

Review of 2024 Employment Law Changes, What's Coming in 2025, and Implications for MOHR Providers

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Fredrikson

The logo for Fredrikson, featuring the name in a bold, black, sans-serif font. A red horizontal bar is positioned below the 'F' and extends to the right, ending under the 'n'.

Topics

2024 Changes to:

- Sick and Safe Time
- Minnesota Human Rights Act
- Pregnancy Accommodations
- Restrictive Covenants in Service Contracts
- Drug Testing

Looking Ahead:

- Pay disclosure in Job Postings
- Paid Family and Medical Leave

Earned Sick and Safe Time (“ESST”)

The Department of Labor IS Investigating



7/16/2024

Case #: [REDACTED]

[REDACTED]
ATTN: Human Resources
[REDACTED]

Re: Earned Sick and Safe Time Compliance

Dear Employer:

The Minnesota Department of Labor and Industry (“Department”) has been informed that your employment practices may violate Minnesota’s Earned Sick and Safe Time (“ESST”) law, Minnesota Statutes §§ 181.9445 to 181.9448 and 181.032. These statutes are available online at www.revisor.mn.gov/statutes/cite/181. Minnesota’s ESST law took effect January 1, 2024. Your voluntary compliance with the ESST law may prevent the Department from taking further action. Specifically, please ensure your employment practices comply with the following provisions in the ESST law.

What the DOL will Demand:

- Copies of ESST notice and explanation of how it was disseminated
- Contact information for all employees who received notice
- Sample paystubs showing ESST balance
- Handbook/policies
- *Plan to come into compliance*



New Family Caregiver Carveout

Certain family caregivers can waive their rights to ESST:

An individual provider [§ 256B.0711, subd. 1(d)] who provides services through a consumer support grant [§ 256.476], consumer-directed community supports [§ 256B.4911], or community first services and supports [§ 256B.85], to a family member who is a participant [§ 256B.0711, subd. 1(e)], may individually waive the ESST provisions for the remainder of the participant's service plan year, provided that the funds are returned to the participant's budget.

Once an individual provider has waived the provisions, they may not accrue ESST until the start of the participant's next service plan year.

Other New Changes

- Paystubs don't have to list available/used ESST if there is another reasonable way to access
- Don't have to allow ESST use in less than 15-minute increments
- Employees can submit written statement regarding their absence if they can't get documentation within a reasonable time or without added expense
- ESST can now be used to make funeral arrangements, attend a funeral service/memorial, or address financial or legal matters arising after the death of a family member

And Coming in January 1, 2025...

More generous PTO plans must “meet or exceed” the minimum ESST standards “for absences from work due to personal illness or injury”

What does this mean?

- Applies to employers who offer more PTO than ESST minimum (especially those with “unlimited” PTO policies)
- If an employee is sick or injured, they are entitled to protected time off—without advance notice if unforeseeable—for every PTO hour available to them

To Do

- If you're not sure if you're in compliance, **do not delay!**
 - Award ESST dating back to January 1, 2024
- Revise your ESST policy if necessary
 - Draft broadly and with built-in flexibility
- Do you want to change your policy for the 2025 change?



Reminder: ESST Must be in your Handbook (if you have one)

- Notice of employee rights and remedies
- If you want the ability to refuse foreseeable ESST if the employee doesn't provide adequate notice, must have written policy regarding the notice procedure

While we're discussing required Minnesota handbook policies, be sure you have:

- Right to Disclose Own Wages and Remedies
- Right to Lactation Breaks and Pregnancy Accommodations and Remedies

Other 2024 Changes

Minnesota Human Rights Act

Expansion of protected classes

- “Disability” includes “an impairment that is episodic or in remission and would materially limit a major life activity when active”
- “Family status” changed to include having legal status or custody of a minor, and residing with or caring for individuals who can’t meet their own needs



Pregnancy Accommodations - Leave

- Refresher: All employees are entitled to 12 weeks of unpaid leave for
 - Incapacity due to pregnancy or related health conditions
 - Childbirth/adoption
 - Bonding after birth/adoption
- New: Leave taken for prenatal care medical appointments does not count toward the 12 weeks

Pregnancy Accommodations - Benefits

- Employers must maintain coverage under group insurance policies, group subscriber contracts, or health care plans for employees and dependents
 - Can no longer shift employer's portion of benefit cost to employee
 - Employee still responsible for their share
- Carveout that the leave may not be reduced by leave taken for prenatal care medical appointments

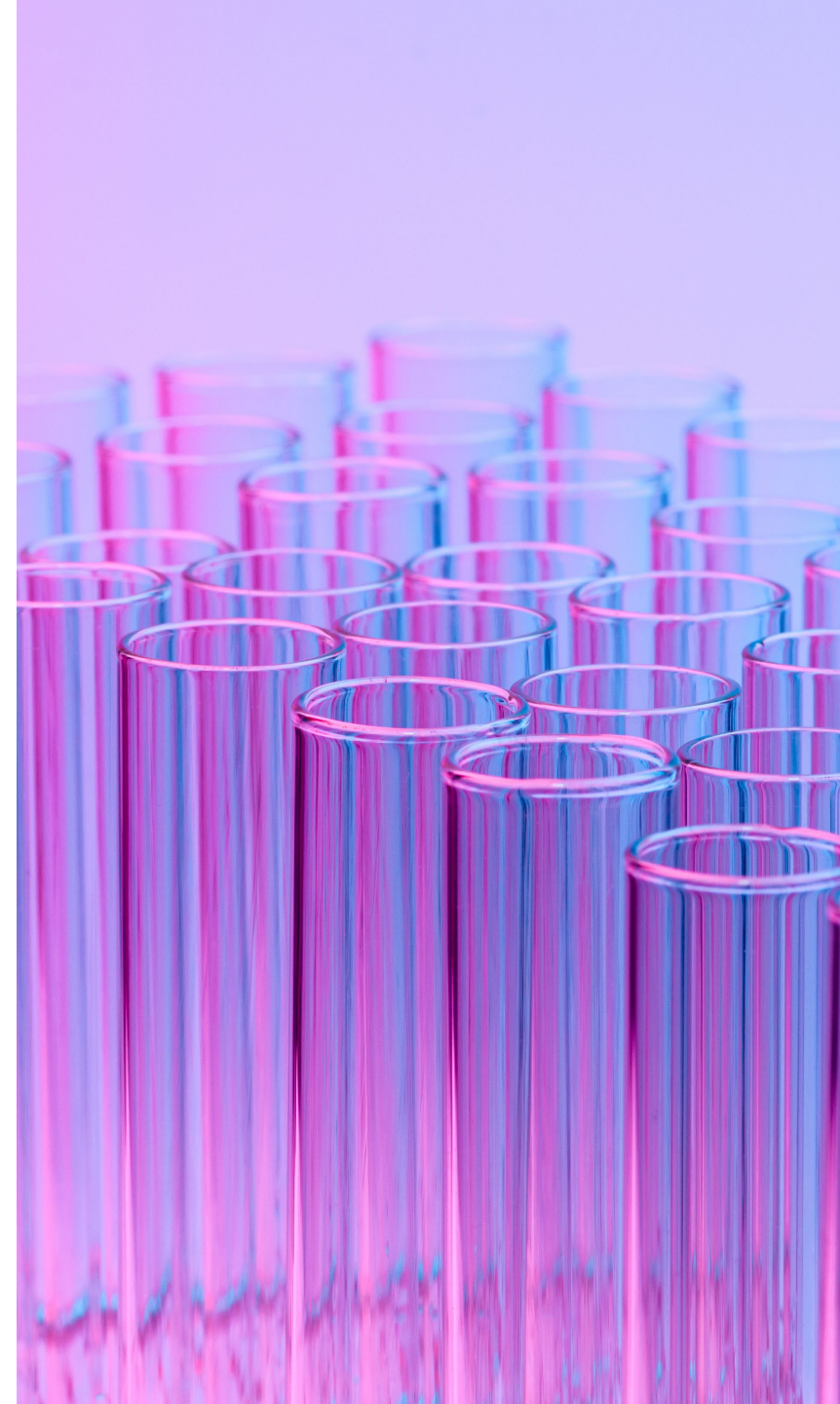


Ban on Restrictive Covenants in Service Contracts

- Service providers cannot restrict, restrain, or prohibit their customers from soliciting or hiring their employees
 - "Service provider" means an employer who provides employees to perform work for a customer
 - "Customer" is anyone who hires a service provider for services
- Any contract clauses that violate this restriction are void and unenforceable
- **Retroactive??**

Drug Testing

- On-site oral fluid testing now allowed as an alternative to laboratory testing
- Employee can request lab testing for positive, inconclusive, or invalid tests
- If you want to adopt oral testing, carefully review law and revise written drug testing procedure accordingly



Looking Ahead to 2025

Salary Ranges in Job Postings

- Applies to employers with 30+ employees at one or more sites in MN
- Job postings must disclose starting salary range and general description of all benefits
- Salary range may not be open-ended. If there is no salary range, must list fixed pay rate



Paid Family and Medical Leave

- First quarterly wage reports are due October 31, 2024
- Minnesota is converting its Unemployment portal into a joint Unemployment-Paid Leave portal
 - If you already submit wage reports for unemployment purposes, you're covered!
 - If you don't have an unemployment account, you'll need to register for a Paid Leave Account

Questions?



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