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State ‘pay transparency’ laws causing various headaches for employers

In an era in which workers are successfully pushing state legislatures to strengthen employee rights, a number of states have responded by enacting “pay transparency” laws that require employers to disclose information about how they compensate employees either to the public or to employees themselves.

Depending on the state, pay transparency laws may require the employer to provide job applicants the exact salary range for the position at a certain time during the hiring process; to provide the salary range to employees upon request, when changing jobs or when hired; or to provide the salary range in the job posting itself.

As of the start of 2023, pay transparency laws have taken effect in seven states and a handful of municipalities, with laws being considered in several more states.

With that in mind, it would serve employers well to check in with an attorney to review their policies and procedures regarding disclosure of salary information. That’s because these laws — even if they’re a legitimate way to protect workers from discrimination and exploitation — can create some thorny issues for employers everywhere.

For example, say your state does not have a pay transparency law but you post job openings at sites that may draw applicants from all over the country. Are you then obligated to comply with pay transparency laws in other states from which candidates may be applying?

Because there’s no simple answer to that question, you may be tempted to sidestep the issue by avoiding candidates from states with



stringent pay transparency laws in place. But that comes with its own risks. For one thing, you may be missing out on the best candidate for the opening.

Additionally, you could suffer bad publicity as a result. That’s what happened when Colorado passed a pay transparency law. Employers in other states simply refrained from hiring Colorado residents. In response, disgruntled Coloradans launched a website to bring negative attention to companies that weren’t complying with the Colorado law.

The issue becomes even more troubling if the employer posts a job that can be performed remotely. In that case, if the laws of the state where the employee lives do not require employers to post exact salary

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Hit by a drunk driver? Talk to an attorney about your rights



According to the National Highway Transportation Safety Administration, approximately 32 people die in crashes caused by drunk drivers. This translates to one person being killed every 45 minutes and more than 10,000 people dying each year.

Even in crashes that aren't fatal, countless people who are hit by drunk drivers end up with debili-

tating injuries that are often permanent, leaving them unable to work. Many people, no matter how good their health care coverage is, end up with huge medical bills beyond what their insurer will cover. Plus, they can suffer terrible physical pain and emotional trauma following a serious accident.

If you've been in an accident caused by a drunk driver, an attorney can help you recover the compensation to which you're entitled. In fact, a case from South Carolina illustrates that recovery can be substantial, depending on the facts and circumstances.

The case stemmed from a crash caused by a man who had been drinking and driving while traveling north on Interstate 95 from Florida. When another

driver slowed for traffic, the man plowed into the back of his car.

The victim, a retired engineer who went on to write and publish self-help books, suffered a serious lower back injury that required several surgeries and a concussion. He ended up \$400,000 in medical bills.

Meanwhile, at the scene of the crash, the drunk driver — who had prior DUI arrests — allegedly offered to pay the victim if he didn't call the police. He also allegedly stumbled and almost fell into the victim's arms. When the police arrived on the scene, a rear-facing dashcam recorded the drunk driver in the back of the patrol car fading in and out of consciousness while asking where he was.

The drunk driver didn't have sufficient insurance, so the victim's underinsured motorist carrier — which covers costs that an at-fault driver's insurance does not cover — agreed to settle the case before trial for a substantial amount that apparently covered the victim's medical expenses, pain and suffering, and economic losses due to delays in getting his next book published.

The value of every case depends on its unique facts and circumstances. If you've suffered harm at the hands of a drunk driver, it's important to discuss your case with an attorney.

We welcome your referrals. We value all of our clients. While we are a busy firm, we welcome your referrals. We promise to provide first-class service to anyone that you refer to our firm. If you have already referred clients to our firm, thank you!

Avoid family feuds in your estate settlement

Family relationships can be complicated, especially when it comes to discussing finances and estate plans.

No one wants to imagine their loved ones fighting over their estate after they're gone. However, there are steps you can take to avoid family discord and ensure your wishes are carried out without conflict:

1. Good estate planning documents: If estate planning documents are done correctly, they leave little room for dispute or challenge. That alone can help diffuse family conflicts.

2. Consider a trust: If you have substantial assets, setting up a trust can help ensure your wishes are carried out and can better protect your assets from any challenges.

3. Communicate early and set expectations: Talk to your beneficiaries about your intentions and the reasoning behind your decisions. That can help avoid any misunderstandings or hurt feelings. You may want to introduce your heirs to your executor, explain your

thinking behind certain gifts, and talk about how you expect decisions will be made.

4. Add a letter to your will: You can leave an informal letter with your will, explaining why you distributed your assets the way you did. While it will not be a legally binding document, it may help give your heirs some clarity and closure over your bequests.

5. Update your will regularly: Life changes such as births, deaths, marriages, and divorces can impact your estate plan. Regularly review and update your will to ensure it reflects your current wishes.

6. Seek professional advice: Consulting with an attorney can help ensure your will is legally sound (see #1 above) and that your wishes will be carried out as you intended.

Nothing ruins an estate like a bad family rivalry, and nothing ruins a family like a nasty estate fight. But, with clear communication and support from qualified legal professionals, you can take proactive steps to prevent potential battles among your heirs.

DOJ to incentivize voluntary self-disclosure

The Department of Justice has announced a new policy outlining the benefits a company may receive for voluntary self-disclosure (VSD) of criminal conduct.

A goal of the policy is to incentivize companies to come forward proactively when they discover internal misconduct.

The new Voluntary Self-Disclosure Policy sets a nationwide standard for how U.S. Attorney's Offices will determine whether a company has made a voluntary self-disclosure. It outlines the tangible benefits to a company that makes a VSD, cooperates, and remediates the conduct.

Benefits of VSD

Absent an aggravating factor, a company that is considered to have made a VSD would receive the following benefits:

- The government will not seek a guilty plea.
- The company could potentially avoid a criminal penalty, and in any event it will not receive a criminal penalty that is greater than 50% below the low end of the U.S. Sentence Guidelines fine range.
- The U.S. Attorney's Office will not require a third-party compliance monitor.

Conditions of a voluntary disclosure

A company can qualify for VSD benefits if the following conditions are met:

- It discloses facts of misconduct before such conduct is publicly reported other or otherwise known to the DOJ.



- It discloses all known relevant facts in a timely matter, prior to a threat of disclosure or government investigation.
- It fully cooperates and appropriately remediates the criminal conduct.

Aggravating factors

Under the VSD policy, the government may still seek a guilty plea if certain aggravating factors are present:

- The misconduct poses a grave threat to national security, public health or the environment.
- The misconduct is deeply pervasive throughout the company.
- The misconduct involved the company's current executive management.

State 'pay transparency' laws causing issues for employers

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ranges during the hiring process, but do require disclosure to employees on request, an employer would seemingly be bound by that law if the employee inquires, even if the employer is located thousands of miles away.

Meanwhile, pay transparency laws could cause employers headaches in even trying to determine how to set compensation in the first place, particularly given the reality of an increasingly remote workforce. After all, huge disparities in pay scales and costs of living in different parts of the country mean that a job being performed in Boston, New York or

San Francisco would normally call for a different salary level than one being performed in suburban Kansas City or rural Minnesota.

The ultimate question is whether an employer should be creating job postings with the most restrictive state laws or the least restrictive state laws in mind. The answer may be to look for a "sweet spot" that meets the requirements of as many state and local laws as possible. But that is something you should discuss with an attorney who can look at your company's unique situation and provide the best advice possible.

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Traveling out-of-state with a child during divorce proceedings

If you're going through a divorce and want to travel out-of-state with your child, you should call a lawyer, because there may be restrictions on your ability to do so.

The first thing you and your lawyer should do is review the parenting plan that was probably established at the time of your separation. The plan likely addresses the issue of traveling with your child. Many such agreements require a parent to get the other parent's consent in writing before leaving the state with the child by getting a letter of consent for travel.

Even if your agreement doesn't address that, it's probably still a good idea to get such a letter. That will protect you if your ex accuses you of parental kidnapping or violating your parenting plan in some other manner. The letter should detail where you plan to go, when you plan to return, where you will be staying while you're away and the names of



anyone else you are traveling with. You should also expect to have to negotiate with the other parent on certain things, like having your kids call them each day or text at certain intervals.

Another option is to try and get your parenting agreement modified to address out-of-state travel so you do not have to go through this negotiation each time you wish to go away with your child while your divorce is still pending.