LAW360 Employment Authority

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5 New State Laws That Discrimination Attys Should Know

By **Vin Gurrieri**

Law360 (January 1, 2025, 8:01 AM EST) -- Employers will have a batch of newly effective state laws greeting them in the new year, including a novel statute that adds the principle of intersectionality into California's anti-bias framework and New York state's first-of-its-kind paid prenatal leave requirement for pregnant workers.

Here, Law360 looks at five laws that kicked in when the calendar flipped to 2025.

Calif. Breaks New Ground on "Intersectional" Bias

In October, California Gov. Gavin Newsom **signed legislation** making his state the nation's first to explicitly write the concept of intersectionality — bias rooted in multiple protected categories — into existing anti-discrimination law.

In New York, prenatal leave is a separate benefit from other leave that can be used in hourly increments for fertility treatment or end-of-pregnancy care. (Press Association via AP Images)

S.B. 1137 updates existing laws that prohibit discrimination in employment, housing, public accommodations and education to state that those laws also forbid bias based on a combination of two or more protected characteristics.

The laws being amended are the California Fair Employment and Housing Act, the Unruh Civil Rights Act, and parts of the state's education code that bar discrimination. Protected categories under those laws include race, sex, religion, sexual orientation and national origin.

S.B. 1137 defines intersectionality as an "an analytical framework that sets forth that different forms of inequality operate together, exacerbate each other and can result in amplified forms of prejudice and harm."

The law notes that the U.S. Equal Employment Opportunity Commission, the nation's preeminent enforcer of federal anti-discrimination law, recognized intersectionality in its recently finalized guidance pertaining to harassment in the workplace.

Jessica Ramey Stender, policy director and deputy legal director at nonprofit Equal Rights Advocates, which advocated for S.B. 1137's passage, called it a "first of its kind law" in its explicit recognition of the concept of intersectionality in anti-discrimination statutes that will ensure that the full range of harm a person experiences is taken into account under those laws.

"Although it is a clarification of existing law … having the explicit codification and clarification about intersectionality in the law will be very important for providing clarity to courts, to juries, to arbitrators, [and] to any decisionmakers in cases involving allegations of discrimination under the three statutes that are amended by this," Stender said.

She said the clarification is important because it recognizes the unique harm a person can experience when suffering from discrimination or harassment based on two or more protected classes.

"And it recognizes the reality that that unique harm of intersectional harassment or discrimination is different [from] the harm that is experienced by a worker who is discriminated against or harassed based on just one protected class," Stender said.

First U.S. Prenatal Leave Law Kicks In

Like California, New York is also often at the forefront of pushing the legislative envelope to protect workers, and the Empire State in 2025 became the nation's first to require employers to give pregnant employees paid leave to seek prenatal care.

The law was **passed in April** as part of New York's fiscal year 2025 budget. It expands existing paid sick leave mandates to include a new bank of 20 hours that pregnant workers can tap for the purpose of obtaining pregnancy-related medical care without them having to dip into their existing allotment of paid sick time.

New York Gov. Kathy Hochul had floated the proposal in January 2024. Ahead of the law's effective date, the New York State Department of Labor published guidance in the form of a dedicated website and frequently asked questions document that provided employers with an overview of the law and addressed some compliance issues employers may face.

That guidance makes clear that prenatal leave is a separate benefit from other leave, that it can be used in hourly increments, and that it can be used for fertility treatment or end-of-pregnancy care. The guidance also instructs employers that they can't require employees to use up another type of leave before using their dedicated prenatal leave bank, and that they can't ask employees for information about their prenatal appointments.

Anthony Mingione, a New York-based partner in Blank Rome LLP's labor and employment practice, said the law makes New York the first state to provide all private-sector employees with dedicated paid prenatal leave.

With that comes compliance challenges, the biggest of which may stem from what Mingione says is one of the law's "simplest aspects" — that it adds to existing benefits that employers provide.

"Employers will not be able to comply by simply updating existing policies to include prenatal leave," Mingione said.

Instead, businesses will need to add a separate prenatal leave policy to their existing allotment of paid time off, and will need to track it differently than they do other forms of leave, he said.

"Unlike paid safe and sick leave, which employers can either frontload or accrue, prenatal care leave must be provided immediately and must be frontloaded every year," Mingione said. "It will also be tricky because employers will need to track usage of paid prenatal leave separately from paid safe and sick leave, though there are situations that would qualify under both allotments."

Calif. Expands Leave for Survivors of Violence

Starting Jan. 1, a California law took effect that expands workplace protections for people who are victims of violent crimes or abuse and allows them to take job-protected leave to help family members who have been victims of violent acts.

A.B. 2499, which was signed by Newsom in September, makes it an unlawful employment practice for employers with at least 25 employees to discriminate against workers who take time off if they or a family member has been the victim of a "qualifying act of violence."

Although a 2014 California law — the Healthy Workplaces, Healthy Families Act — requires that employers provide paid sick days to workers who are victims of domestic violence, sexual assault or stalking, A.B. 2499 expands on the prior law's scope in part by introducing the "qualifying act of violence" terminology. That term is defined in A.B. 2499 as including any "act, conduct or pattern of conduct" that causes bodily injury or death, the brandishing or use of dangerous weapons or a firearm towards another person, or threats of force.

The law also mandates that employers consider reasonable accommodation for an employee who seeks one to ensure their safety on the job and clarifies that employees can use sick leave to attend to their needs or the needs of family members.

A family member is defined as a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner or any person tapped by a worker as a "designated person." The statute also shifts existing protections from the California Labor Code to the state's Fair Employment and Housing Act, which moves enforcement responsibilities to the California Civil Rights Department.

"While we've had protections on the books in California for many years for domestic violence survivors and other survivors of other crimes, A.B. 2499 will provide some important additions to the law to … ensure that survivors are better protected as they seek safety, and also to establish a smoother enforcement process for some of these protections," said Stender of Equal Rights Advocates.

Hillary Baca of Nixon Peabody LLP said the law creates far broader protections than previously existed in terms of who qualifies for job protected time away from work and the qualifying reasons for that time away. It also requires companies to inform workers of their legal rights under the law, which combined with the expansion of employee rights "may make employees more likely to take advantage of the law's protection," Baca said.

Additionally, lawmakers' transfer of enforcement responsibility to the CRD is an important element for employers to know about, since it could lead to employees who believe they faced discrimination or retaliation to pursue charges.

"I think this is a big one, and it would definitely behoove [employers] to pay attention … update their policies, and maybe do a little HR training," Baca said.

Stender of Equal Rights Advocates also called attention to A.B. 2499's broad definition of family members, particularly its inclusion of a "designated person" for whom an employee can use safe leave to help.

"The importance of this addition to the law really needs to be underscored — that is the fact that while, let's say, a survivor of domestic violence under existing law has the right to take time off work to seek help related to the domestic violence that she suffered, she may not feel comfortable doing that alone," Stender added. "It may be that having that support of a family member is what makes the difference for a survivor and ensures that a survivor is actually able to get the help and safety measures that she needs."

Conn. Broadens Paid Sick Leave Mandate

On the other side of the country, a Connecticut law expanding the state's paid sick leave requirements took effect on Jan. 1 that will gradually cover smaller businesses that fell outside a prior sick leave law's

purview.

H.B. 5005, which was **signed into law** by Gov. Ned Lamont in May, will require employers in the state with as few as one employee to make paid sick leave available to their staff by 2027.

The new law sets a gradual schedule for the new requirements: Businesses that employ 25 or more workers must begin complying with the statute this year. Employers with at least 11 employees will fall under the law's purview in 2026, and all businesses down to those with a single employee must be in compliance starting in 2027.

A paid sick leave law that Connecticut enacted in 2011 had mandated paid sick leave for workers at businesses with at least 50 employees.

Aside from covering businesses of smaller sizes, H.B. 5005 also expands the 2011 paid sick leave law by extending paid sick leave to nearly all private sector employees, save for a few narrow categories of workers. The prior law had applied only to those defined as service workers.

H.B. 5005 also broadens the reasons for which workers can use their paid sick time, and speeds up the rate at which workers' paid sick time accrues to one hour of paid sick leave for every 30 hours that they work up to 40 hours.

Daniel Schwartz, a Connecticut-based partner at Shipman & Goodwin LLP, told Law360 that H.B. 5005 "completely revamped" the state's paid sick leave mandate, and presents several significant compliance issues for employers.

"Employees are permitted to take the leave for an expanded list of reasons, including their health condition or to care for a family member's health condition," he said, noting that the term family member is broadly defined in the law, as well as "preventative medical care, or even an employee's 'mental health wellness day.'"

"Employers can't ask for documentation for these absences though they can still ask the employee if the absence is due to such a listed reason," he said.

Additionally, H.B. 5005 will require employers to track absences and workers' accrual "at a very granular level," provide employees with proper notices, and modify existing policies to make sure that employees can take paid sick time for the broad range of reasons outlined in the new law, according to Schwartz.

"For larger employers, these new compliance issues will be easier to manage because of greater resources," Schwartz said, "but for smaller employers without dedicated HR support, it's going to involve significant time and effort to get staff up to speed on these new requirements."

Illinois Joins Pay Transparency Trend

On Jan. 1, Illinois began requiring employers to post salary ranges in job advertisements, joining a growing number of states in adopting pay transparency legislation.

Illinois' law, H.B. 3129, was signed by Gov. J.B. Pritzker **in 2023**. It mandates that companies with at least 15 workers disclose a pay scale as well as a description of benefits, like bonuses or stock options, that they reasonably expect to offer an applicant.

The law, which amends the two-decade old Illinois Equal Pay Act, covers employees who are hired to perform at least a portion of their job within Illinois' borders. It also extends to workers who perform their job outside the state but report to a supervisor or job site in Illinois.

Over the past few years, variations of laws requiring employers to disclose estimated salary ranges for open positions have been steadily winning approval of state and municipal lawmakers. **Minnesota** and Vermont are among the several states that in addition to Illinois will have new salary disclosure laws taking effect in 2025.

Speaking about the proliferation of pay transparency laws in general, Baca of Nixon Peabody said they range from very strict to more lax, which makes it all the more important for employers to have a handle on what is required in different jurisdictions. That's especially true for companies that have a significant number of employees who telework since laws aren't uniform in how they apply in those circumstances.

"I think it's important for employers to be aware of this particularly given how many employers allow employees to work remotely because [the] different states' pay transparency laws work in different ways for remote workers," Baca said.

--Additional reporting by Hailey Konnath, Amanda Ottaway, Grace Elletson and Emmy Freedman. Editing by Amy Rowe.
