



# A Robinson+Cole Legal Update

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## 2021 Labor and Employment-Related Legislation from the Connecticut General Assembly

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The 2021 Connecticut legislative session began January 6, 2021, and ended June 9, 2021. The legislature also held a special session from June 15-17, 2021. Several pieces of legislation were passed by both the House and Senate and signed by Governor Ned Lamont. Others are awaiting the Governor's signature. Employers should be aware of the following new labor and employment-related legislation.

### Legislation Signed by Governor

#### **Public Act No. 21-2: An Act Creating a Respectful and Open World for Natural Hair**

The new law amends the Connecticut Fair Employment Practices Act, which already prohibits employers with three or more employees from discriminating against employees based on protected traits - namely, religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental disability, physical disability, or status as a veteran. Specifically, the bill states that "race" shall encompass ethnic traits historically associated with race, including hair texture and protective hairstyles. It specifies that protective hairstyles shall include braids, cornrows, locs, twists, Bantu knots, afros, and afro puffs. This law became effective upon passage.

#### **Public Act No. 21-27: An Act Concerning Breastfeeding in the Workplace**

The new law, which becomes effective October 1, 2021, modifies existing Connecticut law regarding breastfeeding in the workplace by requiring that lactation rooms: (1) be free from intrusion and shielded from the public while the employee expresses milk; (2) include or be situated near a refrigerator or an employee-provided, portable cold storage device in which an employee can store expressed breast milk; and (3) include access to an electrical outlet. Employers with one or more employees must follow these requirements so long as they do not create an undue hardship for the employer.

#### **Public Act No. 21-30: An Act Concerning the Disclosure of Salary Range for a Vacant Position**

Effective October 1, 2021, employers with one or more employees must disclose the wage range for a vacant position to any job applicants before or at the time an offer of compensation is made, or at the applicant's request, whichever occurs first. The bill also requires employers to disclose the wage range for an employee's position upon hire, upon a change in the employee's position, or upon the employee's first request for such information. "Wage range" is defined as "the range of wages an employer anticipates relying on when setting wages for a position." Further, the bill states that employees can demonstrate employment discrimination on the basis of sex if paid less than the rate at which the employer pays employees of the opposite sex for comparable (rather than equal) work. For more information on this bill, please see Robinson+Cole's legal update regarding the legislation [here](#).

#### **Senate Bill No. 1201: An Act Concerning Responsible and Equitable Regulation of Adult-use Cannabis**

The bill legalizes the possession and recreational use of marijuana for adults 21 years of age and older starting July 1, 2021. The commercial sale of marijuana in the state is expected to begin by the end of May 2022. A provisional cannabis establishment licensee will be required to enter into a labor peace

agreement with a labor organization as well as a project labor agreement prior to construction of a cannabis establishment; however, these requirements are likely to raise possible preemption issues under the National Labor Relations Act (NLRA). Employers may also want to consider the implications this bill has on drug-testing programs, especially pre-employment testing.

**Senate Bill No. 1202: An Act Concerning Provisions Related to Revenue and Other Items to Implement the State Budget for the Biennium Ending June 30, 2023**

The bill contains several labor- and employment-related provisions, including a notice requirement for call centers relocating from Connecticut; a requirement that each employer grant employees two hours of unpaid time off for state elections; a requirement that employers subject to unemployment laws with 100 or more employees submit each employee's gender identity, age, race, ethnicity, veteran status, disability status, and highest education completed; various modifications to the Connecticut Family and Medical Leave Act (FMLA); and a prohibition on employers misinforming or deliberately dissuading employees from filing workers' compensation claims.

Legislation Awaiting Governor's Signature

**Public Act No. 21-69: An Act Deterring Age Discrimination in Employment Applications**

The bill prohibits employers with three or more employees from asking about a job applicant's age, date of birth, graduation date(s) or dates of attendance at an educational institution on an initial application for employment. The legislation provides an exception if the request is based on a bona fide occupational qualification or if the information is required for complying with federal or state law.

**Public Act No. 21-107: An Act Expanding Workers' Compensation Benefits for Certain Mental or Emotional Impairments Suffered by Health Care Providers in Connection with COVID-19**

The bill enhances workers' compensation benefits available to certain individuals, including health care providers, police officers, and telecommunicators, for post-traumatic stress disorder related to certain COVID-19-related traumatic events experienced while within the course of their employment. These events include witnessing the death of a person due to COVID-19, witnessing an injury to a person who subsequently dies of COVID-19, having physical contact with or otherwise providing care for a person who subsequently dies of COVID-19, and witnessing a traumatic physical injury that results in the loss of a vital body function of a person due to COVID-19.

**Public Act No. 21-109: An Act Concerning the Duties and Responsibilities of the Commission on Human Rights and Opportunities**

The bill allows employers to forgo workplace sexual harassment prevention training for an employee who received in-person mandatory training or participated in the online training provided by the Commission on Human Rights and Opportunities (CHRO) under another employer within two years before their hire. The bill also calls for the state entities' equal employment opportunity officers to investigate discrimination complaints filed against the entity, even if a complaint also has been filed with CHRO or the Equal Employment Opportunity Commission (EEOC).

**House Bill No. 6378: An Act Codifying Prevailing Wage Contract Rates**

Instead of allowing the labor commissioner to set the prevailing wage rates either on their own or by adopting the applicable rate determinations made by the federal labor secretary, the bill establishes its own method that the labor commissioner must use to set prevailing wage rates on public works projects. It establishes one process for building, heavy, and highway projects and another for residential projects. For building, heavy, and highway projects, the commissioner is required to make the prevailing hourly wage rate the same as the rate established in the collective bargaining agreement or understanding between employers or employer associations and labor organizations in effect for that trade or occupation for the town in which the project is being constructed. Where more than one collective bargaining agreement is in effect, the bill requires that the prevailing wage rate be determined by the collective bargaining agreement of "historical jurisdiction" rather than the "dominant" agreement. Where no collective bargaining agreement is in effect, the commissioner must adopt the applicable federally-determined prevailing wage rates. For residential projects, the commissioner must adopt the applicable federally-determined prevailing wage rates.

**Senate Bill No. 658: An Act Requiring Employers to Recall Certain Laid-off Workers in Order of Seniority [Relates to COVID-19 Lay Offs]**

The bill pertains to employees laid off during the COVID-19 pandemic (occurring after March 10, 2020 and up to December 31, 2024) due to lack of business or a reduction or furlough of the employer's workforce or some other economic, non-disciplinary reason. The bill requires all employers to send notice to such laid-off employees of all job positions that become available for which they are qualified. To be qualified, the worker must have either held the same or similar position at the time of their separation, or

be, or could be, qualified with the same training that would be provided to a new employee. The employer shall offer the position to a laid-off employee who is qualified for the position. If more than one laid-off employee is entitled to preference for a position based on their level of qualification, the employee with the greatest length of service must be offered the position.

These new laws may require employers to alter some of their employment practices and policies. As employers review the new legislation to determine how it affects their workplaces, they may wish to speak with competent legal counsel about ensuring compliance with these laws.

*Note: This is not official legal advice and reflects the status of the legislation as of June 23, 2021.*

#### FOR MORE INFORMATION

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