

# Weekly Digest

• July 13, 2023 •

Human Resources

## EEOC Releases New AI Guidance for Employers

“On May 18, 2023, the U.S. Equal Employment Opportunity Commission (EEOC) issued new technical guidance on how to measure adverse impact when employment selection tools use artificial intelligence (AI), titled ‘Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964.’” [Full Article](#)

*Akin Gump Strauss  
Hauer & Feld LLP*



## 2022 EEO-1 Reporting Again Delayed

“Last week the Equal Employment Opportunity Commission revealed that the 2022 EEO-1 reporting deadline is again being postponed. Reporting, which was expected to begin in July, is now ‘tentatively’ scheduled to open in the fall of 2023.” [Full Article](#)

*Littler Mendelson P.C.*

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## Supreme Court Clarifies “Undue Hardship” in Religious Accommodation

“On June 29, 2023, the Supreme Court decided *Groff v. DeJoy* in a unanimous ruling that clarifies the ‘undue hardship’ standard under which an employer can deny a requested religious accommodation under Title VII of the Civil Rights Act of 1964. The Court rejected a ‘de minimis cost’ test. To avoid liability, the Court explained, an employer must show that granting the accommodation ‘would result in substantial increased costs in relation to the conduct of its particular business.’” [Full Article](#)

*Paul Hastings, LLP*



## Four Things You May Not Know About ... the Family and Medical Leave Act

“Welcome to the first in a series of blogs examining often overlooked or misunderstood provisions of common employment law topics. Today we will be covering four pitfalls that employers may inadvertently encounter when navigating the federal Family & Medical Leave Act (‘FMLA’).” [Full Article](#)

*Proskauer Rose LLP*

## New Federal Law Expands Protections for Pregnant Applicants and Employees

“Beginning June 27, 2023, a new federal law—the Pregnant Workers Fairness Act (the “PWFA”)—expands protections for pregnant job applicants and employees. In particular, the PWFA requires, among other things, that covered employers provide a reasonable accommodation for known limitations related to pregnancy, childbirth, and associated medical conditions of qualified employees and job applicants unless the accommodation would cause an undue hardship.” [Full Article](#)

*Mayer Brown LLP*



## Rap Music Can Create a Sexually Hostile Work Environment — for Both Women and Men

“Even though both men and women were exposed to – and offended by – “sexually graphic, violently misogynistic” rap music, the U.S. Court of Appeals for the Ninth Circuit held that such music, played constantly and publicly throughout the warehouse, could constitute harassment based on sex.” [Full Article](#)

*Shawe Rosenthal LLP*

# STATE COMPLIANCE UPDATES

## NEW YORK

### New York’s Imminent Non-Compete Ban



“New York State is poised to join a growing number of states banning outright nearly all non-compete agreements. The New York State legislature has passed a bill banning almost all non-compete agreements for all workers, regardless of their salary level or job function.” [Full Article](#)

*Sidley Austin LLP*

## VIRGINIA

### Virginia Legislature Makes Changes to Employment Law



“During Virginia’s 2023 legislative session, a number of changes impacting employment law were passed and signed into law by Governor Glenn Youngkin. Those laws will become effective July 1. The following briefly describes some of the bills that most immediately impact employers.” [Full Article](#)

*Troutman Pepper Hamilton Sanders LLP*

## ILLINOIS

### Revised Illinois Day and Temporary Labor Services Act: Implications for Staffing Agencies and Their Customers



“Recently, the Illinois General Assembly made substantial modifications to Illinois’ Day and Temporary Labor Services Act (820 ILCS 175/). The legislation drastically alters the legal landscape for staffing agencies and their clients.” [Full Article](#)

*Duane Morris LLP*

## MARYLAND

### TOP TIP: Recreational Marijuana in Maryland



“As most Marylanders probably know, on July 1, 2023 recreational marijuana use will become legal in Maryland. We have some tips for employers in navigating this new territory. Under the new Maryland law (2022 MD H.B. 1), individuals 21 or older are permitted to use marijuana while off duty so long as they do not report to work under the influence (or, of course, smoke weed on the job).” [Full Article](#)

*Shawe Rosenthal LLP*

## CALIFORNIA

### The California Supreme Court Clarifies Employee Whistleblower Protections



“Can an employee still be protected as a whistleblower under California law if they are not the first to blow the same whistle? Per the California Supreme Court, the answer is yes: ‘[A] protected disclosure under [Labor Code] section 1102.5(b) encompasses reports or complaints of a violation made to an employer or agency even if the recipient already knows of the violation.’” [Full Article](#)

*Venable LLP*