**Employment & Labor Law Alert**

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# SEC Issues Guidance on Use 2026 Key Employment Law Changes in New York, Illinois and California

The past year brought a number of changes impacting private employers, the government and the legal industry. If the first month of 2026 is any indicator, this year will be just as busy. The start of the year serves as an opportunity for employers to take stock of their compliance and engage in a proactive refresh of their policies and practices. We highlight below just some of the latest key changes in employment law requirements in New York, California and Illinois.

## New York

- **Minimum Wage and Exempt Thresholds:** The minimum wage in New York City, Long Island and Westchester County increased to $17 as of Jan. 1, 2026. In the remainder of the state, it increased to $16. Relatedly, the salary thresholds for overtime exempt employees increased in New York City, Long Island and Westchester County to $1,275 per week ($66,300 annually). The threshold in the remainder of the state increased to $1,199.10 per week ($62,353.20 annually).
- **Paid Sick, Safe and Prenatal Leave:** New York City enacted amendments to its Earned Safe and Sick Time Act (ESSTA), extending leave entitlements for employees effective Feb. 22, 2026. All employees within New York City will now be eligible for 32 hours of unpaid leave immediately upon hire and each calendar year thereafter—on top of existing sick and safe time entitlements. This adds to the new requirements from late 2025, when New York City implemented 20 hours of paid prenatal leave and added obligations for City employers concerning policies, notices and recordkeeping. The amendments also expand the scope of permissible reasons for using "sick time," which now include reasons formerly permitted under New York City's Temporary Schedule Change Law (TSCL). Because time off previously provided under the TSCL has been folded into the ESSTA, the amendments also eliminate any required leave under the TSCL.
- **Disparate Impact Discrimination:** New York amended the state's Human Rights Law to make clear that disparate impact or effect meets the definition of unlawful employment discrimination, even without a showing of discriminatory intent. The amendment codifies federal and New York state courts' prior recognition of disparate impact employment discrimination claims under state law despite the absence of an explicit statutory directive. Employers should be particularly mindful of the disparate impact theory of discrimination in connection with the use of artificial intelligence (AI) in employment.
- **Credit History Inquiries:** Effective April 18, 2026, New York state law will prevent employers from requesting or considering a job applicant's or current employee's credit history with regard to hiring, compensation, or the terms and conditions of employment, unless the

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employer is authorized to use an individual's credit history under state or federal law, or for police officer positions, positions with access to trade secrets or intelligence information, and positions with authority over third-party assets valued at $10,000 or more. Since 2015, New York City has had a nearly identical prohibition on employers' use of credit history for employment decisions under the Stop Credit Discrimination in Employment Act.

- **Pay Equity Reporting:** New York City enacted new annual reporting requirements for employers with 200 or more employees in the City, which are now required to submit yearly reports that disclose employees' race, ethnicity and gender by job category and pay range.

## California

- **Minimum Wage and Exempt Thresholds:** California's state minimum wage increases in 2026 from $16.50 to $16.90. This results in a higher state threshold for exempt employees of $1,352 per week ($70,304 on an annual basis). Many cities and counties continue to impose higher minimum wage and salary thresholds. Employers should confirm compliance with applicable state and local rates.
- **Employee Mobility:** Perhaps unsurprising in a state that invalidates most non-competition agreements, effective Jan. 1, 2026, it is unlawful to include in any employment contract provisions requiring that an employee repay an employer or training provider for costs if the employment relationship terminates within a certain period of time. Limited carve-outs exist for certain bona fide sign-on and retention bonuses, provided statutory conditions are met, including a separate written agreement. Employers should review offer letters and agreements to review any training repayment or clawback provisions that do not fit within a statutory exception.
- **Workplace Know Your Rights Act Notice:** Effective Feb. 1, 2026, employers must provide employees with an annual written Workplace Know Your Rights Act Notice. For more on this, please see our client alert here.
- **Tip Violations:** California now expressly authorizes the Labor Commissioner to investigate employee complaints regarding tips and issue citations or file a civil action against an employer. As a reminder, under California law, tips are considered employee property. Pooling tips and distributing them to a group of employees is permitted if the pool participants are reasonably defined, the formula for distributing the pool is fair and reasonable, and generally, only employees in the chain of service are included. Employers should audit tip-pooling practices and written policies.
- **Pay Data Reporting:** Beginning with the 2026 reporting cycle, California employers with 100 or more employees must submit pay data reporting to the Civil Rights Department on an annual basis using 23 new "Standard Occupational Classification" job categories, replacing the current 10 EEO-1 job categories. The law also imposes new requirements for storing demographic data and penalties for noncompliance. Employers should spend time in 2026 determining how their current job titles fall into the new categories.
- **Artificial Intelligence in Employment Decisions:** While this development occurred in late 2025, it remains worth highlighting—California amended regulations under the Fair Employment and Housing Act to specifically cover the use of "automated decision systems" (ADS) in employment. The definition of an ADS is very broad, including any tools that screen, score, rank or recommend candidates, even where human employees retain final decision-making authority. Employers using AI-enabled tools should evaluate potential disparate-impact risks, conduct bias testing where appropriate, and ensure vendors provide transparency regarding system functionality.

## Illinois

- **Employee Neonatal Leave:** Effective June 2026, under the Illinois Family Neonatal Intensive Care Leave Act employers must allow unpaid leave for parents with a child in neonatal care, with the amount of leave varying based on employer size. Employers with 15 or fewer employees are not covered by the law; employers with 16 to 50 employees must provide up to 10 days of unpaid leave; and employers with more than 50 employees must offer up to 20 days of unpaid leave. Employees are required to exhaust any entitlement under the Family and Medical Leave Act (FMLA) first.
- **Employee Breaks To Express Breastmilk at Work:** Effective January 2026, Illinois employers are also now required to provide paid break time for nursing parents who need to express breastmilk at work. Previously, only unpaid time was required.

- **Use of Employer Electronic Devices To Document a Crime:** Effective Jan. 1, 2026, covered Illinois employers must allow employees, as well as their family or household members who are victims of any crime of violence, to use employer-provided electronic devices to document or communicate such violence. Employers must grant these individuals access to photographs, recordings and other documents when needed in a criminal action or proceeding. Additionally, employers are required to post a notice explaining these rights, which notice must be prepared or approved by the Director of Labor.
- **New Employment Agreement Protections:** Illinois amended the Illinois Workplace Transparency Act to prevent the inclusion in employment contracts of language that may restrict employees from reporting or disclosing allegations of unlawful conduct in the workplace. Employers cannot include language that restricts an employee from engaging in concerted activity. And employers cannot shorten the applicable statute of limitations, require the application of another state's law to claims arising in Illinois, or require employees to litigate their claims outside of Illinois if that would result in the loss of a substantive or procedural right or remedy. Such restrictions on governing law and forum selection clauses may be included if they are mutually agreed to and supported by consideration.
- **Artificial Intelligence:** Effective Jan. 1, 2026, it is an express violation of Illinois law to use AI tools in a manner that results in discrimination under the Illinois Human Rights Act. The law targets any discriminatory impact or effect, even if there is no discriminatory intent. The law also imposes affirmative notice requirements when AI is used for specified employment-related purposes, including recruiting, hiring, promotion and other employment decisions. Employers should be mindful of this and other laws in Illinois and across the country that generally focus on two key issues with respect to the use of AI in employment: notice to employees and potential bias inherent in the AI program.

## Related Professionals

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