



2025 Maryland Employment Law Update

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What a law firm
should be.



Speakers



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Agenda

- **Maryland Employment Law Update**
 - Family and Medical Leave Insurance Program
 - Expansion of state Equal Pay laws
 - Restrictions on healthcare non-competes
 - New wage statement requirement
 - New protections for military servicemembers
 - Increases to state and local minimum wages

- **Early Returns from Trump 2.0**

Maryland State Law Updates for 2025



Family and Medical Leave Insurance (FAMLI) Program

- FAMLI Program was initially enacted in 2022 with plan for leave benefits to begin in 2025
 - Start date has been postponed until **July 2026**
 - Further extensions into 2027 or even 2028 are possible
- Reminder – what is FAMLI?
 - Paid leave (up to \$1,000/week) for FMLA-like reasons (child, health condition of employee or family member, military service of family member)
 - Can be up to 24 weeks per year (compare to 12 for FMLA)
 - Eligibility thresholds much lower than FMLA:
 - Employer covered if 1 or more employees in state
 - Employees need work only 680 hours in previous 12 months
- Employers can meet requirements through State program, self-insurance, or commercial plan



FAMLI Delay – What should employers do?

- The one or multiyear delay gives employers more time to prepare
- Reminder that different types of leave are proliferating at the state and local level
- Because these leave laws are being done by states or local jurisdictions, there is not national consistency in how leaves work
- If you haven't reviewed leave policies in a few years, this is a good chance to make sure that leave is being provided equitably across jurisdictions, and is coordinated so that you are only giving what you want to give



Maryland Equal Pay Law Changes

- Wage Range Transparency Requirement
 - Internal **and** external job postings must include:
 - Wage range
 - General description of benefits
 - General description of other compensation
- Applies to positions physically performed in full or part in MD
- Wage range set in good faith by reference to: (1) applicable pay scale, (2) previously determined minimum/maximum, (3) pay of comparable employees, or (4) amount budgeted for the position



Other Changes to MD Equal Pay Laws

- Expansion of protected classes under Maryland Equal Pay law
 - Previously: sex and gender identity
 - Now also includes: race, religious beliefs, and sexual orientation
- These additional protected classes already covered by anti-discrimination law, but significant to expand equal pay liability due to differences in how the claims are proven
 - Title VII – employee must prove actual discrimination
 - Equal Pay – employee must prove pay differential and employer has affirmative defense to show the differential is justified



MD Equal Pay Laws versus Federal Equal Pay Act and Title VII/MD Anti-Discrimination Law

MARYLAND EQUAL PAY FOR EQUAL WORK LAW

- Administrative exhaustion requirement
- Protects against pay inequity based on sex, gender identity, race, religious beliefs, and sexual orientation in ***comparable positions***
- Employee must prove only pay differential
- Employer's affirmative defense to show differential was justified based on specific factors
- Remedies:
 - Back pay
 - Liquidated damages (200%)
 - Attorney's fees and costs
 - Civil penalties for multiple violations

TITLE VII/MD ANTI-DISCRIMINATION LAW

- Administrative exhaustion requirement for Title VII – none for Maryland
- Protects against compensation discrimination based on all protected categories for employees who are ***similarly situated***
- Employee must prove actual discrimination – employer must merely “show” legitimate, non-discriminatory reason, but burden remains on employee to show pretext
- Remedies:
 - Back and front pay
 - Punitive and compensatory damages
 - Attorney's fees and costs



Equal Pay Changes – What should employers do?

REVIEW JOB POSTINGS AND RECRUITER AGREEMENTS

- Wage range disclosure laws are sweeping the nation – not limited to Maryland
- Consider training relevant personnel, including wage range fields in templates, and implementing processes requiring a wage range for postings
- Under MD law, employers are responsible for omissions by third-party posters, so will need to review agreements

ENSURE PAY EQUITY HOUSE IS IN ORDER

- Wage range laws provide employees with information that could lead them to believe pay is set in a discriminatory way
- Worthwhile to identify problem positions prior to putting pay information into the public domain – and it is also good housekeeping to periodically audit pay
- Pay reviews should include race in addition to sex, as race is now an MD equal pay act protected class

UPDATE POLICIES

- Expansion of potential equal pay liability places more value on having compensation policies that clearly and accurately outline relevant factors



Maryland Non-Compete Restrictions

- With FTC non-compete ban tabled, state laws take on importance
- Maryland allows enforcement of narrowly-tailored, reasonable scope clauses
- Pre-2024: Prohibited for low-wage earners (under \$22.50/hour or \$46,800/year)
- New Healthcare Non-Compete Restrictions
 - **\$350,000** salary requirement for positions that are (1) licensed health care positions and (2) provide direct patient care
 - Provisions cannot exceed 1 year and 10 miles from principal place of employment
 - Prohibition for licensed veterinarians and veterinary techs
 - Does not apply to NDAs or customer non-solicitation
 - Applies to agreements made outside of Maryland and, apparently, to pre-existing agreements



Non-Competes – What should employers do?

- **Get your arms around the issue**
 - Which covered employees have non-compete agreements?
 - Of the covered group, which are paid under \$350,000?
 - Do agreements comply with the 1 year/10 mile restriction?
- **Modify agreements where appropriate**
- **Consider alternative arrangements like non-solicitation agreements**



New Wage Statement Requirements

- Maryland Wage Payment and Collection Act requires notices on hiring and each payday
- Hiring: Employer must provide notice of: (i) rate of pay, (ii) regular paydays, and (iii) leave benefits.
 - Now explicit that notice must be in writing
- Each Pay Date: Physical pay stub or online pay statement must list:
 - Employer's name, address, phone number
 - Dates encompassed by the pay period
 - Number of hours worked for non-exempt employees
 - Pay rates, and additional types of pay
 - Gross and net pay
 - All deductions
- New penalty for not providing compliant pay stubs - \$500 per employee, enforced by State Department of Labor
 - Legislature considered but did not pass CA/NY-type wage statement claim enforceable by employees in litigation



Protections for Military Servicemembers

- “Military Status” is now an additional protected class for purposes of MD anti-discrimination law
 - Defined as:
 - Member of uniformed services
 - Member of the reserves
 - “Dependents” – defined as a spouse, child, or person supported by a servicemember
- Military protections also in place federally via USERRA
- Surge in recent USERRA class actions, so worth revisiting military leave policies to tighten compliance



Minimum Wage Increases

Minimum Wage Obligation	2024	2025
Montgomery County (1-50 employees)	\$16.70	\$17.15
Montgomery County (51+ employees)	\$15.00	\$15.50
Howard County (1-14 employees)	\$15.00	\$15.50
Howard County (15+ employees)	\$15.00	\$16.00



Trump 2.0 - 100 Days In



New Personnel in Place

DEPARTMENT OF LABOR

- Lori Chavez-DeRemer sworn in as Secretary of Labor
- Regarded as union-friendly
- During confirmation hearings, disavowed prior support for the PRO Act coveted by organized labor

NATIONAL LABOR RELATIONS BOARD

- Fired Board member Wilcox, which was unprecedented
- Litigation pending on whether for-cause protections for NLRB members is constitutional
- Numerous controversial Biden-era policies have already been rescinded:
 - Non-competes
 - Additional monetary damages
 - Captive audience speeches

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- Appointed Andrea Lucas as Acting Chair
- Fired 2 of the 3 Democratic-appointed Commissioners
- With only 2 Commissioners, the EEOC does not have a quorum

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

- Appointed Catherine Eschbach as Director
- Announced plans to downsize agency and investigate constitutionality of its work
- Ordered OFCCP employees to “verify” that federal contractors had “wound down” use of affirmative action plans after 90 days and review previously submitted plans to determine if discriminatory



Trump Administration Executive Orders

AFFIRMATIVE ACTION FOR GOVERNMENT CONTRACTORS

- Executive Order 14173 – *Ending Illegal Discrimination and Restoring Merit Based Opportunity*
- Rescinded 1964 EO 11246 which required race and gender based Affirmative Action Plans (AAPs)
- Disability and Veteran AAPs are still required
- OFCCP has virtually ceased enforcement activity
- EEO-1 requirement remains in place for employers with >100 employees

DEI PROGRAMS

- New government contract clause requires certifications:
 - Compliance with federal anti-discrimination laws is “material to payment decisions,” explicitly citing the False Claims Act
 - Contractor does not operate DEI programs violating federal law
- DEI will be key admin focus for all employers, not just contractors
 - The administration has targeted large law firms and has indicated it may target non-profit organizations
- EEOC issued guidance on DEI-related discrimination – DEI policies, programs, or practices may be unlawful if they involve an employer or other covered entity taking an employment action **motivated**—in whole or in part—by an employee’s race, sex, or another protected characteristic

EMPLOYERS SHOULD:

- Look at programs that:
 - Provide a tangible benefit; and
 - Have exclusionary eligibility criteria
- Review programs, including:
 - Internships/fellowships, scholarships, employee resource groups, training programs, hiring/promotion opportunities, mentorship/networking opportunities
- Avoid hiring targets or quotas
- Avoid trainings with language that stereotypes or is negative (“all white people are racist”)
- Avoid policies suggesting employer favors certain groups



Trump Administration Executive Orders

TRANSGENDER/GENDER IDENTITY ISSUES

- Executive Order 14168 – *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*
- Policy of the US to recognize two sexes, which are not changeable, and “enforce all sex-protective laws to promote this reality”
- Doesn’t directly impact employers, but will filter into EEOC guidance
- EEOC Acting Chair has stated focuses:
 - Single-sex spaces
 - Mandatory pronouns
- Tension between state and local laws in Maryland and new federal position

FEDERAL CONTRACTOR MINIMUM WAGE

- Biden administration’s Executive Order setting a \$15.00/hour minimum wage (has risen to \$17.75) for federal contractor employees was rescinded
- Prior Obama administration Executive Order setting a \$10.10/hour minimum wage (rose to \$11.25) has not been rescinded
- Awaiting guidance on how this will be implemented in federal contracts with the minimum wage clause



