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Connecticut Employers Beware: Despite Quiet Legislative Session, Big Changes Could Be on the Horizon

June 7 marked the end of a relatively uneventful legislative session for Connecticut employment laws. In recent years, Connecticut employers have seen substantial expansions of the Connecticut Fair Employment Practices Act and the Connecticut Family and Medical Leave Act, the enactment of a wage-range disclosure law and the Creating a Respectful and Open World for Natural Hair (CROWN) Act, and the legalization of recreational marijuana with key employment-related provisions. We discussed these updates previously in 2022 and 2021. This year's employment-related legislative activity was quieter, but there may be some significant changes on the horizon. Below, we summarize those bills that passed during the 2023 session and some proposed bills that did not pass but could have substantial implications for employers if they resurface next year.

Bills That Passed

Amendments to Physician Noncompete Law Public Act 23-97 amends Connecticut's existing physician noncompete law by imposing additional requirements on large employers, changing the definition of "primary site" and extending its coverage. The existing law, which has been in place since 2016, imposes time and geographic limitations on the permissible scope of physician noncompete agreements, rendering them unenforceable if, among other things, they restrict a physician's competitive activities for a period of longer than one year or in a geographic area more than 15 miles from the primary site where the physician practices. Previously, primary site was defined as "the office, facility or location where a majority of the revenue derived from such physician's services is generated, or [] any other office, facility or location where such physician practices and mutually agreed to by the parties and identified in the covenant not to compete." Effective July 1, however, primary site now means "any single office, facility or location where such physician practices, as mutually agreed to by the parties and defined in the covenant not to compete." In addition, the amendments impose additional restrictions, with an exception for practices that are primarily owned by physicians and have 35 or fewer physicians. Specifically, any physician noncompete agreements that are entered into, amended, extended or renewed after October 1 will not be enforceable if the physician does not agree to a proposed material change to the compensation terms prior to or at the time of the extension or renewal of such contract or agreement, and the agreement expires and is not renewed by the employer, or the employment or contractual relationship is terminated by the employer without cause. Further, effective October 1, the statutory protections previously afforded only to physicians also will apply to noncompete agreements with advanced practice registered nurses (APRNs) and physician assistants (PAs). ***Expansion of Workers' Compensation Coverage for PTSD-Related Injuries*** Public Act 23-35 expands workers' compensation benefits to include nearly all employees for post-traumatic stress disorder (PTSD) injuries caused by witnessing certain tragic "qualifying events." Previously, only first responders such as police officers, firefighters and emergency medical services personnel were eligible for workers' compensation benefits arising from PTSD-related injuries. A qualifying event includes events arising out of and in the course of employment in which an employee:

- views a deceased minor;
- witnesses the death of a person or an incident involving the death of a person;
- witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury; or

- witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in permanent disfigurement of the victim.

Gov. Ned Lamont signed Public Act 23-35 into law on June 12. It becomes effective on January 1, 2024. ***Budget Implementer Revisions to State Wage Law*** Public Act 23-204, the comprehensive state budget appropriation and implementation act for the next two years, included amendments to Connecticut's standard wage law, which requires covered employers to pay covered employees certain wage and benefit rates. The act expands the standard wage law to cover contractors providing security services. The act also modifies the standard wage law to include certain posting requirements and instructs the Labor Commissioner to develop a sample poster that meets those requirements. The act allows aggrieved employees to bring a civil action in court, in which they may recover injunctive relief, back pay, the prevailing rate of benefits and punitive damages if the employer acted with malice or reckless indifference. Lamont signed Public Act 23-204 into law on June 12. It becomes effective on October 1. ***Health Benefits for Striking Unionized Employees*** Public Act 23-172 protects unionized employees' access to healthcare coverage in the case where they have lost it as a result of a labor dispute. Employees who go on strike will be eligible to receive health benefits through the state's health insurance exchange through a special enrollment period. Previously, claimants were ineligible for benefits during any week in which they were unemployed as a result of a labor dispute. Lamont signed Public Act 23-172 on June 28. It becomes effective on October 1. ***Expansion of Permitted Reasons for Use of Paid Sick and Safe Leave*** Public Act 23-101 is a comprehensive act primarily focused on the mental, physical and emotional wellness of children. However, tucked in this bill is a provision that expands the reasons for which a service worker may use paid sick and safe leave. Covered employees now may use paid sick and safe leave for the following reasons:

- Mental health wellness days, when the service worker will attend to their emotional and psychological well-being instead of attending their scheduled shift.
- If they are the parent or guardian of a victim of family violence or sexual assault, they are able to take safe leave for medical or psychological care, to obtain help from victim service organizations, to relocate, or to participate in any civil or criminal proceedings related to or resulting from the family violence or sexual assault.

Lamont signed Public Act 23-101 into law on June 26. It becomes effective on October 1.

Bills That Did Not Pass But May Be on the Agenda for Next Year

Proposed Limitation on Employers' Use of Noncompete Agreements Legislation seeking to curtail the use of noncompete agreements is sweeping the country at both the federal and state levels. As we discussed here, the New York Legislature recently passed a bill that generally prohibits employers from using noncompete agreements. While the proposed legislation in Connecticut stops short of an outright ban of noncompete agreements, one proposal, House Bill 6594, would have placed significant restrictions on their use and imposed various requirements that employers must follow in order for such agreements to be enforceable. For example, under House Bill 6594, noncompete agreements would not be enforceable unless, among other things, the duration of the restriction is not more than a year; the worker is an exempt employee; the employment relationship is not terminated by the worker for good cause; the noncompete is necessary to protect a legitimate business interest, and less restrictive means, such as a nondisclosure or a nonsolicitation agreement, would not be sufficient; and the scope of the noncompete is no more restrictive than necessary to protect a legitimate business interest. In addition, House Bill 6594 would have required employers to provide certain notice to employees who are asked to sign noncompetes, and it made clear that noncompetes signed by existing employees or contractors must be supported by sufficient consideration that is not solely the continuation of the employment or contractor relationship. House Bill 6594 also would have prohibited employers from requiring employees to sign noncompetes that require the employees to adjudicate disputes outside Connecticut or that otherwise deprive workers of the protections of the bill. ***Proposed Expansion of Connecticut Paid Sick Leave Law to All Private-Sector Employees*** Senate Bill 1178 would have expanded Connecticut's paid sick leave law to provide coverage to nearly all private-sector employees. The bill also would have expanded the scope of reasons for which employees could use sick leave, increased the minimum rate at which employees accrue leave and eliminated the requirement that employees work a certain number of hours before being eligible to use sick leave.

Takeaways

While the 2023 legislative session was relatively quiet in comparison to recent years with respect to laws impacting the workplace, it is still important for employers to review their handbooks and policies to ensure compliance with the myriad Connecticut employment laws and to watch for additional changes that may be on the horizon.

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