

H R A G C LEGAL UPDATE

JUNE 12, 2025

FEDERAL

United States Supreme Court

On June 5, 2025, the U.S. Supreme Court issued a unanimous decision holding that it is improper to hold a majority group plaintiff to a different burden of proof under Title VII, overruling a decision of the 6th Circuit Court of Appeals and remanding the case to the District Court. In this case a heterosexual woman filed suit against the State of Ohio claiming she was denied a promotion and then demoted based on her sexual orientation and in order for a gay man and a gay woman to be hired for the positions. The Court granted summary judgment for the state, finding that plaintiff lacked evidence of "background circumstances" necessary to show a prima facie case of discrimination on her sexual orientation claim, and that she failed to show evidence of pretext on her sex-discrimination claim. The Sixth Circuit Court of Appeals affirmed, and she appealed to the Supreme Court. In a concurring opinion, Justice Thomas raised the question whether the familiar McDonnell Douglas framework for analyzing such claims should continue to be used by the courts. The case is *Ames v. Ohio Department of Youth Services*.

EEOC

The EEOC remains without a quota with two members, meaning it is unable to revise its guidance or issue new policy. But the EEOC issued a press release on May 20, 2025 advising that portions of its 2024 sexual harassment guidance were vacated by a federal judge in Texas, and it has shaded and labeled those sections in the guidance on its website. The judge found that sexual orientation and gender identity are not protected categories under Title VII. The press release highlighted that its Acting Chair opposed those portions "that took the enforcement position that harassing conduct under Title VII includes 'denial of access to a bathroom or other sex-segregated facility consistent with [an] individual's gender identity;' and that harassing conduct includes 'repeated and intentional use of a name or pronoun inconsistent with [an] individual's known gender identity.'" A nominee is pending and once approved the EEOC will have a quorum.

NEW HAMPSHIRE

Legislature

Consideration of bills is underway, and committees are holding public hearings and working through the proposed legislation. A terrific resource to check on the status of a bill is www.legiscan.com/nh.

HB392	This bill directs the dissolution of the department of health and human services' office of health equity department of environmental services' functions for civil rights and environmental justice and the governor's council on diversity and inclusion. The bill was retained in the House Health, Human Services and Elderly Affairs Committee on February 25.
HB128	This bill proposes establishing a committee to study unemployment insurance. The bill was retained in the House Labor, Industrial and Rehabilitative Services Committee on January 31.

HB225	<p>This bill prohibits adverse action on account of a military spouse's involuntary deployment and provides reemployment rights.</p> <p>After being passed by the House the bill was passed by the Senate with amendment on May 15 and the House concurred June 5. It awaits signature by the Governor.</p>
HB238	<p>This bill would prohibit collective bargaining agreements from requiring employees to join or contribute to a labor union.</p> <p>The bill was indefinitely postponed by the House on February 13.</p>
HB280	<p>This bill would repeal the weekly or biweekly wage payments and permit employers to decide when to pay their employees.</p> <p>The bill was passed by the House March 20 with amendment but was deemed Inexpedient to Legislate by the Senate on May 15, killing the bill.</p>
HB282	<p>This bill increases the maximum benefits for first responders critically injured in the line of duty.</p> <p>The bill was passed by the House on April 10 and was passed by the Senate on May 15. It awaits signature by the Governor.</p>
HB299	<p>This bill provides for an award of reasonable attorney's fees and costs to a prevailing party in worker's compensation cases.</p> <p>The bill was deemed Inexpedient to Legislate by the House on February 20.</p>
HB303	<p>Relative to requiring the department of labor review and adopt workers' occupational safety requirements that are similar to OSHA standards.</p> <p>The bill was retained in the House Labor, Industrial and Rehabilitative Services Committee.</p>
HB353	<p>Relative to hearing protection for employees of nightclubs and music venues.</p> <p>This bill was deemed Inexpedient to Legislate by the House on February 6.</p>
HB378	<p>Relative to an employee's unused earned time. This bill requires the payment of unused earned time.</p> <p>The bill was deemed Inexpedient to Legislate by the House on March 20.</p>
HB379	<p>This bill clarifies the number of hours a minor may work and limits the evening hours that may be worked.</p> <p>The bill was deemed Inexpedient to Legislate by the House on March 20.</p>
HB542	<p>This bill updates unemployment benefit payments.</p> <p>The bill was Laid on the Table by the House on March 6.</p>
HB744	<p>Relative to workers' compensation indemnity benefits percentage. The bill increases payments to 66 2/3% of the employee's average weekly wage.</p> <p>The bill was Laid on the Table by the House on March 6.</p>
HB442	<p>Relative to prohibiting payment of subminimum wages for certain tipped workers.</p> <p>The bill was Laid on the Table by the House on March 20.</p>
HR6	<p>A proposed House Resolution condemning the judicial doctrine of "disparate impact."</p> <p>The resolution was deemed Inexpedient to Legislate by the House on January 30.</p>

Peter G. Callaghan, Esq.
Preti Flaherty, PLLP
pcallaghan@preti.com
(603) 410-1500