

Md. Legislative Roundup: Expanded Anti-Discrimination Law and Other Developments Affecting Employers

By Hayes Edwards

The General Assembly ended its 2019 legislative session in April, sending several pieces of legislation to the Governor's desk that will impact Maryland employers. Although Gov. Larry Hogan is thought to be opposed to these bills, the GA appears capable of overriding his veto, as it recently did with the Minimum Wage bill. This new legislation is summarized below, with their likely effective dates.

Workplace Harassment (SB0872/HB0679)

Effective **October 1, 2019**, Maryland's anti-discrimination law will be expanded in several major ways that could expose more employers to liability. Covered employees will now include independent contractors, and covered employers will now include all business (even those with a single employee). Prohibited forms of harassment will be expanded to include race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identify, or disability." The bill also expands the time for filing an administrative claim from six months to two years, and for filing a lawsuit from two years to three years.

"Ban the Box" (SB0839/HB0994)

Effective **January 1, 2020**, employers with more than 15 full-time workers will be prohibited from asking job applicants before the first interview about their criminal record, including any arrests, except under certain circumstances. This law will not preempt local and existing county laws (such as Montgomery and Prince George's Counties, and Baltimore City).

Organ Donation Leave (SB0705/HB1284)

Effective **October 1, 2019**, employers with 15 or more employees must allow eligible employees to take up to 60 business days (within a single twelve month period) of unpaid leave for organ donation or 30 days for marrow donation. To qualify, the employees must present a physician's verification that they are a donor and that the donation is medically necessary. This leave cannot be taken concurrently with any leave under the Family and Medical Leave Act. Employers may not consider this time a breach of continuous service for the purpose of calculating salary adjustments, sick leave, vacation time, paid time off, seniority, or annual leave. Qualifying employees will be entitled to maintain their employer-provided health care during this leave.

Non-Competes Banned for Low-Income Workers (SB0328/HB0038)

Effective **October 1, 2019**, employers may not subject workers making less than \$15 per hour or \$31,200 annually to any non-compete or conflict-of-interest provision in an employment contract that would prevent the employer from taking new employment or self-employment in the same business. Offending provisions would be deemed null and void, even if signed by an employee. However, the bill specifically allows employers to prohibit the taking or use of a client list or other proprietary client-related information.

Equal Pay for Equal Work (HB0790)

Effective **October 1, 2019**, employers who violate the state Equal Pay law two or more times in a three-year period can be subject to a civil penalty equal to 10% of the damages.