



S3 Conference

Screening ❖ Safety ❖ Strategy

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Key Employment Law Changes to Prepare for in 2026

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Presentation Agenda



1 Minimum Wage & Non-Competes

2 Family and Medical Leave

3 AI and EEO

4 Pay Transparency



Minimum wage increases on Jan. 1st, 2026

- ❖ Arizona - \$15.15/hr
- ❖ California - \$16.90/hr
- ❖ Colorado - \$15.16/hr
- ❖ Connecticut - \$16.94/hr
- ❖ Hawaii - \$16/hr
- ❖ Maine - \$15.10/hr
- ❖ Michigan - \$13.73/hr
- ❖ Minnesota - \$11.41/hr
- ❖ Missouri - \$15/hr
- ❖ Montana - \$10.85/hr
- ❖ Nebraska - \$15/hr
- ❖ New Jersey - \$15.92/hr
- ❖ New York - \$16/hr
- ❖ Ohio - \$11/hr
- ❖ Vermont - \$14.42/hr
- ❖ Virginia - \$12.77/hr
- ❖ Washington - \$17.13/hr
- ❖ Boulder (CO) - \$16.82/hr
- ❖ Boulder County (CO) - \$17.99/hr
- ❖ Denver (CO) - \$19.29/hr
- ❖ Edgewater (CO) - \$18.17/hr
- ❖ Minneapolis (MN) - \$16.37/hr
- ❖ New York City (NY) - \$17/hr
- ❖ Suffolk County (NY) - \$17/hr
- ❖ Westchester County (NY) - \$17/hr
- ❖ Seattle (WA) - \$21.30/hr

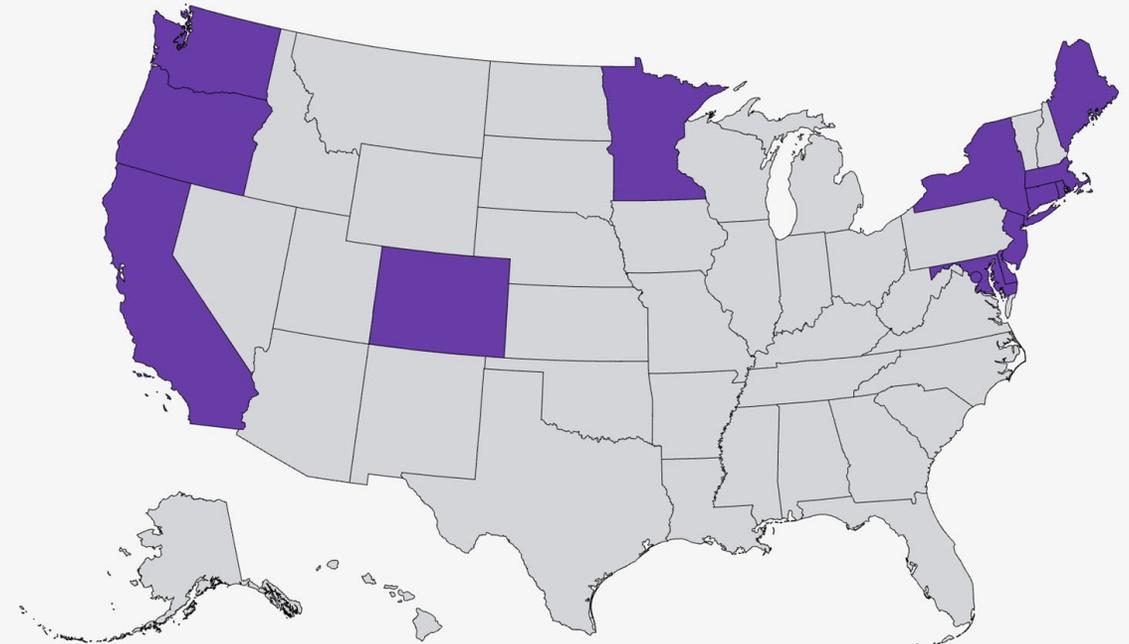


- ❖ Several states **allow non-competes only for “highly compensated” employees** who exceed certain salary thresholds—and prohibit them for employees who *don’t* meet those thresholds
- ❖ In these states, the thresholds are typically calculated as a percentage of either:
 - The Consumer Price Index (“CPI”)
 - The federal poverty level, or
 - The state’s minimum wage
- ❖ Colorado, Maine, Maryland, Rhode Island, Oregon, Washington, and Washington D.C. will all see threshold changes in 2026 as a result of updates to these 3 data points
- ❖ **CPI and federal poverty level data is typically published mid-January**—so HR teams should keep an eye out for this data

13 states + D.C. provide a form of paid Family and Medical Leave:

- ❖ California
- ❖ Colorado
- ❖ Connecticut
- ❖ Delaware
- ❖ Maine
- ❖ Maryland
- ❖ Massachusetts
- ❖ Minnesota
- ❖ New Jersey
- ❖ New York
- ❖ Oregon
- ❖ Rhode Island
- ❖ Washington
- ❖ Washington D.C.

All of them are funded through payroll taxes or deductions.





- 1 Delaware** Payroll Contributions started Jan 1, 2025. Employee Benefits start Jan 1, 2026.
- 2 Maine** Payroll Contributions started Jan 1, 2025. Employee Benefits start May 1, 2026.
- 3 Maryland** Payroll Contributions start July 1, 2027. Employee Benefits start TBD.
- 4 Minnesota** Payroll Contributions and Employee Benefits started January 1, 2026.



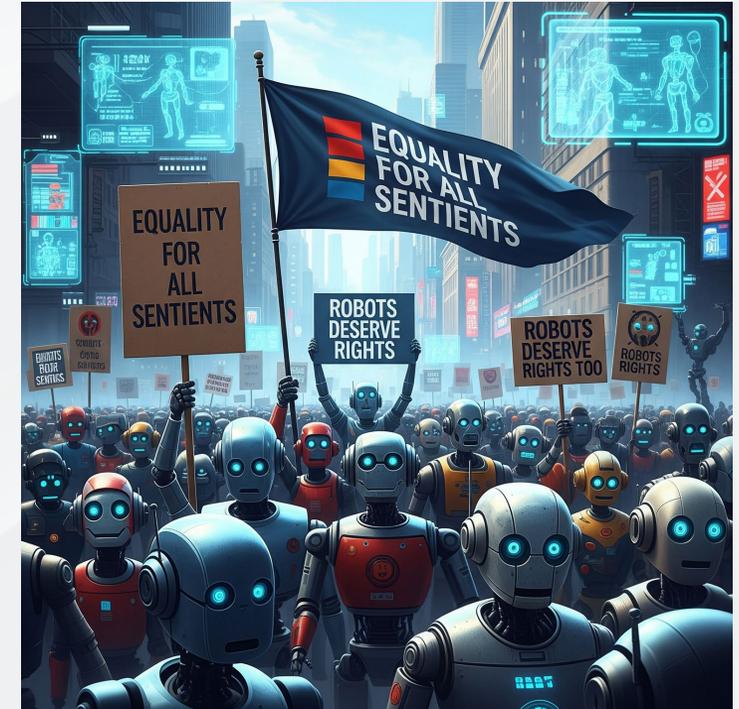
Contributions and benefits aren't the only changes to state FMLA laws that went into effect on January 1. Here's a list of some other changes employees celebrated at the new year:

- ❖ **Colorado extended the duration of paid family and medical leave**, up to an additional 12 weeks, for a parent who has a child receiving inpatient care in a neonatal intensive care unit.
- ❖ **Rhode Island expanded its Temporary Caregiver Insurance** benefits from 7 weeks to 8 weeks.
- ❖ **Washington expanded job protections to cover employees at smaller employers and employees who have worked for less time** and provided continuation of benefits in more circumstances.

The two topics overlap more than you might think—most regulation of AI use in employment is designed to prevent accidental or intentional discrimination.

We will be looking at 4 examples from 2025 and 2026:

- ❖ Colorado's AI Act
- ❖ Illinois' Human Rights Act
- ❖ California's Fair Employment and Housing Act
- ❖ New Jersey's Guidance on Algorithmic Discrimination



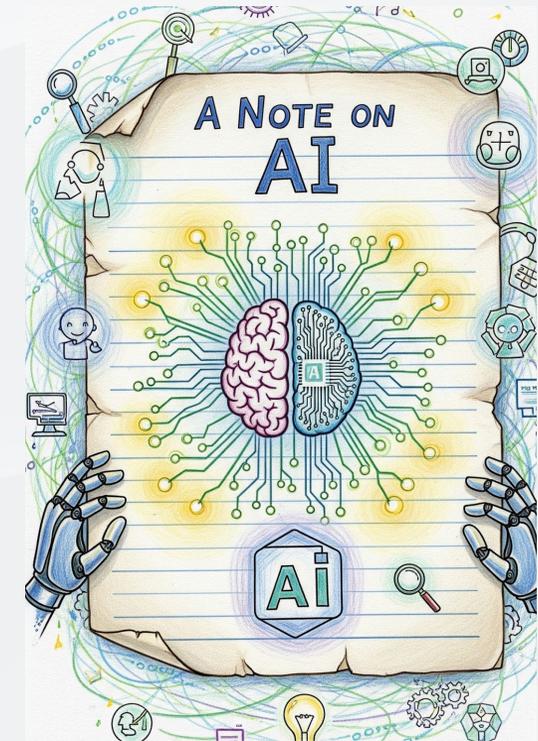
“Artificial Intelligence” includes more than just programs that imitate human intelligence (e.g., chatGPT)

- ❖ It includes any machine-based system that analyzes data to generate outputs in service of an objective (e.g., predictions, recommendations, or decisions)

Common examples include algorithms, applicant screening tools, and certain types of performance monitoring technology

- ❖ Anything that takes in employee/applicant data and uses it to predict performance or suitability for a role

Laws often refer to it as “automated decision-making technology” rather than “Artificial Intelligence” for this reason



- ❖ First comprehensive regulation of AI at the state level
- ❖ Regulates both “Developers” and “Deployers” of AI systems
- ❖ No private right of action
 - Will be enforced exclusively by the Colorado Attorney General’s Office
- ❖ Takes effect June 30, 2026 (delayed from February 1, 2026)



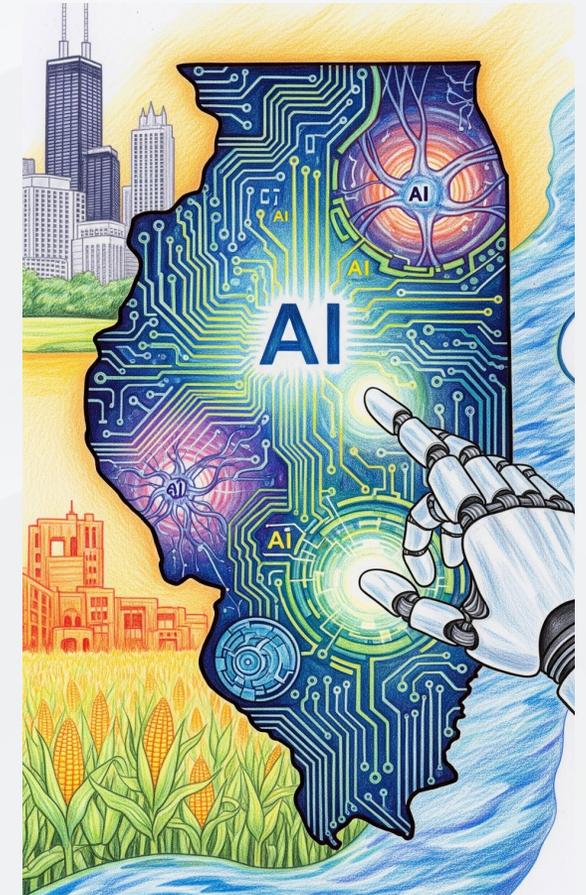


Must use “reasonable care” to prevent “algorithmic discrimination.”

There is a **rebuttable presumption that deployers used reasonable care** if they:

- ❖ Implement a risk management policy and program for high-risk AI systems
- ❖ Complete an impact assessment of high-risk AI systems
- ❖ Notify consumers that could be affected by decisions made by high-risk AI systems
- ❖ Make a publicly available statement summarizing the types of high-risk systems that the deployer currently uses
- ❖ Disclose to the attorney general the discovery of algorithmic discrimination within 90 days of discovery

- ❖ Amends the Illinois Human Rights Act (effective January 1, 2026)
- ❖ Prohibits employers from **using AI in connection with “recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment”** in a way that subjects an employee to any discrimination based on protected characteristics or zip code.
 - Zip code included because businesses can use it as a proxy for other protected characteristics like race, religion, etc.
- ❖ Also requires employers to **notify employees when AI is being used** to make employment decisions.





New regulations (effective October 1, 2025) prohibit employers from using AI tools to discriminate on the basis of any FEHA-protected classes

- ❖ Including assessments that make predictions about applicants or that measure their characteristics

Protects employers who use bias testing or other audit techniques to prevent their AI from discriminating

- ❖ Bias testing is a best practice in all states, even those without a safe harbor

Requires businesses to keep records of all data fed to the AI system and the decisions/recommendations it made for 4 years

FEHA isn't the only CA law that restricts how AI is used to make decisions

New Jersey's "Guidance on Algorithmic Discrimination"



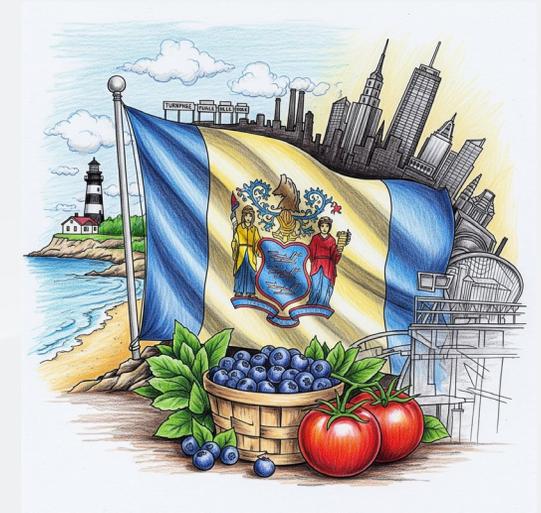
This guidance explains that existing NJ law imposes liability on employers who discriminate against employees using any method, including AI

- ❖ Regardless of whether the employer developed the AI tool

"Disparate Impact" claims mean employers can be liable for AI tools that have discriminatory impact even if they acted in good faith

- ❖ Discrimination can result from errors in designing, training, or deploying the AI

AI use can also be illegal if it "impedes or precludes" employees from getting reasonable accommodations



Several states added to the list of characteristics that are protected under anti-discrimination laws in 2025

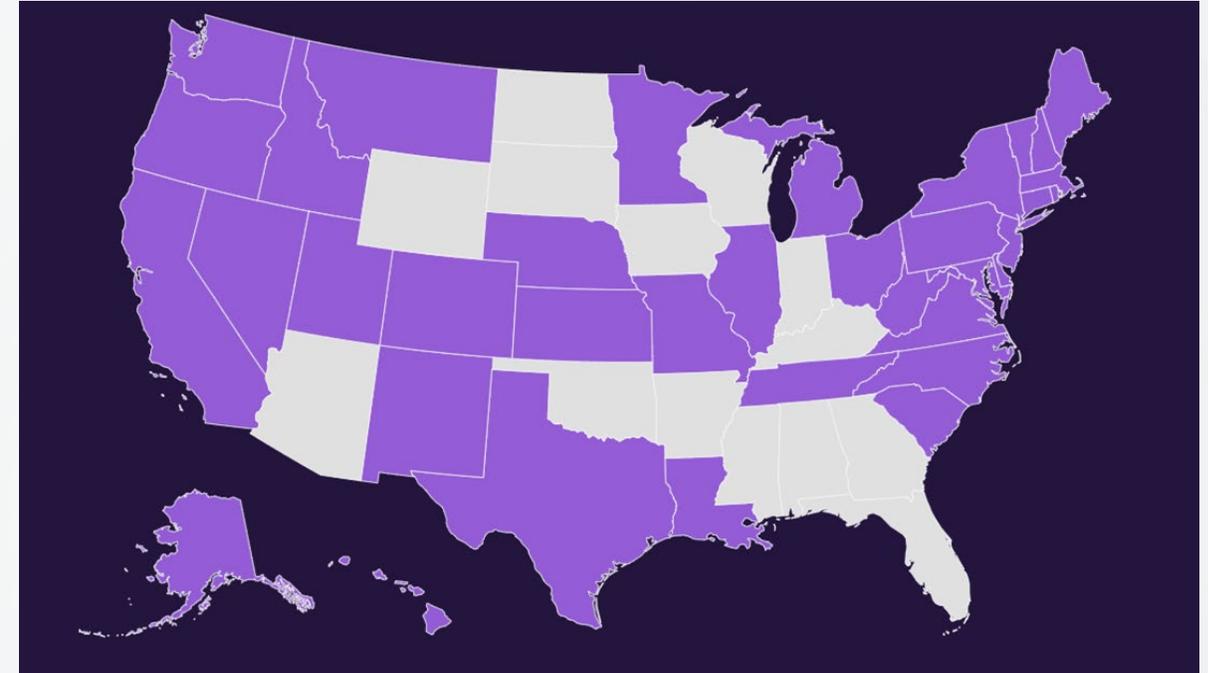
- ❖ Colorado: “Gender expression”
- ❖ Delaware: Military status
- ❖ Connecticut: Victims of sexual assault and human trafficking
- ❖ Illinois: Zip codes
- ❖ Minneapolis: “Justice-impacted status” (i.e., criminal history), housing status, height, and weight

Employers generally can’t take adverse actions against employees or applicants based on protected characteristics

- ❖ AI regulations often protect the same characteristics



- ❖ 36 jurisdictions (including D.C.) have some type of wage transparency protections
- ❖ 6 became effective in 2025
- ❖ Not all wage transparency laws work the same way
 - **Protections (passive):** Employers can't prohibit workers from discussing wages.
 - **Disclosures (active):** Employers must provide some wage information to employees and applicants.





These states instituted new wage transparency requirements in 2025

Cleveland, OH

Since October 27, 2025, Cleveland employers with 15+ employees have had to include a pay range in their job postings.

Delaware

Since September 26, 2025, employers with 26+ employees in DE (or remote & employed by DE employer) have had to include wage ranges and a description of benefits in all job postings before the first interview.

They must also keep job description & wage records for 3 years.

Illinois

Since June 30, 2025, employers w/100+ employees have had to get an Equal Pay Registration Certificate.

Beginning January 1, 2026, it is against public policy for employers to “prohibit employee from engaging in protected concerted activity to address work related issues.”

New Jersey

Since June 1, 2025, employers with 10+ employees have had to include a wage range in job postings. The DOL recently published proposed rules which define what “reasonable effort” means.



These states instituted new wage transparency requirements in 2025

Massachusetts

Since February 21, 2025, employers with 100+ employees have had to provide wage reports to DOL.

Since October 29, 2025, employers with 25+ employees have had to post wage ranges for all postings.

Washington

Since July 27, 2025, employers have had a 5-day period to cure deficient postings.

The law allowing a cure period is only in effect until July 27, 2027.

Vermont

Since July 1, 2025, employers with 5+ employees have had to provide a “good faith” wage range for VT jobs or remote jobs for an office in VT.



Pay transparency laws effective Jan. 1, 2026

New requirements have arrived for the Golden State

California

January 1, 2026, expansions to California's pay transparency laws include:

- ❖ Pay scale must be a "good faith estimate" of the range.
- ❖ "Wages" = all forms of pay (bonuses, stock options, benefits, etc.)
- ❖ Employers must keep job title & wage history for 3 years.



Ohio

- ❖ Since April 9, 2025, employers have had to include:
 - **the employer's name**
 - **the employee's name, address, gross & net wages, each addition/deduction, date of payment & pay period**
- ❖ Additional requirements for hourly workers

Oregon

- ❖ Since January 1, 2026, employers have been required to provide a detailed, written explanation of all potential earnings and deductions at the time of hire.





Any questions?

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me on LinkedIn.

