

A Look Ahead/A Look Back: An Update on Labor & Employment Laws

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Legislative Updates

Changes to Maine's Earned Paid Leave Law

- Under the law as it existed until September:
 - Although employees could accrue up to 40 hours of MEPLL leave annually, unused hours carried over from the prior year, which effectively reduced the amount of leave the employee could accrue in the current one.
 - This is because employers could cap overall accrual at 40 hours.
 - In other words, if an employee carried over 15 hours from one year, the employer could cap them at accruing a maximum of 25 more hours of MEPLL leave during the following one.

Changes to Maine's Earned Paid Leave Law

- Changes to 26 M.R.S. § 637(3) that became effective in September:
 - Accrued and unused hours of earned paid leave carried forward from the previous year of employment may not reduce the total amount of hours of paid leave an employee is entitled to earn in the year of employment immediately following the previous year, up to 40 hours or the accrual limit specified in the employer's policy governing paid leave, whichever is higher.

Changes to Maine's Earned Paid Leave Law

- In our hypothetical above, after the change to the law, the employee carrying over 15 hours of MEPLL leave can accrue an additional 40 hours of leave the following year, or 55 total.
- Critically, however, although the maximum overall accrual cap increased, annual accrual and usage limits did not.

Changes to Maine's Earned Paid Leave Law

- Thus, employers can limit employees to accruing no more than 40 hours of MEPLL leave per year and may limit their use to no more than 40 hours of leave in any given year, even if the employee's total accrued leave balance exceeds that amount.
- So, under the example above, while the employee has accrued 55 hours of MEPLL leave, the employer may limit them to using 40 hours of it during a given year.

Changes to Maine's Earned Paid Leave Law

- Or so we thought.
- The Maine DOL recently updated its guidance about MEPLL in a way that does not seem consistent with the statute and its existing rules.

Changes to Maine's Earned Paid Leave Law

- The DOL is taking the position that “[e]mployers cannot restrict the number of accrued and unused hours of Earned Paid Leave that an employee may use in a given year.”
- In other words, under the hypothetical above, the employer of the employee with 55 hours of leave accrued must let them use all 55 hours of it, subject to other restrictions on use that may be relevant.

New Minimum Pay for Reporting to Work Law, 26 M.R.S. § 639-A

- Applies to employers with 10 or more employees in the usual and regular course of business for more than 120 days in a calendar year.
- If an employee reports to work, and the employer cancels or reduces their scheduled shift, the employee must be paid either: (1) two hours of pay at their regular hourly rate of pay, or (2) the total pay for the shift for which the employee was initially scheduled, whichever is less.

Minimum Pay for Reporting to Work Law

Notice Exception:

- An employer that makes a documented good faith effort to notify an employee not to report to work is not liable to pay wages.
- If the employee reports to work after the employer's attempt to notify the employee has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer, as the employee can do so.
- If the employer does not have any duties to assign to the employee, the employer shall pay the employee the wages called for under the statute.

Minimum Pay for Reporting to Work Law

Other Exceptions:

- Minimum pay for reporting to work is not required if the employee is not required to work or is unable to work due to:
 - Adverse weather condition;
 - Natural disaster or civil emergency;
 - Employee's illness or medical condition; or
 - Employee's workplace injury

LD 61, An Act to Regulate Employer Surveillance to Protect Workers

- Becomes law later this year – 90 days after Legislature adjourns.
- Applies to (almost) all Maine employers regardless of size and to all employees and potentially to independent contractors as well.

LD 61, An Act to Regulate Employer Surveillance to Protect Workers

- Employers cannot monitor employees through an electronic device or system without first informing them. (I.e., before the surveillance begins.)
- Electronic device or system includes a computer, telephone, wire or radio or an electromagnetic, photoelectronic or photo optical system.
- “Employer surveillance” under the law does not include cameras used for security or safety purposes, GPS tracking or other safety devices on employer-owned vehicles.

LD 61, An Act to Regulate Employer Surveillance to Protect Workers

- Employers cannot use audiovisual monitoring in an employee's residence or personal vehicle or on the employee's property, unless it is required by the employer for the duties of the job.
- Additionally, employees can decline a request by an employer to install data collection or transmission applications on the employee's personal electronic devices for the purposes of employer surveillance.

LD 61, An Act to Regulate Employer Surveillance to Protect Workers

- An employer using employer surveillance has to inform a prospective employee during the employment interview process that it engages in employer surveillance and must provide written notice at least once per calendar year to all current employees that the employer engages in employer surveillance.

LD 61, An Act to Regulate Employer Surveillance to Protect Workers

- Law contains an exception for "Personal care services" - services provided by a licensed personal care agency that include, but are not limited to, services related to activities of daily living, household tasks, and medication reminders.
- Law does not apply to employer surveillance installed or caused to be installed by an employer, patient, client, or unpaid caregiver in a setting in which personal care services are expected to be provided by an employee.

New Hampshire: Leave for Childbirth/Postpartum Care

- Beginning January 1, 2026:
- Employers with 20+ employees will be required to provide up to 25 hours of job-protected unpaid leave for:
 - Their own medical appointments for childbirth-related or postpartum care.
 - Pediatric medical appointments for their child within the first year of birth or adoption.
- Based on the definition of “employee,” the law applies to full-time and part-time employees, but not to temporary or seasonal employees.

Reminder: Massachusetts Wage Transparency Law

- Three key elements:
 - First, beginning October 29, 2025, any employer with 25 or more employees in the Commonwealth must disclose the pay range in the job posting for any position.
 - Second, beginning October 29, 2025, employees or prospective employees have a legal right to know the pay range for a position upon applying for a position, promotion, transfer, or beginning a new position with an employer with 25 or more employees in the Commonwealth. Employees also have the right to request the pay range for their current position. The law protects employees who have been retaliated against for exercising this right.
 - Third, the law also requires employers with 100+ employees to report data and demographic information by submitting their “EEO Reports” to the Secretary of the Commonwealth.

Minimum Wage Updates

- Maine:
 - Increase to \$15.10 per hour
 - Minimum for tipped employees is \$7.55 per hour (minimum \$191 per month)
 - Exempt status minimum of \$871.16 per week / \$45,300.32 per year
 - Portland: minimum wage \$16.75 per hour / \$8.38 for tipped employees
 - Rockland: minimum wage \$16 per hour / \$8.00 for tipped employees
 - Applies to employers with 26 or more employees
- Connecticut:
 - Increase to \$16.92 per hour
- Vermont:
 - Increase to \$14.42 per hour

Case Law & Litigation

Stanley v. City of Sanford, Florida (11th Circuit)

- Opinion issued June 5, 2025
- Issue:
 - Whether a retired employee who does not hold or seek a job qualifies as a "qualified individual" under the Americans with Disabilities Act (ADA) for purposes of alleging disability-based discrimination.
- Holding:
 - A retired employee who neither holds nor seeks a job is not a "qualified individual" under the ADA. A plaintiff must demonstrate that they held or desired a job and could perform its essential functions with or without reasonable accommodation at the time of the alleged discriminatory act.
 - The ADA protects individuals, not benefits, from discrimination. Under 42 U.S.C. § 12111(8), the term "qualified individual" is limited to those who hold or seek employment at the time of the alleged discrimination.
 - The dismissal of the plaintiff's claim was upheld because the reduction in healthcare benefits occurred after the plaintiff retired due to disability. At that time, the plaintiff was no longer a "qualified individual" under the ADA.

Ames v. Ohio Department of Youth Services (Supreme Court)

- Opinion issued: June 20, 2025
- Issue:
 - Whether the Sixth Circuit's "background circumstances" rule, requiring majority-group plaintiffs to show additional evidence of discrimination, is consistent with Title VII of the Civil Rights Act of 1964.
- Holding:
 - The Sixth Circuit's "background circumstances" rule, which imposes a heightened evidentiary burden on majority-group plaintiffs, is inconsistent with the text of Title VII and longstanding U.S. Supreme Court precedents. 5 Title VII does not require majority-group plaintiffs to meet a higher standard to prove discrimination .

Big Discrimination Verdict against SHRM (Colorado)

- Allegations: Rehab Mohamed, an Egyptian-Arab woman who worked as an instructional designer at SHRM from 2016 to 2020, filed suit in 2022 alleging she was systematically discriminated against by a white supervisor who favored white employees.
- After Mohamed complained to leadership—including SHRM's CEO and head of human resources—she claims she faced retaliation before being terminated in September 2020.

Big Discrimination Verdict against SHRM

- SHRM claimed it fired Ms. Mohamed for legitimate performance issues.
- After a five-day trial in Colorado federal court, a jury awarded her \$11.5 million - \$1.5 million in compensatory damages and a \$10 million in punitive damages.

Big Discrimination Verdict against SHRM

- “Highlights” from the trial included:
- SHRM’s unsuccessfully attempted to prevent Mohamed from referencing the organization’s status as an HR expert during trial.
- The judge ruled that SHRM’s self-proclaimed expertise in human resources was “integral to the circumstances of this case and cannot reasonably be excluded,” which opened the door for the jury to consider whether SHRM was living up to its own standards.

Big Discrimination Verdict against SHRM

- The SHRM employee who investigated Ms. Mohamed's discrimination complaint had never investigated a discrimination claim before.
- The investigator assigned to the case had minimal experience and admitted to receiving only one training session on HR investigations—details of which he could not recall on the stand.
- The judge noted that a jury could reasonably conclude the investigation was a “sham.”

Thank You!

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