

September 28, 2023

Coming In 2024: Proposed New Employment Laws Affecting California Employers

By: [Jennifer M. Misetich](#) and [Michelle Lopez](#)

As with every new year, California employers may face an abundance of new laws that will regulate the workplace in 2024. Governor Newsom has until October 14, 2023 to approve or veto the bills discussed below. Unless otherwise noted, the proposed laws discussed below will go into effect on January 1, 2024. Employers should become familiar with these proposed laws to ensure they are ready for compliance.

Leaves and Accommodations

SB 731: Return-to-Work Notice

SB 731 makes it unlawful for an employer to require an employee working from home to return to work in person without providing at least 30 days' advance notice. The notice must be in writing and must advise the employee that they have the right to ask about working remotely as a reasonable accommodation. Employers must send the notice via mail or email.

AB 518: Paid Family Leave Expansion

AB 518 would expand eligibility for benefits under the Paid Family Leave program to individuals who take time off work to care for a "designated person" who "is the equivalent of a family relationship." Currently, individuals are only eligible for Paid Family Leave benefits if they are the caregiver to a "qualifying family member," meaning a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner.

SB 616: Expansion of Paid Sick Leave – 5 Days or 40 Hours

SB 616 would increase the amount of paid sick leave employers must provide to their employees from the current minimum of three days (or 24 hours) to five days (or 40 hours) per year. SB 616 would also allow employees to carry over five days of paid sick leave from one year to the next and increase the accrual cap from six days (48 hours) to ten days (80 hours).

SB 848: New Leave for "Reproductive Loss"

SB 848 would provide employees with up to five days of leave for a “reproductive loss event,” which includes a miscarriage, a failed surrogacy, a stillbirth, an unsuccessful “assisted reproduction” (such as artificial insemination or embryo transfer), or a failed adoption. SB 848 would apply to private employers with five or more employees or public employers of any size.

Amendments to California’s Fair Employment and Housing Act

AB 524: Family Caregiver Protection

AB 524 would add “family caregiver status” to the list of protected categories under the Fair Employment and Housing Act (“FEHA”). AB 524 defines “family caregiver” as a person who contributes to the care of one or more family members. “Family member” is defined as “a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or any individual previously identified as a ‘designated person.’”

SB 403: Caste Protection

SB 403 would prohibit employment discrimination because of an employee’s “caste.” SB 403 defines “caste” to mean an individual’s perceived position in a system of social stratification on the basis of inherited status. If signed into law, California would become the first state to ban discrimination on the basis of caste.

Wage and Hour/Labor Code

AB 1356: Cal-WARN Notice Requirements

AB 1356 would expand the application of California’s Worker Adjustment and Retraining Act (“Cal-WARN”) to businesses with seventy-five employees in any “group of locations” in the state and certain staffing company employees. Covered employers must also give 75 days’ advance notice of a mass layoff, closure, or relocation—an increase from the current notice period of 60 days. AB 1356 would also prohibit the release of Cal-WARN liability in severance agreements.

SB 723: Expansion of Rehiring Rights for Certain Laid-Off Employees

SB 723 would expand certain hospitality employees’ right to recall after being laid off for a reason related to the COVID-19 pandemic. Under existing law (Labor Code Section 2810.8), covered employers in the hospitality industry are required to offer open positions to qualified employees who were laid off due to the COVID-19 pandemic. SB 723 would expand the scope of employees covered by Section 2810.8 to include anyone who was employed by an employer for at least six months—at any time—and whose most recent separation of employment by the employer occurred on or after March 4, 2020. SB 723 therefore creates a “presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic.” The employer must prove otherwise by a preponderance of the evidence in order to overcome this presumption. Lastly, SB 723 extends the current sunset date for Labor Code 2810.8 by one year to December 31, 2025.

SB 497: Rebuttable Presumption of Retaliation

SB 497 would create a rebuttable presumption of retaliation when an employee alleges they were subjected to an adverse employment action *within 90 days* of engaging in a protected activity as defined by Labor Code section 98.6 and 1197.5.

AB 594: Public Prosecution for Labor Code Violations

AB 594 would give public prosecutors the ability to prosecute violations of the Labor Code, either civilly or criminally. Under current law, the primary responsibility for enforcing the Labor Code falls on the state labor commissioner; AB 594 would give city and district attorneys the authority to sue employers for certain workplace violations. AB 594 also provides that any employment agreement that requires arbitration of a dispute or limits representative actions would not affect public prosecutors' ability to enforce the Labor Code.

SB 525: Minimum Wage Increase for Health Care Workers

SB 525 would establish a series of minimum wage requirements that vary by type of healthcare employer. Under SB 525, the applicable minimum wage would increase over time from \$18.00 to \$25.00 by 2033.

Other Employee Protections

SB 428 & 553: Workplace Violence Prevention

Currently, employers may seek temporary restraining orders ("TRO") on behalf of their employees to protect them from violence or credible threats of violence. SB 428 would allow employers to seek TROs to protect them from harassment as well. If SB 428 becomes law, it will be effective on January 1, 2025.

Relatedly, SB 553 would require covered employers to establish a workplace violence prevention program and would impose certain recordkeeping and training requirements on employers. If SB 553 becomes law, it will be effective on by July 1, 2024 and Cal/OSHA will adopt its own general industry workplace violence regulation by December 31, 2026.

SB 699 & AB 1076: Unenforceable and Void Noncompete Agreements

SB 699 reinforces the state's law prohibiting noncompete agreements and prohibits employers from entering into or enforcing *any* noncompete agreements. If an employee is forced to sign a noncompete agreement, SB 699 provides them with a right to seek injunctive relief and civil penalties. Governor Newsom signed SB 699 into law on September 1, 2023.

In line with SB 699, AB 1076 would make it unlawful to include a noncompete clause in an employment contract and would require employers to notify any employees who previously signed a noncompete agreement that the agreement is void.

SB 700: Protections for Cannabis Use

SB 700 expands upon AB 2188 (passed in 2022), which prohibits employers from discriminating against employees for their off-duty use of cannabis. SB 700 would make it unlawful for an employer to request information from an applicant or employee about their prior cannabis use.

We will continue to monitor each of these bills to see if Governor Newsom signs them into law and are happy to provide compliance assistance for any of enacted bills. In the meantime, feel free to contact any employment attorney in our California offices for more information about these bills.

You can reach out to any of the attorneys listed below:



Jennifer M. Misetich

Shareholder
(213) 891-5049
jmisetich@buchalter.com



Michelle Lopez

Attorney
(213) 891-5161
mlopez@buchalter.com

This communication is not intended to create or constitute, nor does it create or constitute, an attorney-client or any other legal relationship. No statement in this communication constitutes legal advice nor should any communication herein be construed, relied upon, or interpreted as legal advice. This communication is for general information purposes only regarding recent legal developments of interest, and is not a substitute for legal counsel on any subject matter. No reader should act or refrain from acting on the basis of any information included herein without seeking appropriate legal advice on the particular facts and circumstances affecting that reader. For more information, visit www.buchalter.com.