

**Employment Law Changes in 2023-2024 for Minnesota Churches**  
**Author: Attorney Virginia (Ginny) Cronin, Wagenmaker & Oberly**  
[virginia@wagenmakerlaw.com](mailto:virginia@wagenmakerlaw.com)  
<https://www.wagenmakerlaw.com/>

Minnesota churches must comply with the new employment laws enacted during the 2023 legislative session and signed into law by Governor Tim Walz. These changes include legalizing recreational cannabis and extending paid sick leave to almost all employees. All Minnesota churches, including staff and leadership, must be aware of these changes and make necessary adjustments to abide by the law and avoid unwanted penalties. For instance, churches should review and update existing employee handbooks, workplace policies, and operational practices. It is also crucial to collaborate with church leadership and employee supervisors, such as governing boards, to achieve optimal understanding and compliance with the law. When in doubt, it is advisable to seek guidance from trusted legal counsel.

Below is a summary of relevant employment laws, both new laws and amendments to current laws, for Minnesota churches:

**Effective July 1, 2023:**

1. **Modification to the Nursing Mothers and Pregnant Employees, § 181.939 (similar federal law changes took effect June 27, 2023, under the Pregnant Workers Fairness Act) and Pregnancy Accommodations.** These new modifications provide increased protections for pregnant and nursing (lactating) employees under § 181.939. This amendment eliminated restrictions related to the expressing breast milk (e.g., breaks and no restriction due to child's age), and provides expanded protections to during pregnancy, including specific pregnancy accommodation provisions, including "longer" restroom, food, and water breaks as an accommodation without being required to provide supporting documentation, and added "temporary leave of absence, modification in work schedule or job assignments," and "more frequent or longer break periods." This law requires employers to notify employees of these rights at both (1) the time of hire, (2) when they request parental leave, and (3) within the church's employee handbook (if one exists).
2. **Non-competition Agreements § 181.988.** This new law may modify future separation or severance agreements offered to departing or terminated employees. This new law prohibits any post-employment noncompete agreement (e.g., cannot work at a similar church within 5 miles) with an employee or independent contractor regardless of a person's income, with only two very limited carveouts that will not apply to most churches. This law does NOT include restrictions on nondisclosure, confidentiality, trade secret, or non-solicitation agreements (including specifically those restricting the ability to use client or contact lists or restricting the solicitation of customers). This new law does not prohibit severance or separation agreements but restricts use of specific non-competition provisions traditionally used within such agreements.
3. **Modification to Wage Disclosure Protection § 181.172.** It is important to be aware of the new amendments to Minnesota's current Wage Disclosure Protections law (preventing employers from penalizing or retaliating employees from discussing their wages) further expanding the prohibited retaliatory actions of employers to include the following: "[a]n employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for asserting rights or remedies under this section." Churches should review their current employee handbooks, as employers must provide a notice of this law within their employee handbook.
4. **Amendments to the Drug and Alcohol Testing in the Workplace Act (DATWA), Minn. Stat. §§ 181.950-957.** Due to the legalization of recreational cannabis, significant changes

were made to Minnesota's Drug and Alcohol Testing in the Workplace Act ("DATWA"). Definition of "drug" was modified and separate category of "cannabis testing" with more limited permitted testing and discipline scenarios. These changes prohibit employers from testing for cannabis unless explicitly required by law or the job position falls within specific classes of jobs (e.g., safety-sensitive positions). If a church current engages in or plans to engage in the drug or alcohol testing of employees, it must comply with DATWA.

#### **Effective August 1, 2023:**

1. **Legalization of Recreational Cannabis Bill.** Under the new law, adults (21 and older) may possess or transport up to 2 ounces of cannabis flower, 8 grams of concentrate and 800 milligrams of edible product (including low-potency hemp-derived product). An adult may also possess up to two pounds of cannabis flower in a private residence. Generally, this new law prohibits employers from disciplining or discharging employees, or refuse to hire individuals, due to their consumption of legal cannabis outside of work. Employers can ban the possession and use of cannabis during work hours and when an employee is on-site or in an organization-owned vehicle. This includes discipline or other corrective action, including termination, or employees who use, possess, sell, transfer, or are otherwise impaired by such lawful products while working, while on work premises, or while operating an employer's vehicles, machines, or equipment. However, a church may be able to enact prohibitions of cannabis use according to church polity and in accordance with its sincerely held religious beliefs regarding recreational cannabis and marijuana use. If a church plans to enact such prohibitions, careful consideration with legal counsel is advisable.
2. **Employer-Sponsored Meetings and Communications, § 181.531.** This new law prohibits employers from holding mandatory employer-sponsored "captive audience" meetings if those meetings are for the purpose of communicating the employer's opinion on religious or political matters. Employers are also prohibited from threatening to take or taking adverse action against employees who refuse to attend or participate in an employer-sponsor meeting, or who refuse to receive or listen to an employer communication, if the meeting or communication is to communicate the employer's opinion about religious or political matters. "Religious matters" are defined as matters "relating to religious belief, affiliation, and practice and the decision to join or support any religious organization or association." As a tax-exempt organization, all churches should generally avoid engaging political issues or matters with its employees. However, do not overlook churches rights under the U.S. Constitution. Specifically, churches have very strong constitutional protections, including the free exercise of religion and church autonomy (the right of churches to be free from government control with regards to their internal affairs. Given these constitutional protections, It is highly likely that this law will be challenged on constitutional grounds. Churches should consult with legal counsel regarding compliance with this law in relation to existing constitutional protections.

#### **Effective January 1, 2024:**

1. **Statewide Earned Sick and Safe Leave, §§ 181.9445-9448 and § 177.50.** Under the law, beginning January 1, 2024, employees are entitled to accrue one hour of sick and safe leave for every 30 hours worked, up to a total of 48 hours per year, and employees will be able to carry accrued hours, subject to an 80-hour total cap on accrued hours. Alternatively, employers may opt to front-load 80 hours of sick and safe leave at the beginning of each applicable benefit plan year.

Employees can use their earned sick and safe time for reasons such as:

- the employee's mental or physical illness, treatment, or preventive care;
- a family member's mental or physical illness, treatment, or preventive care;

- absence due to domestic abuse, sexual assault or stalking of the employee or a family member;
- closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that the employee or a family member is at risk of infecting others with a communicable disease.

Under the law, employers are required to provide notice regarding earned sick and safe leave to employees and include certain information in their handbooks if they have one. The Minnesota Department of Labor will be [preparing a uniform employee notice form](#). As of today, the notice has not yet been prepared. In addition to notice, employers must also inform employees about accrued sick and safe time via earned income statements totaling earned hours accrued for use and used during the pay period.

2. **Pay History Ban.** Under this law, employers can no longer ask job applicants about their pay history. Job applicants also include all current employees seeking an internal promotion or transfer, full and part time employees, and contractors. The intent of the law is to require employers to base employee salaries on market conditions and job requirements without being influenced by the job applicant's current or previous pay.

#### **Effective January 1, 2026:**

1. **Paid Family and Medical Leave, §§ 268B.01-.29.** Under this law, all Minnesota employers (including churches), regardless of size, will be required to provide to almost all employees paid family and medical leave for up to 12 weeks with partial wage replacement related to a serious health condition and up to 12 weeks with partial wage replacement related to leave for pregnancy, bonding, safety, family care, or a military member's active-duty service or impending call to active duty in the United States armed forces, with a total combined cap of 20 weeks per year.

This program will be funded by a 0.7% payroll tax paid by employers and employees. However, employers offering private benefits that meet or exceed the law's requirements can apply for approval with a related registration fee to opt out of the state plan requirement. These details will be forthcoming from the State of Minnesota.