

# New Maryland Laws Provide Expanded Employee Protections

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At the beginning of the COVID-19 pandemic, the Maryland General Assembly passed several significant laws that enhance employee and applicant workplace protections. Given the potential for significant penalties for violations, these new requirements should be reviewed and incorporated by Maryland employers to ensure compliant employment and hiring practices.

## Changes to the Maryland “Mini” WARN Act

The federal WARN Act requires employers with 100 or more employees to give at least 60 days’ notice before a mass layoff or plant closure. Maryland’s “mini” WARN Act, the Maryland Economic Stabilization Act, provided that employers should voluntarily give advance notice of significant layoffs. The newly revised “mini” WARN Act, [HB 1018/SB 780](#), requires employers with 50 or more employees who operate an industrial, commercial or business enterprise and have been doing business in Maryland for at least one year to provide 60 days’ written notice of a “reduction in operations,” which includes: (1) relocation of a part of an employer’s operation; or (2) reduction of the number of employees by at least 25% or 15 employees, whichever is greater, over a three-month period. The revised “mini” WARN law includes a civil penalty of up to \$10,000 per day for failure to provide the necessary notice to all required parties.

## Expansion of Maryland Equal Pay Law

Maryland’s new [HB 14](#) expands the state’s “equal pay for equal work” law to include a prohibition on retaliation against employees who inquire about their wages. Specifically, employers may not:

- prohibit an employee from “inquiring about, discussing, or disclosing the wages” of other employees;
- prohibit an employee from “requesting that the employer provide a reason for why the employee’s wages are a condition of employment”;
- require an employee to sign a waiver or any other document that purports to deny the employee the right to disclose or discuss the employee’s wages; or
- take any adverse employment action against an employee for:
  - inquiring about the employee’s wages or another employee’s wages;
  - disclosing the employee’s own wages;
  - discussing another employee’s wages if those wages have been disclosed voluntarily;
  - asking the employer to provide a reason for the employee’s wages; or
  - aiding or encouraging another employee’s exercise of rights under the law.

Employers cannot circumvent the rule by requiring employees to sign a waiver which purports to deny the employee the right to disclose or discuss the employee’s wages.

## Employers Must Provide Wage Ranges to Applicants and Cannot Seek Wage History

Maryland’s new [HB 123](#) requires employers to provide job applicants with the wage range for the position for which the applicant applied upon request. Further, employers are prohibited from retaliating against or refusing to interview, hire, or

employ an applicant because the applicant: (1) did not provide their wage history; or (2) requested the wage range for the position for which the applicant applied. An employer is also prohibited from seeking an applicant's wage history from former employers.

### Prohibition on Hairstyle Discrimination

With the passage of [HB 1444/SB 531](#), Maryland has joined several other states and now prohibits discrimination based on "certain traits associated with race, including hair texture and certain hairstyles." The new law specifically prohibits discrimination against employees and applicants for wearing "braids, twists, and locks," as well as based on "hair texture, afro hairstyles, and protective hairstyles." Employers who have established grooming or personal appearance policies should review these policies to ensure compliance with the new law's protections.

### Ban on Using Facial Recognition in the Hiring Process

Maryland's new [HB 1202](#) bans employers from using "a facial recognition service for the purpose of creating a facial template during an applicant's interview for employment unless an applicant consents." "Facial recognition service" is defined as "technology that analyzes facial features and is used for recognition or persistent tracking of individuals in still or video images." Employers that already use, or may plan to use, a facial recognition service during hiring must obtain a signed waiver from the applicant that is drafted in "plain language."

These laws went into effect on October 1, 2020.

If you need guidance on implementation of the Maryland legislation discussed herein, please contact **Amy L. Bess** at +1 (202) 312 3361, **Aleksandra Rybicki** at +1 (202) 312 3336 or any other Vedder Price attorney with whom you have worked.

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