

THE NATIONAL LAW REVIEW

The Employment Law Landscape in 2019

Wednesday, January 16, 2019

States across the country have passed new laws addressing sexual harassment, paid family leave, and other labor and employment law issues. As many of these laws will soon become effective, employers should be prepared for the following changes in the legal landscape.

Sexual Harassment Laws

New York City's [Stop Sexual Harassment Act](#), effective April 1, 2019, will require employers with 15 or more employees to conduct annual anti-sexual harassment training for all employees. For purposes of the Act, independent contractors who perform work for an employer for more than 90 days and more than 80 hours in a calendar year are also deemed employees. For additional information regarding the Act's requirements, please refer to our previous [posts](#). This New York City law complements a similar law in New York State, which became effective on October 9, 2018, and which also requires employers to conduct annual anti-harassment training. For additional information regarding the State's requirements, please refer to our previous [post](#).

California recently amended [Section 12950.1 of its Government Code](#) to expand the reach of its anti-harassment requirements. Previously, employers with 50 or more employees were required to provide 2 hours of anti-harassment training to all supervisors every other year. Under the amended law, employers with at least five employees must provide 2 hours of anti-harassment training to all supervisors, plus 1 hour of anti-harassment training to all non-supervisory employees, every other year. Current employees must complete their first session of anti-harassment training on or before January 1, 2020. For additional information regarding these new training requirements, please refer to our previous [post](#).

Delaware Governor John Carney signed [HB 360](#) into law, effective January 1, 2019, which creates a new section in the Delaware Discrimination in Employment Act prohibiting sexual harassment in the workplace.

In addition to defining the circumstances in which an employer can be found liable for harassment, the law imposes new notice and training requirements. Employers with 4 or more employees must distribute an information sheet (available [here](#)) on sexual harassment to all employees by July 1, 2019. Employers with at least 50 employees will be required to provide interactive anti-sexual harassment training to all employees every 2 years. New employees must be trained within 1 year of hire and existing employees must be trained on or before January 1, 2020. Such employers must also provide sexual harassment training for all supervisors every 2 years. And, under the new law, new supervisors must be trained within 1 year of assuming a supervisory position, and existing supervisors must be trained on or before January 1, 2020.

Leave Laws

As we [previously reported](#), effective July 1, 2019, the [Massachusetts Paid Family and Medical Leave Program](#), will provide eligible employees with up to 20 weeks per year of paid medical leave for an employee's own serious health condition, as well as 12 weeks per year of paid leave for family-care purposes. Employees taking leave under the Massachusetts law will receive up to 80% of their average weekly wage (up to a designated cap).

Michigan's [Paid Medical Leave Act](#), effective March 29, 2019, will require employers with 50 or more



Article By [Arielle E. Kobetz](#)
[Evandro C. Gigante](#)
[Tony S. Martinez](#)
[Proskauer Rose LLP](#)
[Law and the Workplace](#)
[Election Law / Legislative News](#)
[Labor & Employment](#)
[Health Law & Managed Care](#)
[California](#)
[Delaware](#)
[New York](#)
[Washington](#)

employees to provide paid medical leave for personal or family health needs. Eligible employees will accrue 1 hour of paid leave for every 35 hours worked, up to a maximum of 1 hour per calendar week and 40 hours per benefit year. Where employers permit employees to accrue paid medical leave, employees must also be permitted to carry over available but unused medical leave to the following year, though the maximum amount of leave to be used by employees in any given year may be capped at 40 hours. Alternatively, employers may frontload the time to be used for the same purposes and under the same conditions as accrued medical leave, and when frontloading the time employers are not required to allow employees to carry over accrued, unused leave. New employees may be restricted from using their accrued medical leave for up to 90 days after they are hired.

New York's [Westchester County Earned Sick Leave Law](#), effective April 10, 2019, will require employers to provide all employees (including part-time, exempt and seasonal employees) who work in Westchester County 1 hour of paid sick leave for every 30 hours worked, up to a maximum of 40 hours per year. The new Westchester law applies to employers with five or more employees and grants employees a private right of action for employer violations. For additional information regarding these new requirements, please refer to our previous [post](#).

As we previously reported, on July 10, 2017, **Washington State** enacted its [Paid Family and Medical Leave Law](#), which will provide employees with a maximum of 12 weeks of paid leave per year for their own serious health condition. Employees will also be eligible for a maximum of 12 weeks of paid leave per year for family care purposes; and a maximum of 16 weeks of a combination of paid family and medical leave may be used per year. Although benefits for employees do not begin until January 1, 2020, employers must deduct and remit premiums beginning on January 1, 2019. In addition, in April 2019, employers must begin reporting all worker hours and wages to the State's Employment Security Department.

Salary History

As we [previously reported](#), effective January 1, 2019, employers in **Connecticut** are prohibited from asking (or directing a third party to ask) about an applicant's salary history, unless the applicant has voluntarily disclosed such information. In addition, employers cannot prohibit employees from disclosing or discussing the amount of their wages or the wages of another employee that has been voluntarily disclosed by the other employee. The law also provides employees a private right of action with available damages including compensatory and punitive damages, as well as attorneys' fees.

Effective June 30, 2019, the [Restricting Information on Salaries and Earnings Act](#) (the "RISE Act") will prohibit employers in **Suffolk County, New York** from inquiring about an applicant's wage or salary history, as well as an applicants' prior or existing compensation and benefits. For additional information regarding these new requirements, please refer to our previous [post](#).

Other Laws

Lactation Breaks – Effective March 18, 2019, employers in New York City will be required to provide nursing mothers with a private lactation room and a refrigerator suitable for breast milk storage. Employers must also develop and implement a written policy regarding the provision of a lactation room. For additional information regarding these new requirements, please see our previous [post](#).

Recent Developments in Illinois – As we [previously reported](#), lawmakers in Illinois were quite active this past year in passing legislation affecting employers. For example, employers in Illinois must now provide paid breaks for nursing mothers and include in their handbooks information concerning an employee's rights under the Illinois Human Rights Act, including the right to be free from unlawful discrimination and sexual harassment and the right to certain reasonable accommodations. There are also new laws in effect in Illinois governing expense reimbursements, additional protections for military service members and equal pay protections for African-American employees. For additional guidance navigating this new terrain, employers in Illinois should refer to our previous post.

Given these recently enacted changes, employers should review their workplace policies and practices to ensure compliance with these new requirements.

© 2019 Proskauer Rose LLP.

Source URL: <https://www.natlawreview.com/article/employment-law-landscape-2019>