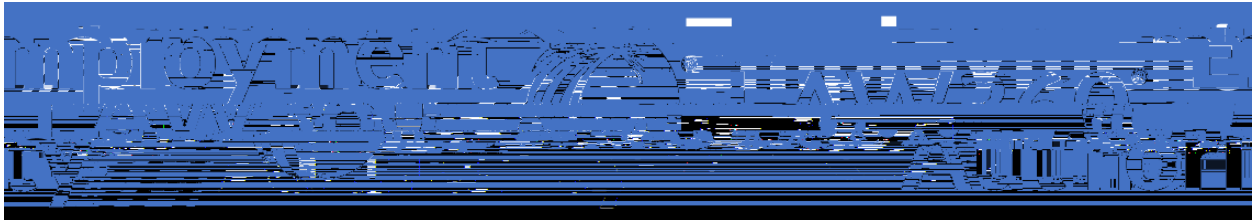




## Expert Analysis - Series

By Deborah Pecci · Mar 4, 2022, 11:29 AM EST · [Listen to article](#)

*In this [Expert Analysis series](#), in-house employment attorneys discuss the most important issues companies and counsel should plan*



When I first began my in-house journey more than 20 years ago, my days were dominated by litigation and related forms of risk management. While these challenges remain today, statutory and regulatory compliance related to all aspects of the business have taken center stage.

As in-house employment counsel for a global provider of security and facility services, tracking and complying with statutes and regulations at the local, state and federal levels demands continual review and analysis.

Equally important, our legal team must communicate internally with numer2 reW\*nßallh nur

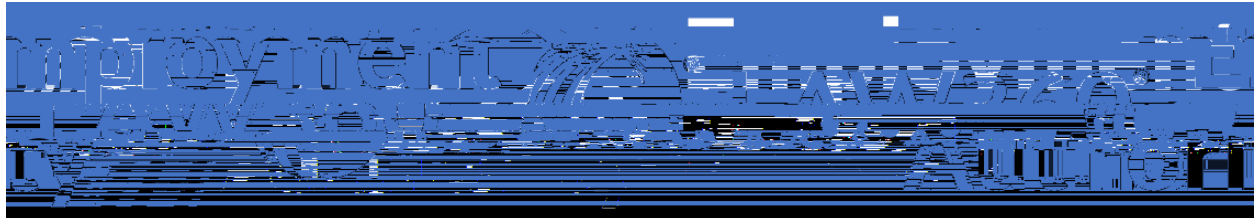




Beginning in May, for example, New York employers must provide employees with prior notice if they wish to monitor their telephone, email or internet usage.[3] Similarly, Illinois has specific legislation in place to protect employees' biometric data. Employer violations can result in class actions and monetary damages, which can be quite costly.

In-house employment teams can work with HR and other departments to address privacy laws by assisting with employee communications and policies. These types of notifications serve to accurately inform employees of their privacy rights and notify them of any limitations on privacy expectations.

Background



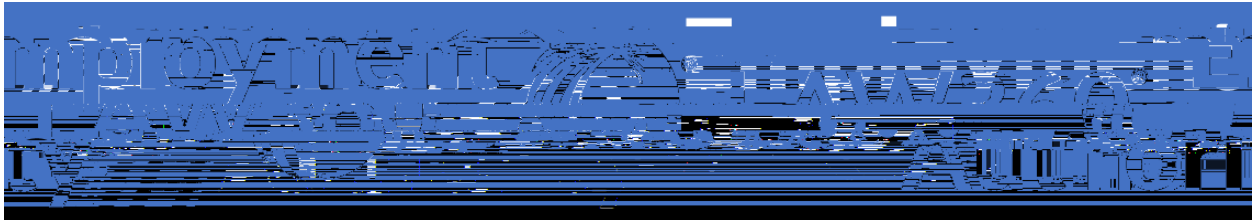
- The point in time the background check should occur; and
- If the state or locality where the employee will be working places any legal limitations on the type of background check that can be conducted.

For example, New York state and New York City each have laws that regulate the timing of criminal background checks and require employers to issue detailed pre- and post-adverse action notices before refusing to hire an applicant based on the contents of a background check. Likewise, San Francisco and other jurisdictions limit the types of criminal history that an employer can consider.

Similarly, an employer's ability to conduct preemployment drug testing is increasingly regulated by state and local law, particularly when it comes to marijuana use. The in-house legal department must learn about these laws and notify the purchasing group of any changes to the types of tests they should buy e.g., no 10-panel drug tests in jurisdictions that prohibit preemployment marijuana testing.

The legal department must also ensure the recruiting team changes their procedures as needed, and should work with the contracting department to modify existing client contracts to the extent that they require drug tests that are no longer legally permissible.

Coordinating with HR to ensure compliance is important because where an individual is disqualified for employment based on the result of a background check or drug test, failing to follow the law can result in significant legal issues.



## Minimum Wage and Paid Leave



work a far easier standard to meet.

Laws that prohibit employers from asking about an applicant's salary history also continue to be enacted. The logic behind these laws is that paying an employee based on their salary history allows unlawful pay disparities to continue throughout someone's career.

State and local jurisdictions are also passing laws that require increased transparency concerning the pay offered for a position. For example, in Colorado



In the sector I serve, the National Association of Security Companies is very helpful in keeping its members updated on regulatory changes. NASCO's objective is to highlight industry concerns and situations directly applicable to security companies.

While in-house counsel can find information about compliance topics from a wide variety of sources, the fact that NASCO's information is all germane to our industry allows me to focus on compliance developments that directly implicate our day-to-





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[1] U.S. Equal Opportunity Commission - [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws.](#)

[2] [Centers for Disease Control and Prevention](#) - CDC [COVID-19 Guidelines for Business Owners & Community Leaders.](#)

[3] New York State [Senate Bill S2628.](#)

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