

Local and State Employment Law Update: Various Terms Redefined

Labor & Employment Law Update

on June 27, 2022

Many states have amended their state fair employment practices laws by redefining various key terms that have previously been consistent across the United States. For example, states like Colorado, Illinois, Georgia, Maryland and Virginia have redefined “employment,” “citizenship status,” “harassment,” “sexual harassment,” and “religion,” among others, to protect a wider range of employees, impose stricter penalties on violators and offer increased leave opportunities. As such, employer rights are becoming increasingly more vulnerable.

COLORADO

The State of Colorado has amended its covenant not to compete. H.B. 22-1317 limits noncompete agreements to “highly compensated” employees and addresses penalties for noncompliance and notification requirements.

CONNECTICUT

Connecticut S.B. 163 prohibits an employer from coercing employees into attending or participating in employer-sponsored meetings regarding the employer’s views on political or religious matters.

GEORGIA

Under H.B. 389, the definition of “employment” has been revised under the state’s employment security law, and adds enforcement and penalty provisions for the improper classification of employees under the law.

ILLINOIS

Illinois S.B. 3865 amends one definition of “citizenship status” under the state fair employment practices law from a non-U.S. citizen born outside the U.S. “who is not an unauthorized alien” to a non-U.S. citizen born outside the U.S. “who is lawfully present.”

MAINE

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Maine L.D. 965 prohibits employers from entering into preemployment or employment agreements that waive or limit employees, applicants or interns from discussing unlawful employment discrimination under the state fair employment practices law. The act also prohibits employers from entering into settlements, separation, or severance agreements that prevent employees, applicants or interns from reporting or testifying to enforcement agencies, or disclosing factual information related to a claim of unlawful employment discrimination.

MARYLAND

- Maryland H.B. 78 amends the state fair employment practices law to prohibit employers from failing to make reasonable accommodations for the known disabilities of otherwise qualified applicants for employment, in addition to employees.
- Maryland S.B. 450 amends the state fair employment practices law to alter the definition of “harassment” to specify that prohibited harassing conduct is unwelcome and/or offensive conduct, which need not be severe or pervasive, when submission to the conduct is made a term or condition of employment or used as a basis for employment decisions. The bill also adds a separate definition for “sexual harassment.”

TENNESSEE

Tennessee S.B. 136 prohibits employers from adopting policies that bar employees from wearing their hair in braids, locs, twists, or any other manner considered to be part of their cultural identification or a physical characteristic of their ethnic group. Policies in violation of these provisions are considered discriminatory and void as against public policy. However, certain exceptions apply for public safety employees and industry safety standards.

VIRGINIA

Virginia H.B. 1063 amends the state fair employment practices law to define “religion” as including any outward expression of religious faith, such as adherence to religious dress and grooming practices, or carrying or displaying religious items or symbols.