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Client Insight: Quarterly Employment Law Update – Spring 2026

Client News
June 29, 2026

The second quarter of 2026 marks a key inflection point for employment compliance, with new requirements already taking effect and additional obligations scheduled through 2027. This update highlights the developments most relevant to innovation-economy employers, including emerging AI regulations, a sweeping retroactive noncompete ban in Washington, expanding pay transparency mandates, new hiring and monitoring restrictions, evolving leave laws, and the practical steps employers can take now to prepare policies, templates, and HR processes.

For additional developments taking effect in 2026, including California's regulatory "wave" and numerous AI and leave laws, please see our Winter 2026 Quarterly Employment Law Update.

Q2 Legislative and Regulatory Changes - Snapshot

Although effective dates range from the coming months through 2027, the developments below share a common thread: multi-state employers need to begin planning now to manage staggered rollouts and jurisdiction-specific requirements.

AI and Automated Decision-Making in Employment

Two states have enacted significant AI employment regulations with compliance deadlines requiring immediate attention from employers that develop or deploy automated hiring and workforce management tools.

- **Connecticut AI Responsibility and Transparency Act (SB 5) (Effective October 1, 2026 / October 1, 2027)**

  Connecticut has enacted one of the most comprehensive state AI-in-employment laws to date, with obligations rolling out in two phases.

  Effective October 1, 2026: The law's "AI is not a defense" amendment takes effect, prohibiting employers from using automated employment decision tools as a shield against discrimination claims. Developers must also begin providing deployers (employers) with compliance documentation. Separately, employers must disclose AI usage in WARN Act filings when technology contributes to covered layoffs.

  Effective October 1, 2027: Deployers must provide plain-language pre-decision notices to applicants and employees before using automated tools as a substantial factor in hiring, promotion, discipline, or termination decisions.

  A companion chatbot disclosure provision, requiring businesses to notify individuals when they are interacting with AI, takes effect January 1, 2027.

- **Colorado AI Act - Amended (SB 26-189) (Effective January 1, 2027)**

  Colorado's original AI Act (SB 24-205) has been substantially amended, with the effective date pushed from June 2026 to January 1, 2027. The amended law replaces broad bias audit and risk impact assessment mandates with a focused transparency framework: notice, disclosure, correction rights, and human review obligations.

  Liability is apportioned based on relative fault: developers bear responsibility for harms arising from intended use, while deployers are responsible for harms from their independent decisions. Indemnification clauses that shift a party's own liability to the other are void as against public policy.

Note that further legislative activity remains possible, which may delay enforcement until the Attorney General completes rulemaking.

- **California Executive Order (N-6-26)**

  Governor Newsom has directed state agencies to analyze AI's impact on the workforce and evaluate potential updates to California's WARN Act, collective bargaining requirements, and other employment frameworks. No immediate compliance obligations arise from the order, but employers with California operations should monitor agency rulemaking activity that could follow.

Practical Steps

- Build an AI/automated decision system (ADS) inventory covering all HR uses, such as recruiting, screening, assessment, performance, promotion, discipline, and layoffs, and identify which tools function as a "substantial factor" in employment decisions, as that threshold triggers most notice and disclosure obligations under both the Connecticut and Colorado laws.
- Review and update vendor contracts to include AI-specific provisions: information rights, bias testing, notice and cooperation obligations, audit rights, termination rights, and developer compliance documentation requirements (required under Connecticut's law by October 1, 2026).
- Draft plain-language notices for applicants and employees explaining how AI tools are used in employment decisions and any available right to request human review, in advance of Connecticut's October 1, 2027 deadline.
- Monitor Colorado SB 26-189 and Attorney General rulemaking activity for final compliance requirements ahead of the January 1, 2027 effective date.
- Track California agency rulemaking following Governor Newsom's executive order, particularly any proposed updates to the state's WARN Act or collective bargaining frameworks.

Additional Resources

For a deeper dive into current employment-related AI regulations and best practices, see the resources below.

- 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)

Noncompetes and Restrictive Covenants

The trend toward restricting noncompete agreements is accelerating. This quarter brings a near-total ban in Washington, new enforceability restrictions in Virginia, an earnings threshold in Tennessee, and limits on “stay or pay” agreements in New York.

- **Washington State Noncompete Ban (HB 1155) Void date: June 30, 2027 – Review Required Now**

  On March 23, 2026, Washington Governor Ferguson signed HB 1155, which bans virtually all noncompete agreements for employees and independent contractors in the state, regardless of income level. Exceptions include the sale of a business, certain franchise agreements, non-solicitation agreements, and confidentiality and trade secret agreements. **The ban applies retroactively.** All existing noncompetes become void on June 30, 2027, regardless of when they were signed.

  The law’s definition of “noncompetition covenant” is broad, encompassing not only traditional noncompetes but also customer nonservicing agreements and forfeiture-for-competition provisions, including equity forfeiture clauses triggered by competitive activity. For venture-backed companies with equity-heavy compensation, this demands immediate attention to equity plan documents, not just employment agreements.

  By October 1, 2027, employers must provide written notice to all affected current and former employees and independent contractors that their noncompetes are void.

  Nonsolicitation agreements remain permissible if limited to 18 months post-separation and restricted to customers with whom the employee had material contact.

- **Virginia Noncompete Restrictions (SB 170) (Effective July 1, 2026)**

  Virginia’s SB 170 voids noncompete agreements for workers who are involuntarily terminated without severance or other compensation, except in for-cause terminations. These restrictions apply to all noncompete agreements signed on or after July 1, 2026. Employers should include

specific “for-cause” termination language in noncompete agreements to preserve enforceability.

Gunderson Dettmer’s Contract Generator has been updated to address SB 170.

- **Tennessee Noncompete Earnings Threshold (HB 1034) (Effective July 1, 2026)**

  Effective July 1, 2026, Tennessee prohibits noncompete agreements with employees earning **less than $70,000 annually**. Agreements executed, renewed, or amended with an employee earning less than $70,000 are void and unenforceable. Employers are also prohibited from enforcing noncompetes with employees earning less than $70,000 annually.

- **New York S4070 / “Trapped at Work Act” (Effective December 19, 2026, as amended)**

  New York’s “Trapped at Work Act” prohibits employers from requiring employees and job applicants to sign “stay or pay” agreements as a condition of employment, *i.e.*, agreements requiring workers to repay the employer if they leave before a specified date.

  When first enacted in December 2025, the law applied broadly and immediately. Early 2026 amendments refined the framework in four key ways: delaying the effective date to December 19, 2026; narrowing coverage to employees (excluding contractors); carving out tuition reimbursement for transferable credentials (provided certain conditions are met); and permitting signing bonus and relocation assistance repayments if the employee voluntarily resigns before the end of a defined service period or is fired for cause.

Practical Steps

- Washington: Immediately review all employment agreements, contractor agreements, equity plan documents, and award agreements for noncompete, nonservicing (*i.e.*, forbidding former employee from providing services or doing business with customers or clients, including via passive acceptance of work), and forfeiture-for-competition provisions, including equity forfeiture clauses. Identify all affected current and former workers and begin planning for the October 1, 2027 written notice deadline.

- Virginia: Update offer letter and noncompete templates to include specific “for-cause” termination definitions. Evaluate severance practices in situations where noncompete enforceability is a priority. Use Gunderson Dettmer’s updated Contract Generator for new agreements.
- Tennessee: Review existing noncompete agreements to identify employees earning less than $70,000 and assess alternative protections for those workers, such as nonsolicitation, confidentiality, and IP assignment agreements.
- New York: Review employment agreements, offer letters, and training agreements for “stay or pay” provisions and assess each against the amended law’s carve-outs ahead of the December 19, 2026 effective date.

Pay Transparency and Compensation Reporting

Virginia, Maine, and Delaware join a growing list of states requiring salary range disclosures in job postings, with both laws taking effect this summer. Connecticut enhances its existing disclosure framework by moving from request-based to posting-stage wage and benefits disclosures. California's expanded pay data reporting obligations also demand attention before year-end.

- **Virginia Pay Transparency Law (HB 636/SB 215) (Effective July 1, 2026)**

  Effective July 1, 2026, Virginia requires all employers – with no minimum employee threshold – to include pay ranges in every public and internal posting for a job, promotion, transfer, or other employment opportunity. Benefits and other forms of compensation need not be included. The absence of any size threshold makes this one of the most broadly applicable pay transparency mandates enacted to date.

- **Maine Pay Transparency Law (H.P. 18 – L.D. 54) (Effective July 29, 2026)**

  Effective July 29, 2026, Maine requires employers with 10 or more employees to include a pay range in job postings and to disclose the pay range for a current employee's position upon request.

- **Connecticut Pay Transparency and Related Requirements – (HB 5003) (Effective October 1, 2026)**

  Effective October 1, 2026, Connecticut expands its existing pay transparency law by requiring employers to include the wage or wage range and a general description of benefits in all internal and external job postings, or to provide this information before any compensation discussion where no posting is used. The law also requires employers with 100 or more employees to develop, post, and distribute a plain-language guide explaining overtime pay codes and common differentials, and prohibits stay-or-pay style promissory notes that require employees to repay sums if they leave before a stated period.

- **California Pay Data Reports (May 13, 2026); Expanded Categories Effective January 1, 2027**

  California pay data reports for the 2025 reporting cycle were due May 13, 2026. Beginning January 1, 2027, employers with 100 or more employees, at

least one of whom is located in California, will be required to report demographic, pay, and hours-worked data across 23 job categories rather than 10, with the first expanded report due in May 2027. Mandatory civil penalties for pay data reporting failures took effect January 1, 2026, increasing the consequences of late or incomplete filings.

- **Delaware Pay Transparency Law (HB 105) (Effective Date: September 26, 2027)**

  Effective September 26, 2027, Delaware will require employers with more than 25 employees to include an hourly or salary range and a general description of benefits in any job posting. Employers must also provide a pay range and benefits description prior to any compensation discussion if no job posting was made available to the applicant. Begin planning now.

- **Columbus, Ohio Pay Transparency Ordinance (Effective January 1, 2027)**

  Effective January 1, 2027, Columbus requires employers with 15 or more employees within the city to include a reasonable salary range or pay scale in any job posting for a specific available position.

Pay Transparency Landscape

Virginia, Maine, Delaware, and Columbus join a growing list of jurisdictions with pay transparency requirements, now including California, Colorado, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New York, Rhode Island, Vermont, Washington, as well as New York City, Jersey City (NJ), Ithaca (NY), Westchester County (NY), Cincinnati (OH), and Toledo (OH) at the local level. Multi-state employers should treat job posting compliance as an ongoing, jurisdiction-specific workflow rather than a one-time update.

Practical Steps

- Companies with 100 or more employees, at least one of whom is in California, should confirm California pay data reports were filed by the May 13, 2026 deadline and begin preparing HR systems for the expanded 23-category reporting framework ahead of May 2027.

- Update job posting templates and ATS configurations to include pay ranges for Virginia (by July 1) and Maine (by July 29). Begin preparing to include

wage ranges and a general description of benefits in Connecticut postings ahead of the October 1, 2026 effective date.

- Review job posting workflows for Delaware and Columbus compliance ahead of their respective 2027 effective dates, particularly Delaware's pre-offer disclosure requirement for positions without a public posting.
- Contact your Gunderson Dettmer attorney for guidance on pay range methodology, including how to disclose equity compensation in jurisdictions that require benefits descriptions alongside salary ranges.

Hiring Practice Restrictions and Workplace Monitoring

Several states are expanding restrictions on what information employers may use in hiring decisions and how they monitor employees in the workplace and remotely, with implications for any employer relying on background screening or productivity monitoring tools.

- **Washington Fair Chance Act Expansion (HB 1747) (Effective July 1, 2026)**

  Washington's amended Fair Chance Act further restricts employers from using criminal records in hiring and employment decisions, effective July 1, 2026. The amendments expand notice requirements, requiring employers to provide specific written disclosures to applicants and employees when criminal history information is used. Employers with Washington operations should review background screening policies and update applicant notification templates.

- **Maine Employee Surveillance Disclosure Law (H.P. 25/L.D. 61) (Effective July 29, 2026)**

  Effective July 29, 2026, Maine prohibits employers from conducting surveillance on employees without advance notice. The law bars audiovisual monitoring in an employee's residence, personal vehicle, or personal property, and employees may decline employer requests to install data-collection applications on personal devices. Employers with Maine-based employees should review monitoring practices and deliver required disclosures before the July 29 effective date.

Practical Steps

- Washington: Review background screening policies for compliance with the Fair Chance Act amendments and update applicant and employee notification templates to include the specific written disclosures now required when criminal history is considered.

- Maine: Inventory all employee monitoring and surveillance tools, including productivity software, screenshot tools, and video monitoring, and identify any tools deployed to personal devices or used in residential settings. Provide written notice to Maine-based employees of any permitted monitoring before

July 29, 2026, and remove any data-collection applications installed on personal devices without employee consent.

Leave Laws and Benefits

State leave laws continue to expand and evolve, adding complexity for multi-state employers. This quarter brings a new NICU leave requirement in Illinois and expanded family leave in New Jersey.

- **Illinois Family Neonatal Intensive Care Leave Act (PA 104-259) (Effective June 1, 2026)**

  Effective June 1, 2026, Illinois employers with at least 16 employees must provide unpaid, job-protected leave for employees with a child admitted to a neonatal intensive care unit. Leave entitlement is tiered: up to 10 days for employers with 16–50 employees, and up to 20 days for employers with more than 50. Employees who have worked at least 180 days and average 20 or more hours per week are eligible. Where applicable, NICU leave runs concurrently with FMLA but provides independent job-protection rights under state law.

- **New Jersey Family Leave Expansion (AB 3451) (Effective July 17, 2026)**

  New Jersey's AB 3451 reduces the employee threshold for coverage under the state Family Leave Act from 30 to 15 employees, effective July 17, 2026, and expands eligibility for family leave insurance benefits. The threshold drops further to 10 employees in July 2027. Employers with New Jersey-based employees who were previously exempt from the state's family leave law will need to implement job reinstatement policies and leave administration processes before the July 17 effective date.

- **Connecticut Lactation Break – (HB 5003) (Effective October 1, 2026)**

  Effective October 1, 2026, Connecticut's HB 5003 (discussed above) also adds new requirements to provide reasonable break time for employees to express breast milk and written notice or postings regarding employees' rights to reasonable accommodations under the ADA.

Practical Steps

- Illinois employers: Update leave policies, employee handbooks, and manager training materials to incorporate NICU leave entitlements, including the tiered day limits by employer size. Ensure coordination with FMLA tracking systems for concurrent leave administration.

- New Jersey employers with 15–29 employees: Prepare for Family Leave Act compliance by July 17, 2026, including job reinstatement policies and leave administration processes, and coordination with the state's family leave insurance program. Begin planning now for the second threshold reduction to 10 employees in July 2027.

Litigation Update: Key Cases to Watch

We are continuing to track the Workday and Eightfold AI lawsuits highlighted in our Q1 Update.

***Mobley v. Workday, Inc.* (N.D. Cal.) – AI as an "agent" of employers**

- **Case summary:** *Mobley v. Workday* is a putative class/collective action alleging that Workday's AI-driven hiring tools discriminate against applicants on the basis of age, race, and disability under federal and state anti-discrimination laws.
- **Recent development:** In late May 2026, the court issued a discovery order limiting plaintiffs' access to Workday's bias-testing data and customer applicant data, while requiring production of Workday's EEO-1 and OFCCP compliance records. In late June 2026, the court denied Workday's motion to dismiss certain FEHA and ADA claims but granted its motion to dismiss several newly added claims of discrimination.
- **Appellate posture:** Workday has also moved for interlocutory appeal of the class certification ruling, so the scope of the case remains subject to possible appellate review.

***Kistler v. Eightfold AI Inc*. (N.D. Cal) – AI scores as "consumer reports"**

- **Case summary:** *Kistler v. Eightfold AI* is a putative class action alleging that Eightfold's AI hiring platform functioned as an unregistered consumer reporting agency by compiling and scoring applicant data without the disclosures, consent, and dispute rights required by the FCRA and California's ICRAA.
- **Procedural status:** The case was initially filed in California state court and has since been removed to the Northern District of California, where Eightfold has moved to dismiss and the matter remains at an early pleading stage.

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:

Issue	Change in CG
Virginia Noncompete Restrictions	Updated Virginia PIIA to address new state law requirements for using non-compete agreements.
Updated Salary Thresholds for Noncompetes	The following states have increased their salary thresholds in Q2 2026: Maryland and Tennessee
Massachusetts PIIA	Mechanics of garden leave have been clarified, and PIIA no longer contains sample waiver notice.
NYC Offer Letter	Updated Offer Letter questionnaire guidance and instructions to address sequence of background checks.
EOR Intake Questionnaire	Revised questions and workflow to ensure clients generate documents they need.

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

Conclusion

The obligations covered in this update span a wide range of effective dates – some imminent, others extending into 2027 – but share a common thread: each requires deliberate preparation across tools, agreements, templates, and HR processes.

Employers that move quickly on near-term deadlines and build compliance workflows for the obligations ahead will be better positioned to manage this period of sustained regulatory change.

If you have questions about any of the developments discussed above, or any other employment-related matters, please contact your Gunderson Dettmer attorney.

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