GUNDERSON DETTMER

Client Insight: Quarterly Employment Law Update — Winter 2026

Insights
March 16, 2026

As 2026 begins, employment law continues to evolve quickly across multiple jurisdictions. This update highlights key legislative and regulatory changes taking effect this winter, noteworthy lawsuits, and recent updates to Gunderson Dettmer's Contract Generator, with links to deeper-dive resources where relevant.

Legislative and Regulatory Changes — Snapshot

Four themes dominate this quarter: (1) expanding regulation and disclosure duties related to AI and automated decision-making tools; (2) a new wave of California laws; (3) state and local leave law changes that collectively demand handbook and payroll updates across jurisdictions; and (4) new restrictions on hiring practices in New York State, effective April 18, 2026.

AI and Automated Decision-Making in Employment

2026 is shaping up as the first real enforcement year for AI and automated tools in employment. New or expanded frameworks across multiple states increase the expectation that employers understand how AI is used in their HR processes and can demonstrate nondiscriminatory deployment. Key laws at a glance:

- **California CPPA/CPRA (Automated Decision-Making Technology):** Businesses subject to the CCPA/CPRA that use automated decision-making technology (ADMT) to make or materially influence significant employment decisions face new risk-assessment obligations beginning January 1, 2026, with full ADMT compliance required by January 1, 2027.
- **California Civil Rights Regulations (Automated Decision Systems):** Regulations effective October 1, 2025, require California employers with 5+ employees to provide notice, ensure meaningful human review, and conduct bias testing when using automated decision systems in hiring, promotion, discipline, or termination.
- **Colorado AI Act (SB 24-205, effective June 30, 2026):** Imposes a duty of care on developers and deployers of high-risk AI systems to prevent algorithmic discrimination in consequential employment decisions affecting Colorado residents, with disclosure and reporting obligations to the Colorado AG.
- **Illinois Human Rights Act (AI in Employment Decisions):** Amendments make discriminatory use of AI in employment a civil rights violation and require employers with 1+ Illinois employees to provide notice when AI is used in employment decisions.
- **Texas Responsible AI Governance Act (TRAIGA):** Targets intentional discrimination through AI and requires governance and transparency measures for covered AI systems used by any person or entity promoting, advertising, or conducting business in Texas.
- **New York WARN Act AI Disclosure:** As of March 2025, New York employers covered by the NY WARN Act must indicate in filings whether AI, robotics, or other technology contributed to a covered layoff or plant closing.

For a comprehensive review of these and related developments, see our resources:

- AI in the Workplace: Legal Challenges and Best Practices (Webinar)

- 2026 AI Laws Update: Key Regulations and Practical Guidance (Client Insight)
- 2026 Employment Law Update (Webinar)
- Legislating the Future of AI in Employment: NYC's Law on Automated Decision Tools & Other Important Developments (Client Insight)

Practical Steps

- Build an AI/ADS inventory for HR uses (recruiting, screening, assessment, performance, promotion, discipline, layoffs).
- Add AI-specific clauses to vendor contracts (information rights, bias-testing, notice/cooperation, audit, and termination).
- Standardize notices where AI is used in employment decisions, with clear explanations and escalation paths.

California Wave

California has enacted several new laws that demand employers' immediate attention. We discuss many of these new laws in greater detail in the "California - Deeper Dive" segment of our 2026 Employment Law Update here, and highlight key items below.

- **CA Pay Transparency & Equal Pay Act (Effective Jan. 1, 2026):** Covered California employers now face expanded pay transparency and pay equity requirements, including stricter job posting disclosures and mandatory inclusion of equity compensation in pay equity analyses. For an in-depth analysis, see: California Pay Transparency Overhaul: What Employers Must Do by January 1, 2026.

- **End of Most "Stay or Pay" Agreements (AB 692):** Restricts training repayment, relocation repayment, and similar agreements where they operate as restraints on post-employment mobility. Review signing-bonus clawbacks, relocation programs, tuition assistance, and training-repayment terms for California roles.

- **VC Company Diversity Reporting:** The Fair Investment Practices by Venture Capital Companies Act (FIPVCC) imposes demographic data collection and reporting obligations on a wide range of venture capital and certain private equity firms with a California nexus. Covered firms must register with California's Department of Financial Protection and Innovation by **March 1, 2026**, and report demographic data by **April 1, 2026**. For more details, see: Client Insight: California Venture Diversity Reporting.

- **Immigration & Workplace Know Your Rights (SB 294)**: Requires California employers to provide employees an annual written "Know Your Rights" notice covering immigration-related, workers' compensation, and other key workplace protections, and to implement procedures (including emergency contact notification) if an employee is arrested or detained at work, backed by per-employee civil penalties for noncompliance.

- **Data Breach & Privacy (SB 446):** Imposes firm deadlines on businesses to notify affected California residents and, for larger breaches, the Attorney General of data breaches, generally requiring consumer notice within 30 days of discovery and AG notice within 15 days thereafter for breaches impacting more than 500 residents.

- **Wage & Hour (SB 261):** Increases consequences for employers that fail to timely satisfy final wage judgments by authorizing civil penalties of up to three times the unpaid amount after 180 days, with half paid to the employee and half to the Labor Commissioner, plus the employee's attorneys' fees and costs.
- **Pay Data Reporting (SB 464):** Strengthens California's annual pay data reporting regime for employers with 100+ employees by requiring more detailed job classifications, clarifying data storage rules, and mandating court-imposed civil penalties for failure to submit required reports.
- **Victims of Violence Protections (AB 406):** Expands job protections so that employees (and in some cases family members) who are victims of defined "qualifying acts of violence" can take time off and seek related relief or services without discrimination or retaliation, with corresponding employer notice and confidentiality obligations.

Practical Steps

- Determine whether any of these California laws apply to you and prioritize updates.
- Contact your Gunderson attorney for assistance with scoping, policy updates, and contract changes.

Leave Laws Are Expanding and Evolving

Several states have fine-tuned their paid family and medical leave frameworks, sick/safe leave, and related protections. We discuss many of these new laws in greater detail in the “Leave Laws” segment of our 2026 Employment Law Update here. While individual leave law changes may seem incremental, their combined effect on multi-state employers can be significant. The following updates may warrant handbook revisions and payroll adjustments.

- **Colorado:** Updates to the state FAMLI program effective January 1, 2026, expand leave (including additional weeks for NICU care) and adjust premium rates; employers should confirm their leave policies, payroll coding, and notices align with current FAMLI definitions and durations, and verify stacking and offset rules where employees move between Colorado locations.
- **Washington:** Recent changes continue to refine the state’s Paid Family and Medical Leave program and its coordination with local paid sick and safe time ordinances; multi-site employers should review state-versus-local stacking and offset rules.
- **Connecticut:** Adjustments to Connecticut’s paid family and medical leave and related job-protection provisions affect how state benefits interface with employer-provided PTO; employers with hybrid or remote Connecticut workers should revisit eligibility definitions and offset language.
- **Illinois:** Employers must now provide paid lactation breaks at the employee’s regular rate of pay for up to one year following childbirth, rather than offering this time on an unpaid basis.
- **New York City:** As of February 22, 2026, New York City employers must provide 20 hours of paid prenatal leave (per 52-week period) and frontload 32 hours of additional unpaid safe/sick leave available immediately at hire.

Practical Steps

- Refresh employee handbooks and local addenda for the locales listed above.
- Train managers to escalate leave requests to HR and avoid informal arrangements that may conflict with statutory entitlements.
- Contact your Gunderson attorney for assistance with updates or training.

Hiring Practice Changes: New York State Credit History Restrictions

New York State Fair Credit Reporting Act (Effective April 18, 2026)

Amendments to the New York State Fair Credit Reporting Act prohibit employers statewide from requesting or using consumer credit history in hiring or other employment decisions, extending to the rest of New York State the credit check ban that New York City has enforced since 2015. Narrow exceptions apply for certain security-sensitive or legally required positions. The law also prohibits background check vendors from including credit history in employment screening reports for non-exempt roles.

Why This Matters:

- Employers outside NYC must now bring their hiring practices in line with the NYC standard by April 18. The exposure for noncompliance is real: the law provides a private right of action with actual damages and attorneys' fees.
- Clients using third-party background check platforms should confirm their vendors will suppress credit data for non-exempt positions, as the vendor prohibition is an often-overlooked compliance trigger.

Practical Steps

- Audit background check workflows and remove impermissible credit history components.
- Review all positions to identify any that qualify for a statutory exemption; document the rationale and limit credit checks to those roles.
- Update authorization forms, adverse action templates, and vendor instructions before April 18.
- Contact your Gunderson attorney with questions about exemption eligibility.

Litigation Update: Key Cases to Watch

While the legislative changes above establish new compliance floors, litigation is increasingly shaping how those standards are applied in practice. The following

cases are worth watching closely, as their outcomes could affect AI vendor relationships, recruiting workflows, and noncompete structures for many of our clients.

Mobley v. Workday, Inc. (AI as an “agent” of employers):

A federal court in California granted preliminary class certification, allowing Title VII, ADEA, and ADA claims to proceed as a class action against Workday. The lawsuit alleges that Workday’s AI-enabled screening tools discriminated against applicants on the basis of race, age, and disability. The court accepted a theory that Workday could be treated as an “agent” of its employer customers and pointed to near-instantaneous rejections as evidence of automated decision-making.

Why it matters: This case opens the door to direct class-action liability for AI vendors and parallel exposure for employers that rely on their tools. The threat of class-wide damages significantly raises the stakes on AI due diligence, contractual risk allocation, and the validation and auditing of vendor systems.

Kistler v. Eightfold AI Inc. (AI scores as “consumer reports”):

In California state court, plaintiffs/applicants allege that Eightfold’s AI hiring platform operates as a consumer-reporting agency by aggregating data (e.g., LinkedIn, GitHub) and generating 0–5 “fit” scores that employers use in hiring decisions, making those scores unreviewable and uncontestable “consumer reports” subject to Fair Credit Reporting Act (FCRA)-style requirements.

Why it matters: If courts treat AI-generated fit scores as consumer reports, many recruiting tools could suddenly carry FCRA and state-law obligations, forcing employers to overhaul notices, consents, vendor contracts, and adverse-action processes. Triggering the FCRA exposes employers to strict class-action liability if they fail to provide mandatory, standalone applicant disclosures and execute complex, multi-step adverse action notices before rejecting a candidate based on an AI score.

Boyd v. The Boston Beer Company, Inc. (Massachusetts noncompete consideration):

In Massachusetts federal court, former employees are challenging Boston Beer's noncompetes under the Massachusetts Noncompetition Agreement Act, arguing that a roughly $3,000 lump-sum labeled as "other mutually agreed upon consideration" is inadequate compared to statutory garden leave (50% of highest annualized base salary), particularly given broad competitive restraints.

Why it matters: A restrictive reading of "other mutually agreed upon consideration" could invalidate many existing Massachusetts noncompetes and require employers to increase payments, narrow restrictions, or abandon noncompetes in favor of alternative protections.

GD Contract Generator Updates

To help our clients comply with quickly evolving employment laws, our team routinely updates the Gunderson Dettmer Contract Generator. The Contract Generator allows Gunderson clients to generate 50-state compliant offer letters, Proprietary Information and Inventions Agreements (PIIAs), consulting agreements, and NDAs free of charge. Recent updates include:

NEW PROVISIONS, NOTICES, AND SALARY THRESHOLDS

Issue	Change in CG
Governing Law: Delaware Default Changed	Delaware is no longer the default governing law/venue for all Delaware-incorporated companies. The Contract Generator now uses the law of the employee's state of residence, except when specific regulations require a different outcome.
Updated 2026 Salary Thresholds: Noncompetes and Exempt/Nonexempt Classifications	The following states have increased their salary thresholds in Q1 2026: Colorado, District of Columbia, Maine, Oregon, Rhode Island, Virginia, and Washington. (Maryland will increase its salary threshold in July 2026.)
California Offer Letters: Mandatory Notice	When users generate a California offer letter, they will now also receive new, required notices.
Separate California Signing-Bonus Agreement	Employers who decide to offer new employees a signing bonus now receive a separate agreement that complies with California's new "Stay-or-Pay" law.

EMPLOYER OF RECORD (EOR)/PROFESSIONAL EMPLOYER ORGANIZATION (PEO) INTAKE

New EOR/PEO workflows address a critical gap in standard EOR agreements: deficient IP assignment terms that can create chain-of-title ambiguity and require costly remediation in due diligence. For clients using an EOR, the workflows provide our pre-negotiated Contributor IP Assignment Agreement (Contributor IPAA), which establishes a direct IP transfer from the EOR-engaged worker to your company. Clients also have access to a GD Guidance Memo on EOR/PEO structures and pitfalls, and are notified when attorney assistance is recommended.

For more information on the Contract Generator, contact your Gunderson Dettmer attorney.

Conclusion

With AI regulation entering its first real enforcement cycle, California continuing to set the pace on worker protections, new statewide hiring practice restrictions taking effect in New York, and leave laws adding complexity across jurisdictions, Q1 2026 demands proactive attention across HR, legal, and operations. If you have questions regarding any of the developments discussed above, or any other employment-related matters, please contact your Gunderson Dettmer attorney.

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