51 or more employees to provide full-time employees who have been employed for six months or more with up to 10 days of paid leave in any 12-month period to donate an organ. Previously, the law required covered employers to provide one day of paid leave every 56 days for an employee to donate blood. The changes go into effect on January 1, 2024.

## Maryland

- **Paid leave delay** – As we previously reported [here](#), under [S.B. 828](#), contributions to the state paid family and medical leave program will now begin October 1, 2024, and benefits may be used beginning January 1, 2026.

## Maine

- **Individual liability for sexual harassment and assault claims** – Effective September 19, 2023, Maine’s [Act to Ensure Accountability for Workplace Harassment and Assault](#) was amended to permit individual liability for work-related sexual harassment and assault claims. Under the new law, an employee, supervisor, officer or director of an employer may be individually liable for sexual harassment, sexual assault or an intentional tort related to sexual harassment or sexual assault.

## Minnesota

- **Creates paid family and medical benefit insurance program** – As we previously reported ([here](#)), Minnesota has joined the ranks of states providing up to 12 weeks of partial wage replacement benefits to eligible workers who take leave for certain family and/or medical reasons. The law is set to go into effect in 2026, with employer reporting requirements set to begin on July 1, 2024.
- **Minnesota drug and alcohol abuse** – New amendments to Minnesota’s [Drug and Alcohol Testing in the Workplace Act](#) (DATWA) limit the circumstances under which employers can test for cannabis. With the recent legalization of recreational marijuana use, DATWA now excludes cannabis from the definition of “drug” and references to “drug and alcohol testing” in the law. Employers cannot make employment decisions based on an applicant’s or employee’s off-premises, off-duty use of cannabis products, except as permitted by applicable law (such as for safety-sensitive positions). Employers may test for cannabis use where there is a reasonable suspicion that the employee is under the influence at work, the employee has violated the company’s drug-free and alcohol-free policies, the employee was injured or caused an injury to another employee or the employee has caused a work-related accident or was operating or helping to operate machinery, equipment or vehicles involved in a work-related accident. Employees in safety-sensitive positions may be tested for cannabis as part of a random testing program.

- **Minnesota paid sick leave** – Beginning January 1, 2024, Minnesota’s new [Earned Sick and Safe Time law](#) will require employers to provide paid sick leave to Minnesota employees. Eligible employees working at least 80 hours per year in Minnesota will accrue paid sick leave (PSL) at the rate of one hour of PSL for every 30 hours worked, up to a maximum of 48 hours per year. Employees may carryover accrued, unused PSL to the next year, up to a maximum of 80 hours. Once an employee reaches the 80-hour cap, PSL will stop accruing until the employee uses some of the PSL. The law also contains provisions for employers who wish to frontload PSL instead of using the accrual method. Minnesota’s Department of Labor and Industry has published [FAQs](#), a [user guide](#) and an [educational video](#) more fully explaining the new ESST law. Employers are required to provide [notice](#) to covered employees on or before January 1, 2024.

- **Minnesota Wage Disclosure Protection Law** – Under the new Minnesota [Wage Disclosure Protection Law](#) (WDPL), effective July 1, 2023, employers cannot ask about, consider or require disclosure of an applicant’s pay history. Additionally, an employee has the right to tell any person the amount of their own wages and employers are prohibited from retaliating against an employee for doing so. Additionally, if an employer provides an employee handbook to its employees, the handbook must include notice of employee rights and remedies under WDPL.
- **Prohibition of non-compete covenants; Minnesota venue and choice of law provisions** – [MN SF 3035](#), effective July 1, 2023, non-competition covenants with Minnesota employees or independent contractors are void and unenforceable, with a few exceptions. Of note, the law does not apply to or limit the use of non-disclosure agreements or customer non-solicitation agreements. Additionally, the law prohibits employers from (a) requiring employees who primarily reside and work in Minnesota to agree to a provision that would require the employee to adjudicate a claim arising in Minnesota outside of Minnesota, and (b) depriving an employee of the substantive protection of Minnesota law with respect to a controversy arising in Minnesota. Critically, the new law applies only to agreements entered into after July 1, 2023. Employers should be mindful of these provisions when entering into any employee agreements.
- **St. Paul amends earned sick and safe time** – Amendments to St. Paul’s [Earned Sick and Safe Time law](#) (ESST) will go into effect January 1, 2024, and are intended to more closely align the ESST law with the statewide paid sick leave mandate. The most notable change is that employees working in St. Paul will earn ESST regardless of where their employer is located. Previously, the law only required St. Paul employers with employees working in St. Paul to provide their employees with ESST. The amendments also expand the definition of “family” and provides that ESST is available to use upon accrual or frontloading. Additionally, the amendments change the notice requirements and available financial remedies. The city has published information concerning the amendments online, [here](#).

- **City of Bloomington amends paid sick leave** – Effective January 1, 2024, the City of Bloomington’s [Earned Sick and Safe Leave Time](#) law will be amended to more closely align with the statewide law. The amendments expand the definition of family member, allow for frontloading with no waiting period, includes additional allowable reasons for leave and permits employers to request reasonable documentation to justify taking leave.
- **No liquidated damages provisions in settlement agreements involving discrimination/harassment claims** – Under [S.B. 4516](#), employers are prohibited from including liquidated damages provisions in any settlement agreement involving claims of sexual harassment or any other form of unlawful discrimination.

## Nevada

- **Nevada Domestic Violence Leave Law expanded** – Effective January 1, 2024, employees who are victims of sexual assault or whose family or household member is a victim of sexual assault are entitled to unpaid leave for specified reasons relating to the assault. Previously, the law allowed unpaid leave only for employees on account of domestic violence.

## New York

- **Protection for freelance workers** – Under New York’s Freelance Isn’t Free Act ([S.B. 5026](#)), private employers who engage independent contractors for services totaling US\$800 or more over the preceding 120 days, excluding certain sales representatives, attorneys, medical professionals and construction contractors, must have a written contract that includes specified information. Additionally, employers must pay the contracted compensation by the date specified in the contract or within 30 days after completion of services if a date is not specified. The legislation applies to contracts entered into on or after May 20, 2024. The Department of Labor will provide model contracts for hiring parties and independent contractors to use with terms that comply with the new law.
- **Ban on employee “captive audience” meetings** – On September 6, 2023, Governor Hochul signed into law [S.B. 4982](#), banning employers from requiring employees to attend a meeting where the purpose of the meeting is for the employer to express its views on certain political or religious matters, including labor organizations. Employers are also required to post a sign in the workplace informing employees of their rights under the law. The bill went into effect immediately. New York is the fourth state to pass legislation banning “captive audience” meetings. However, the National Labor Relations Act (NLRA) has long held that employers may hold mandatory employee meetings where the employer speaks about labor organizations and unionization. Wisconsin’s captive-audience law, which was similar to New York’s law, was struck down in court based upon NLRA preemption. It remains to be seen whether New York’s law will suffer a similar fate.
- **Employee invention assignment agreement provisions** – Effective September 15, 2023, under [S.B. 5640](#), a provision in an employment agreement providing that an employee will assign their rights in an invention to their employer will be unenforceable as to inventions developed on the employee’s own time and without using the employer’s property, unless they were created with actual or demonstrably anticipated research of the employer or from work performed in the course of the employee’s work.

- **New York lactation accommodation** – As briefly reported before ([here](#)), employers must allow employees to take unpaid breaks of a reasonable length to express breast milk, for up to three years following child birth, each time such employee has a need to do so. While lactation accommodations have been mandatory in New York since 2017, the law was amended in June 2023 to expand employer’s requirements. The Department of Labor has information concerning the law and employer requirements online, [here](#).
- **New York City clarifies permissible uses of AI in hiring** – As previously reported ([here](#)), New York City’s [Local Law 144](#) went into effect on January 1, 2023, and enforcement began on July 5, 2023. Broadly speaking, Local Law 144 prohibits employers and employment agencies from using certain AI methods to make an “employment decision” in New York City without first performing a “bias audit.” New York City employers should carefully review the [FAQ](#), which addresses a number of additional issues, such as employer notice requirements, complaint procedures and more.

## Ohio

- **Recreational marijuana legalized, but employers’ ability to enforce workplace drug policies remains intact** – As previously reported ([here](#)), Ohio became the 24th state to legalize adult recreational use of marijuana, effective December 7, 2023. Critically for employers, the law does not prohibit or restrict employers from prohibiting marijuana use by employees or taking adverse action against any employee based upon marijuana use.
- **Columbus, Ohio, bans salary history inquiries** – As previously reported ([here](#)), effective March 1, 2024, employers with 15 or more employees in Columbus will be prohibited from asking about, taking into consideration or requiring disclosure of an applicant’s or employee’s salary history.

## Oregon

- **Oregon domestic violence definition expanded** – Effective January 1, 2024, [H.B. 3443](#) expanded the list of domestic violence crimes for which an employee is potentially eligible to take leave to include a bias crime.
- **Oregon state board or commission leave** – Under [H.B. 3028](#), effective September 24, 2023, employees who serve on a state board or commission may take unpaid leave to serve as an appointed member of a state board or commission. This leave is in addition to any paid time off to which an employee is entitled. Employees must provide at least 21 days’ advance notice of the time needed to serve as an appointed member of a state board or commission.



## Pennsylvania

- **Philadelphia, Pennsylvania, COVID-19 leave** – Philadelphia's [COVID-19 Sick Leave Law](#) will expire December 31, 2023, and employers with 25 or more employees will no longer have to provide 40 hours of additional paid sick leave for COVID-19 reasons.

## Rhode Island

- **Restrictions on nondisclosure and non-disparagement agreements for civil rights claims** – Effective June 22, 2023, amendments to Rhode Island's [Fair Employment Practices](#) Act make it an unlawful employment practice for employers to require employees to sign an agreement containing provisions that would require alleged violations of civil rights to remain confidential, or to sign a non-disparagement agreement concerning alleged violations of civil rights or alleged unlawful conduct. Contract provisions in violation of the law are deemed void.
- **Increased penalties for independent contractor misclassification** – Effective January 1, 2024, amendments to the [Wage Theft law](#) will make it a felony for employers to knowingly and willfully fail to pay wages in a timely manner if the unpaid wage amount is greater than US\$1,500. Additionally, penalties for misclassifying employees as independent contractors will increase, ranging from US\$1,500 to US\$5,000 per offense.
- **Juneteenth is a Rhode Island state holiday** – Governor McKee signed [legislation](#) recognizing Juneteenth as an official a state holiday beginning on June 19, 2024. This means that, subject to numerous exceptions, employers cannot require employees to work on this day, and non-exempt employees are entitled to 1.5 times the normal rate of pay for work performed on June 19.

## Texas

- **CROWN Act** – Texas joined the trend of expanding the definition of discrimination on the basis of race to include discrimination based on “protective hairstyles,” which includes “braids, locks and twists” and hair texture. Effective September 1, 2023, the [law](#) prohibits employers from adopting a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.
- **Reporting workplace violence** – [H.B. 915](#) requires all Texas employers to post a notice to employees with contact information for reporting workplace violence or suspicious activity to the state's department of public safety. The Texas Workforce Commission will adopt rules prescribing the form and content of notice required under this new law no later than March 1, 2024. Employers are not required to post a notice until the rules are adopted.

## Washington

- **Prohibits marijuana-related hiring discrimination** – As previously reported ([here](#)), effective January 1, 2024, Washington employers are prohibited from making hiring decisions based on (1) a person's off the job and away from the workplace use of marijuana, or (2) the presence of non-psychoactive cannabis metabolites in a person's hair, blood, urine or other bodily fluids. The law does not affect an employer's right to maintain drug- and alcohol-free workplace policies and does not apply to certain safety-sensitive positions.
- **Seattle, Washington, sick leave for app-based workers** – As previously reported ([here](#)), Seattle's [ordinance](#) guaranteeing paid sick leave for app-based gig workers who perform services in Seattle for “network companies” will go into effect January 13, 2024.

## Contacts

### Shennan Harris

Senior Associate, Columbus  
T +1 614 365 2791  
E [shennan.harris@squirepb.com](mailto:shennan.harris@squirepb.com)

### Margaret Lombardo

Associate, Columbus  
T +1 614 365 2744  
E [margaret.lombardo@squirepb.com](mailto:margaret.lombardo@squirepb.com)

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