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## Artificial Intelligence in the Workplace

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With the rapidly evolving technology landscape, particularly the area of artificial intelligence (“AI”), using new AI-driven tools is becoming more attractive to businesses as the technology becomes more sophisticated. However, as AI bias lawsuits begin to materialize in the courtroom and state legislatures continue to regulate the technology, employers should be intentional about the way AI is utilized in the workplace.

Recently, AI-based hiring decisions have been in the limelight and the subject of litigation. Currently, Workday Inc. is confronting a nationwide class action, wherein job applicants are alleging the company’s AI-based job screening tool “relies upon subjective practices which have caused disparate impact and disparate treatment” to applicants age forty and over. The complaint alleges the screening practices also discriminate against applicants based on race and disability, and Workday’s marketed tools allow its customers to “manipulate and configure” the data “in a discriminatory manner to recruit, hire, and onboard employees.” In May 2025, the US District Court for the Northern District of California conditionally certified the collective action under the Age Discrimination in Employment Act (“ADEA”).

There is no federal law directly regulating AI, however, state legislation has been gaining traction; over 240 enacted state bills across the country contain references to artificial intelligence, while states like Ohio and Michigan have enacted laws and/or pending legislation. In Ohio, there are multiple pending legislative attempts to regulate AI, and at Governor DeWine’s final State of the Union address, he encouraged the passage of legislation which would: (1) prohibit the possession, creation, or distribution of AI-created child pornography; and (2) criminalize the development of AI models that encourage self-harm. Currently, there is pending legislation, Senate Bill 163 and House Bill 524, that address these same issues.

In Michigan, MCL Section 169.259 requires political candidates to clearly disclose whenever campaign materials contain AI-generated content. Pending legislation includes Michigan Senate Bill 760 which prohibits the availability of companion chatbots to children if the model can encourage destructive behaviors, such as violence or the consumption of drugs or alcohol. Michigan House Bill 5579 proposes to strictly limit the ways employers can monitor employees using AI tools by prohibiting employers from utilizing automated decision tools to make employment decisions and requiring a complete risk assessment before implementing AI monitoring tools.

Employers can ensure greater compliance by instituting an AI Policy, training employees on proper use of AI, regular audits of any approved AI tools, and utilizing human checkpoints. By establishing guardrails around AI usage in the workplace, employers can take advantage of the technological advances of AI while limiting potential legal liability.

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