

THE LAST 60 DAYS OF ACTION IN EMPLOYMENT LAW
May 2019

Patricia Tsipras, Esquire

Federal

On April 22, 2019, the United States Supreme Court granted certiorari in three cases to determine whether sex discrimination under Title VII of the Civil Rights Act includes discrimination on the basis of sexual orientation and gender identity. See Rubin, Fortunato & Harbison Client Alert, May 2019, LGBTQ RIGHTS ON THE DOCKET: Supreme Court to Decide Whether Title VII Protects Individuals from Discrimination Based on Their Sexual Orientation or Gender Identity.¹

California

Effective April 1, 2019, employers covered by the New Parent Leave Act (NPLA) must post notice in conspicuous places in the workplace of provisions of the law and how to file a complaint. See Cal. Code Regs., tit. 2 § 11095. The NPLA is a mini-Family and Medical Leave statute that applies to employers that employ between 20 and 49 people. Under the NPLA, an eligible employee is entitled, upon request, to take up to 12 weeks of unpaid parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement.

Maine

Maine enacted An Act Regarding Pay Equity on April 12, 2019. The Act applies to all employers in Maine. Effective September 17, 2019, employers are prohibited from inquiring into the compensation history of a prospective employee either from the prospective employee or from a current or former employer. See Me. Rev. Stat. tit. 26, § 628-A. However, employers may inquire into a prospective employee's compensation history (1) once an employment offer that includes all terms of compensation has been negotiated and made to the prospective employee; (2) if an employee or prospective employee voluntarily discloses his or her compensation history, in which case the employer may confirm such information before making an employment offer; or (3) if a state or federal law specifically requires the disclosure or verification of compensation history for employment purposes.

New Mexico

New Mexico amended its medical marijuana law, known as the "Lynn and Erin Compassionate Use Act," on April 4, 2019. The Act allows the medical use of marijuana

¹ [https://www.rubinfortunato.com/article/lgbtq-rights-on-the-docket-supreme-court-to-decide-whether-title-vii-protects-individuals-from-](https://www.rubinfortunato.com/article/lgbtq-rights-on-the-docket-supreme-court-to-decide-whether-title-vii-protects-individuals-from-discrimination-based-on-their-sexual-orientation-or-gender-identity/)

[discrimination-based-on-their-sexual-orientation-or-gender-identity/](https://www.rubinfortunato.com/article/lgbtq-rights-on-the-docket-supreme-court-to-decide-whether-title-vii-protects-individuals-from-discrimination-based-on-their-sexual-orientation-or-gender-identity/).

by qualified patients with the required certification and registration to alleviate the symptoms caused by debilitating medical conditions and their medical treatments. Effective June 14, 2019, it is unlawful for an employer to take an adverse action against an applicant or employee who engages in permissible conduct under the law unless (1) a failure to do so would cause the employer to lose a monetary or licensing-related benefit under federal law or federal regulations; or (2) the employee works in a safety-sensitive position. See 2019 Bill Text NM S.B. 406, § 11. An employer also can prohibit employees from using or being impaired by medical marijuana in the workplace or during work hours. Using or possessing medical marijuana at the workplace can also subject employees to criminal prosecution or a civil penalty.

New York

Effective April 12, 2019, New York amended its Election Law to allow registered voters to take up to three hours off at the beginning or end of a shift without loss of pay to vote in any election. See N.Y. Elec. Law § 3-110.

Effective April 2019, pursuant to the Stop Sexual Harassment in NYC Act, employers in New York City must ensure that all employees are trained annually on sexual harassment prevention, beginning with Calendar Year 2019, and every year thereafter. On April 1, 2019, the New York City Commission on Human Rights issued guidance on such training and provided an online training module. See <https://www1.nyc.gov/site/cchr/law/stop-sexual-harassment-act-faqs.page>.

Pennsylvania

On April 29, 2019, the Pittsburgh Commission on Human Relations issued guidance on the City's new pregnancy antidiscrimination ordinance that covers pregnant persons and their partners and prohibits unlawful employment practices based on pregnancy, childbirth, or related medical conditions. The guidance addresses disparate treatment of pregnant employees, policies that single out pregnant employees, policies with a disparate impact on pregnant employees, pregnancy-based harassment, failure to provide reasonable accommodations, and retaliation, and provides best practices to employers. See http://apps.pittsburghpa.gov/redtail/images/4995_02_26_19_Pregnancy_Fairness_Guidance_Document_FINAL.pdf

Tennessee

On April 23, 2019, Tennessee amended its Healthy Workplace Act to apply to private employers and to provide covered employers with immunity from lawsuits arising out of an employee's conduct that results in negligent or intentional infliction of mental anguish if the employer adopts an anti-bullying policy that complies with the Act. See Tenn. Code Ann. 50-1-502; 50-1-504.

To discuss any of these changes, contact Patricia Tsipras at 610.408.2029 or ptsipras@rubinfortunato.com.