Engage PEO Client Alert

Virginia Legislative Update June 2023

WHAT'S NEW: Governor Youngkin signed multiple legislative bills into law that are scheduled to go into effect on July 1, 2023. Employers should be aware that the new laws restrict the use of employee social security numbers, prohibit non-disclosure agreements that conceal the details relating to a claim of sexual harassment, and require large employers to offer unpaid organ donation leave.

RESTRICTIONS ON THE USE OF SOCIAL SECURITY NUMBERS

WHAT IT MEANS

Employers are prohibited from using an employee's social security number or any derivative of the social security number for employee identification purposes. This includes using it on any cards or badges issued by an employer. Violations will result in a civil penalty of up to $100 per violation.

WHAT EMPLOYERS SHOULD DO

Employers should review current policies and procedures to ensure they are not using the employee's social security number or any derivative of the social security number for employee identification purposes. If social security numbers are being used, then the employer should implement the use of a new identification policy that does not use social security numbers.

PROHIBITION ON NON-DISCLOSURE AGREEMENTS REGARDING CLAIMS OF SEXUAL HARASSMENT

WHAT IT MEANS

Employers are prohibited from requiring an employee or job candidate to sign a nondisclosure, non-disparagement, or confidentiality agreement with a provision that requires or causes the concealment of a claim of sexual assault or sexual harassment. These terms are void and unenforceable.

WHAT EMPLOYERS SHOULD DO:

Employers should review current policies regarding nondisclosure, non-disparagement, and confidentiality agreements to ensure they do not require or cause the concealment of a claim of sexual assault or sexual harassment. Employers are also encouraged to review any agreement templates being used with legal counsel.

ORGAN DONATION AND BONE MARROW DONATION LEAVE

WHAT IT MEANS

Large employers with 50 or more employees are required to provide eligible employees with:

- Up to 60 business days of unpaid organ donation leave in any 12-month period of time to serve as an organ donor.
- Up to 30 business days of unpaid organ donation leave in any 12-month period of time to serve as a bone marrow donor.

Employers are allowed to require the employee provide a written verification from a physician that they are an organ donor or bone marrow donor and there is a medical necessity for the donation.

Leave taken under this section is job protected and the employer must return the employee to the job they previously held. Employers must continue to provide health benefits during the leave and pay an employee any commissions that were earned prior to the leave. Finally, employers are prohibited from retaliating against an employee for exercising this leave.

WHAT EMPLOYERS SHOULD DO:

Employers should review current policies to ensure that they allow employees to take time off to serve as an organ or bone marrow donor.

Employees that manage or supervise direct reports should be notified of the new leave requirements.

Engage has drafted an updated Virginia voting leave policy for your use.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other H.R.-related matters.