



MINNESOTA

QUICK AND EASY GUIDE TO LABOR & EMPLOYMENT LAW

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At-Will Employment

Minnesota is an at-will employment state, meaning that employment for an indefinite term is presumed to be at-will. In an at-will employment relationship, an employer or employee may terminate the employment relationship for any reason or for no reason, and the employee is under no obligation to remain on the job. *Burt v. Rackner, Inc.*, 902 N.W.2d 448 (2017).

Minnesota recognizes that termination of an at-will employment relationship is unlawful when the motivation behind the termination is retaliation, or the termination violates public policy. Minn. Stat. Ann. § 181.932. For example, Minnesota's whistleblower statute makes it illegal for an employer to terminate an employee because the employee "in good faith, reports a violation or suspected violation of any federal or state law or rule adopted pursuant to law to an employer." Minn. Stat. Ann. § 181.932, subd. 1(1).

Equal Employment Opportunity

The Minnesota Human Rights Act prohibits discrimination in employment on the basis of the following: race, color, creed, religion, national origin, sex (including pregnancy, childbirth, and disabilities related to pregnancy or childbirth), gender identity, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age. Minn. Stat. Ann. § 363A.08. The statute defines race to include hair texture and hairstyles such as braids, locs, and twists. Minn. Stat. Ann. § 363A.03. The statute applies to employers with one or more employees. *Id.*

Pregnancy Accommodations

An employer must provide reasonable accommodations to an employee for health conditions related to pregnancy or childbirth upon request, with the advice of a licensed health care provider or certified doula, unless the employer demonstrates that the accommodation would impose an undue hardship on the operation of the employer's business. A pregnant employee shall not be required to obtain the advice of a licensed health care provider or certified doula, nor may an employer claim undue hardship for the following accommodations:

- more frequent or longer restroom, food, and water breaks;
- seating; and
- limits on lifting over 20 pounds.

Minn. Stat. Ann. § 181.939.

Minnesota employers are required to inform employees of their rights to pregnancy accommodation at the time of hire and when an employee makes an inquiry about or requests parental leave. Information must be provided in English and the primary language of the employee, as identified by the employee. An employer that provides an employee handbook to its employees must include in the handbook a notice of employee rights and remedies. *Id.*

Equal Pay

Minnesota law prohibits discrimination on the basis of sex by paying wages to employees at a rate less than the rate the employer pays to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility. Minn. Stat. Ann. § 181.67.

Immigration Verification

Minnesota places no additional employment verification procedures on employers beyond federal I-9 compliance. E-Verify is required for vendors or subcontractors working in the U.S. on behalf of the state of Minnesota under a contract value in excess of \$50,000. Minn. Stat. § 16C.075 (2022).

Drug Testing

The Minnesota Drug and Alcohol Testing in the Workplace Act (DATWA) regulates drug and alcohol testing for applicants and employees. Employers with one or more employees are subject to DATWA. Minn. Stat. Ann. 181.950.

Minnesota employers are allowed, but not required, to test applicants and employees for drugs and alcohol if minimum requirements are met. These requirements include: maintaining a written policy outlining the testing procedures; providing notice of the policy to all affected employees; obtaining acknowledgment of receipt of the testing policy from any person being tested; and requiring testing to be done by a licensed, accredited, or certified laboratory. Minn. Stat. §§ 181.951, Subdiv. 1, 181.952, and 181.953, Subdiv. 1, 6 (2022).

Minnesota permits an employer to request or require a job applicant to undergo a drug or alcohol test as long as an offer of employment has been made. Minn. Stat. § 181.951 Subdiv. 2 (2022).

An employer may request an employee to take a drug or alcohol test as part of a routine physical exam as long as the drug and alcohol test is performed no more than once annually, and the employee has been given two weeks of written notice that a drug or alcohol test may be performed as part of the physical examination. Minn. Stat. § 181.951 Subdiv. 3 (2022).

An employer may request or require an employee to submit to drug tests on a random selection basis in two scenarios: (1) if they are employed in safety-sensitive positions, which are positions where impairment would threaten the health and safety of another; and (2) if they are a professional athlete subject to a collective bargaining agreement permitting random testing. Minn. Stat. § 181.951 Subdiv. 4 (2022).

An employer may also request or require an employee to take a drug test if the employer has a reasonable suspicion that the employee: (1) is under the influence of drugs or alcohol; (2) sustained a personal injury in the course of employment; (3) caused another employee to be injured in the course of employment; (4) caused a work-related accident; or (5) was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident. Minn. Stat. Ann. § 181.951, subd. 5.

An employer can also require testing where an employee has violated the employer's policy on the prohibition of the use, sale, possession, or transfer of drugs and alcohol while the employee is working or is on the employer's premises, provided that the policy is contained in the employer's written drug and alcohol testing policy. Minn. Stat. § 181.951 Subdiv. 5 (2022).

Medical Marijuana

Minnesota's medical marijuana law states that employers cannot discriminate against a person in hiring, termination, or any term or condition of employment if the discrimination is based on: (1) the person's status as a patient enrolled in a medical marijuana registry program; (2) the person's status as a Tribal medical cannabis program patient; or (3) a patient's positive drug test for marijuana, unless the person used, possessed, or was impaired by medical cannabis at work. Minn. Stat. Ann. § 152.32.

Leaves of Absence

Jury Duty Leave

It is unlawful for an employer to deprive an employee of employment, threaten or otherwise coerce the employee, or otherwise subject an employee to adverse employment action as a result of jury service. Minn. Stat. Ann. § 593.50. In addition, it is unlawful for an employer to require or request an employee to use annual, vacation, or sick leave for time spent responding to a summons for jury duty. *Id.* Minnesota state law requires the employer to pay wages while an employee is on jury duty.

Voting, Election Judge, and Political Activities Leave

On election days, employees have the right to be absent from work for the time necessary to place their vote and return to work without deduction in salary or wages. Voting leave is required for all major elections, including for the United States Senate or House of Representatives, Minnesota Senate or House of Representatives, and the presidency, including the presidential nomination primary. Minn. Stat. Ann. § 204C.04.

Any employee who has been selected to serve as an election judge is eligible for Election Judge Leave. The employee must provide at least 20 days of written notice of their intent to take the leave. The employer may reduce the salary or wages of an Election Judge employee by the amount paid to them by the appointing authority during the time the employee was absent from work. Minn. Stat. Ann. §204B.195.

Employees may take leave to attend any meeting of the state central committee or executive committee of a major political party if the employee is a member of the committee, or may attend any convention of major political party delegations if the employee is a delegate or alternate delegate. Minn. Stat. Ann. § 202A.135.

Pregnancy and Parenting Leave

Minnesota's Pregnancy and Parenting Leave Law applies to employers who employ one or more employees. Minn. Stat. Ann. § 181.940. The law requires employers to grant an unpaid leave of absence to an employee who is: (1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions. Minn. Stat. Ann. § 181.941.

Military Service Leave

An employee may take unpaid leave to serve in either active military duty or a federally declared emergency. The leave time includes recovery from disease or injury sustained in active duty, as well as orders to attend active or inactive duty training. Minn. Stat. § 192.261, Subdivs. 1, 6 (2022).

Paid Family and Medical Leave

Paid Family and Medical Leave benefits will begin for Minnesotans effective January 1, 2026. Minn. Stat. Ann. §268B *et seq.* The program will cover the following: medical leave, to address a worker's own serious health conditions, including pregnancy; caregiving leave, to care for a relative; parental leave; safety leave, for sexual or domestic violence; and deployment leave, to deal with the impact of a relative's military deployment. Each leave is capped at 12 weeks, with a combined limit of 20 weeks per year. Paid Family and Medical Leave premiums will be 0.7 percent of an employee's taxable wages. Employers may charge a maximum of half this premium (or 0.35 percent) to their employees through a wage deduction. Paid Family and Medical Leave premiums will be collected starting January 1, 2026. Additional information regarding Minnesota's Paid Family and Medical Leave Program may be accessed on the Minnesota Department of Employment and Economic Development's website.

Earned Sick and Safe Time

As of January 1, 2024, employers must provide at least one hour of earned sick and safe time for every 30 hours worked, up to 48 hours a year. Minn. Stat. Ann. § 181.9446.

Employees may use this time for: diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, including preventive care for the employee or a family member; to make funeral arrangements or address financial or legal matters following a family member's death; certain purposes related to domestic abuse, sexual assault, or stalking; closure of workplace due to weather or public health emergency; or care of a family member whose workplace or place of care is closed due to weather or public health emergency. Certain additional factors apply in the event of a public health emergency. *Id.*

“Family member” is defined as an employee’s or an employee’s spouse’s child or parent (biological, adopted, foster, or *in loco parentis*), spouse, domestic partner, sibling, grandchild, grandparent, niece or nephew, child-in-law, sibling-in-law, or other individual related by blood or whose close association is equivalent to a family relationship, and up to one individual designated annually by the employee. Minn. Stat. Ann. § 181.9445.

School Conference and Activities Leave

Employers must grant an employee up to 16 hours of leave during any 12-month period to attend school conferences or school-related activities related to the employee’s child, provided the conferences or activities cannot be rescheduled during nonwork hours. Where the leave is foreseeable, the employee must provide reasonable notice prior to the leave. The leave is not required to be paid, and employees may substitute any paid leave for this time. Minn. Stat. Ann. § 181.9412.

Witness and Victim Leave

An employee who is subpoenaed or requested by a prosecutor to attend court for the purpose of giving testimony must be allowed reasonable time off work to attend such proceedings. Likewise, an employer must allow a victim of a violent crime, as well as the victim’s spouse or immediate family members, reasonable time off work to attend criminal proceedings related to the victim’s case. An employer may not retaliate against an employee for taking such leave. Minn. Stat. Ann. §611A.036.

Employees also may take reasonable time off work to obtain or attempt to obtain relief from physical or sexual assault, harassment, etc. Except in cases of imminent danger, an employee should give 48 hours’ notice to the employer. Minn. Stat. Ann. §609.748.

Bone Marrow and Blood Donation Leave

An employer (of 20 or more employees) must grant paid leaves of absence to any employee who seeks to donate bone marrow. The combined length of the leaves may vary but may not exceed 40 work hours, unless agreed to by the employer. Minn. Stat. Ann. §181.945.

Employers may grant paid leave from work to an employee for purposes of blood donation. Minn. Stat. Ann. §181.9458.

Breaks

Time to Express Milk

Minnesota employers (who employ one or more employees) must provide reasonable break times each day to an employee who needs to express breast milk for an infant child during the 12 months following the birth of the child. The break times may run concurrently with any break times already provided to the employee. An employer is not required to provide break times under this section if doing so would unduly disrupt the operations of the employer. Employees may not reduce an employee’s compensation for the time used. Minn. Stat. Ann. § 181.939.

The employer must make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a bathroom or a toilet stall, that is shielded from view, is free from intrusion from coworkers and the public, and includes access to an electrical outlet where the employee can express milk in privacy. *Id.*

Meal Breaks

Minnesota requires that employees working eight or more consecutive hours be given at least 30 minutes for a meal break. The meal break may be unpaid if the employee is completely relieved of all job-related duties. Minn. Stat. Ann. §177.254.

Rest Breaks

Employers must allow employees adequate time to use the nearest restroom during each four consecutive hours of work. Minn. Stat. Ann. §177.253.

Paid Vacation

Minnesota does not require employers to provide paid vacation. In addition, employers do not have to pay for unused vacation upon termination of an employee if specified in the employment contract. *Hall v. City of Plainview*, 954 N.W.2d 254 (Minn. 2021).

Smoking Laws

Smoking is prohibited in all indoor spaces, including workplaces. Minn. Stat. § 144.414, Subdiv. 1 (2022).

Minimum Wage

Effective January 1, 2025, Minnesota's minimum wage rates for all employers will increase to \$11.13 per hour. The law still allows a 90-day training rate for workers under the age of 20, which will increase to \$9.08 per hour. Employers are required to provide employees with a written notice of any change before the change takes effect, including a change to the employee's rate of pay.

Overtime

Generally, if an employee works more than 48 hours in a seven-day period, they must be compensated at a rate of one and one-half times the regular rate of pay at which they are employed. Minn. Stat. § 177.25, Subdiv. 1 (2022). Please note FLSA rules still apply. Certain occupations are exempt from the overtime requirements, including but not limited to some agricultural workers, police and firefighters, and certain elected officials. Minn. Stat. §§ 177.23, Subdiv. 7 and 177.25 (2022).

Wage and Recordkeeping

Minnesota law requires employers to keep a record of information, including the name, address, and occupation of each employee, and a list of the personnel policies provided to the employee. In addition, the employer must keep records of the rate of pay, amount paid, hours worked, and number of workweeks for each employee. Other information that the Minnesota Department of Labor and Industry finds necessary is also required to be maintained. Minn. Stat. § 177.30 (2022); Minn. R. 5200.0100 (2022).

The above-mentioned records must be maintained for three years and must be readily available for inspection on demand by the Minnesota Department of Labor and Industry Commissioner. The records must be kept at the place of employment or in a manner that allows for compliance within 72 hours. Minn. Stat. § 177.30(a)(7), (b) (2022).

Final Payments

In Minnesota, an employee who is involuntarily discharged must be paid all wages immediately upon written demand by the employee. Minn. Stat. § 181.13(a) (2022). Other than a few limited circumstances, if an employee voluntarily resigns from employment, their wages must be paid by the next regularly scheduled payday. Minn. Stat. §§ 181.11 and 181.14, Subdiv. 1 (2022).

Pay Transparency

Effective January 1, 2025, Minnesota employers with 30 or more employees will be required to include a salary range or fixed pay rate in all job postings. The listed pay range must be a good-faith estimate by the employer and may not be open-ended. Postings must also include a general description of benefits and other compensation including but not limited to any health or retirement benefits. Minn. Stat. § 181.173 (2024).

Polygraph Testing

Minnesota employers may not directly or indirectly solicit or require a polygraph or any other test for the purposes of determining the honesty of an employee or job applicant. Minn. Stat. Ann. §181.75. If an employee requests a polygraph test, any employer or agent administering the test shall inform the employee that taking the test is voluntary. *Id.*

Non-Compete Agreements

Non-compete agreements in Minnesota are generally void and unenforceable, except in certain limited circumstances. Minn. Stat. Ann. § 181.988. According to the statute, a covenant not to compete does not include a nondisclosure agreement or agreement designed to protect trade secrets or confidential information. A covenant not to compete likewise does not include a non-solicitation agreement, or agreement restricting the ability to use client or contact lists, or to solicit customers of the employer.

Unemployment Insurance

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own.

The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work or until an employer can recall the employee to work. Nothing is deducted from the employee's wages to pay for this coverage. Unemployment benefits are administered by the Department of Employment and Economic Development and additional information regarding the benefits may be accessed at their website.

Workers' Compensation

Minnesota requires workers' compensation for anyone hired to perform services for another, barring a few limited exceptions including independent contractors and sole proprietors. Minn. Stat. §§ 176.011, Subdiv. 9 and 176.041, Subdiv. 1 (2022). A hiring entity can obtain coverage through an insurance provider or a self-insurer. Minn. Stat. § 176.181, Subdiv. 2 (2022). To self-insure, an employer must meet threshold requirements for net worth and current assets-to-liabilities ratio. Minn. Stat. Ann. § 79A.03 (2022). Additionally, the self-insurer must pay a nonrefundable initial application fee of \$4,000, a nonrefundable application fee to join a group of self-insured employers of \$400, and an annual \$500 fee for reporting. Minn. Stat. Ann. § 176.181, Subdiv. 2a (2022).

Child Labor

Generally, 14 is the minimum age for employment under Minnesota state law. Minn. Stat. § 181A.04. Employment of minors is also subject to limitations on the total hours of work, time of day work takes place, and type and location of the work. Minn. Stat. § 181A.12 (2022). No minor under the age of 18 is permitted in a workplace with conditions declared hazardous by the U.S. Department of Labor. Minn. Stat. Ann. § 181A.04.

Gun Laws

The Minnesota Citizens' Personal Protection Act permits public and private employers to restrict the carry or possession of firearms by their employees while acting in the course and scope of employment. Minn. Stat. Ann. § 624.714. However, the lawful possession of firearms within a parking facility or parking area may not be limited by the employer. Minn. Stat. Ann. § 624.714.