

# What to Expect in 2025

## Legal Changes Potentially Impacting Employers



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As of the time of this writing, the impact of the November 2024 election on federal labor and employment policy remains unknown. With that uncertainty in mind, below are potential changes that could affect employers in 2025 and beyond.

**Executive Orders** – A new President is likely to begin his or her term with a flurry of executive orders, as is now common with new administrations. If Vice President Kamala Harris wins the election, her executive orders may address immigration and paid leave. Should former President Donald Trump win, he may sign executive orders related to immigration and hiring practices in the federal government and international trade.

**119th Congress (2025-2026)** – Realistically, for any major employment legislation to be enacted, one party will have to win the White House, Senate and House of Representatives. Even then, the Senate’s legislative filibuster – assuming it remains in place – may preclude either party from enacting major labor or employment legislation.

Nonetheless, several proposed bills enjoy at least some bipartisan support and could gain traction in the new Congress. The CROWN Act, which protects against discrimination based on race-based hairstyles, is one such bill. The CROWN Act has proliferated in the past few years as 25 states enacted their own version of the policy.

Following the 2022 enactment of the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, Congress may consider other bills limiting the use of arbitration. The Protecting Older Americans Act would invalidate forced arbitration clauses that prohibit plaintiffs alleging age discrimination from pursuing their claims in court. Another, broader bill is the Restoring Justice for Workers Act, which would prohibit pre-dispute agreements to arbitrate workplace claims, ban class

action waivers and establish certain notice and waiting period requirements for post-dispute arbitration agreements.

Meanwhile, the Protecting the Right to Organize Act is labor’s “north star” and would ban right-to-work laws, ban employers from permanently replacing strikers, provide a private cause of action for unfair labor practices and introduce new civil penalties for labor law violations. The Republicans’ answer to this bill is the Employee Rights Act, which would require unions to be certified through secret ballot elections, provide employees with control over personal information provided to unions during organizing drives and prohibit unions from using employees’ dues payments for activities unrelated to collective bargaining and contract administration unless authorized in writing.

The new Congress may also address bills governing child labor. The bipartisan Child Labor Accountability Act of 2023 would extend the time during which the Department of Labor could bring actions to halt the shipment of “hot goods” produced by child labor from 30 to 90 days. The Democrat-sponsored Children Harmed in Life-Threatening or Dangerous (CHILD) Labor Act of 2023 would extend child labor liability up and down the contractor/subcontractor chain, increase fines and penalties for child labor violations, plus allow the Secretary of Labor to seek records related to any contractor or subcontractor suspected of violating child labor prohibitions.

If Harris wins the election, expect to see movement regarding paid family leave. The House of Representatives’ bipartisan Paid Family Leave Working Group released a



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framework for potential paid leave legislation. Among the proposals:

- Establishing a public-private partnership pilot. The working group is considering legislative options establishing public-private partnerships “to facilitate standing up and operating state-run programs ... (for) states that have existing paid leave programs and those seeking to establish a new one.”
- Coordination and harmonization of paid leave benefits across states. An Interstate Paid Leave Action Network (I-PLAN) would convene, in part, to develop “equivalency standards so that multi-state employers can design paid uniform, nationwide leave programs that will satisfy the quantitative benefit elements of each state’s employer-based plan requirements and help employees better navigate and access available benefits.”
- Small employer pooling for paid leave insurance, which would “authorize small employers to join association-style insurance pooling plans, with the goal of pooling risk and lowering the cost of providing paid family leave.”
- Improvements to paid leave tax credits for small businesses and working families. The working group will explore ways to “improve the reach and accessibility” of paid family and medical leave tax credits.

**Immigration** – Immigration will undoubtedly remain a hot topic. A Democratic administration likely would continue to ease the way for foreign nationals to work in the United States, though organized labor may push back on any such efforts. A Republican administration likely would reinstitute the stricter immigration policies

that existed during Trump’s previous administration.

**Equal Employment Opportunity Commission (EEOC)** – Democrats on the EEOC will enjoy a majority through 2026, during which time they likely will focus on instituting a mechanism, most probably through rulemaking, to collect employee hours worked and wage data from employers, as they did briefly with the EEO-1 Component 2 form (for 2017 and 2018 data).

The EEOC will prioritize emerging or developing issues, which currently include:

- qualification standards and inflexible policies or practices that discriminate against individuals with disabilities;
- protecting workers affected by pregnancy, childbirth or related medical conditions under the Pregnancy Discrimination Act and the Pregnant Workers Fairness Act, as well as pregnancy-related disabilities under the Americans with Disabilities Act; and
- addressing discrimination influenced by or arising as backlash in response to local, national or global events, including discriminatory bias arising from recurring historical prejudices.

Because of the EEOC’s focus on discrimination against individuals with disabilities, employers should update job descriptions to ensure each description accurately and completely describes a job’s essential functions.

**Looking Ahead** – Regardless of the election’s outcome, employers must be ready to adapt to changes in government policy, update their policies and training, and manage their human resources accordingly.



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