How Employers Should Reshape AI Use As Laws Evolve

By **Joseph Lockinger and Anna Matsuo** (November 4, 2025)

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Artificial intelligence in the workplace has recently evolved from a promising set of tools to an indispensable mechanism for how people find jobs, build skills and receive support at work.

Recruiters now use AI for a variety of tasks to deliver concrete benefits: saved time, smoother human resources processes and expanded accessibility. For most organizations, this translates into measurable efficiency improvements, such as faster hiring and lower costs per hire.

However, proper governance of these tools is necessary. The governance goal is not to sacrifice the efficiency gains, but to balance them with proportionate risk mitigation so that speed and scale do not entrench bias or obscure decision-making processes behind a curtain of code.

As federal guidance continues to shift away from regulating developers, states and courts have stepped in to shape both the guardrails and the path to realizing AI's upside responsibly.

Here, we explore how evolving laws and regulations are reshaping the use of AI in employment, and offer practical guidance for organizations and developers seeking to balance innovation, compliance and legal defensibility.

Federal Reset

In early 2025, multiple federal agencies — including the U.S. Equal Employment Opportunity Commission and the U.S. Department of Labor — removed key AI guidance documents addressing Title VII, the Americans with Disabilities Act, the Fair Labor Standards Act, the Family and Medical Leave Act, and related obligations in the employment context.[1]

Around the same time, a proposed federal moratorium on state and local AI regulation was stripped from the budget bill, H.R. 1, before enactment, leaving the existing state patchwork fully intact.[2]

In July, the White House **issued** an AI action plan that was anchored in Executive Order No. 14179.[3] The plan rescinds prior directives and sets out a new, nonbinding federal road map focused on workforce training and reskilling; labor market monitoring; procurement updates, including requirements that contracted AI systems be free of ideological bias; and potential funding and enforcement levers, e.g., agency consideration of state AI regulatory climates and a review of Federal Trade Commission enforcement to avoid unnecessarily hindering innovation.

These proposals will require further agency or congressional action to become binding.

Despite the withdrawal of prior guidance, underlying federal laws continue to apply. Title VII, the ADA, the Age

Discrimination in Employment Act, the FMLA, the FLSA, the National Labor Relations Act and other statutes remain enforceable, and the EEOC's 2024-2028 strategic enforcement plan still prioritizes technology-driven discrimination.[4]

As discussed below, employers should not treat the federal reset as a safe harbor against violations of federal employment laws.

State Activity at a Glance

While varying in their specific requirements and enforcement mechanisms, the current state playbook converges on core themes: the need for transparency, bias mitigation, human oversight and accountability.

California's employment-focused automated decision systems regulations, effective Oct. 1, 2025, extend traditional antidiscrimination norms to algorithmic tools by mandating "anti-bias testing or similar proactive efforts to avoid unlawful discrimination," four-year record retention, accommodation-ready processes for tools that analyze physical traits, and recognition of vendor agent liability.[5]

Texas' Responsible Artificial Intelligence Governance Act, effective Jan. 1, 2026, largely spares private employers from onerous obligations and instead promotes innovation through an intent-based standard, attorney general-only enforcement with a notice-and-cure mechanism, defenses tied to recognized risk frameworks and a sandbox for pilots.[6]

Colorado's comprehensive developer-and-deployer model, effective June 30, 2026, requires reasonable care to avoid algorithmic discrimination, and mandates documented risk programs, disclosures, and impact assessments for high-risk systems involved in consequential employment decisions.[7]

By contrast, Virginia Gov. Glenn Youngkin's March **veto** of the High-Risk Artificial Intelligence Developer and Deployer Act, an employment-focused bill, reflects a policy pause and emphasizes the need for proportionality in the obligations being placed on smaller employers that, according to Youngkin, faced an "especially onerous burden" under the bill.[8]

The bill would have enacted a new regulatory framework for employers that develop or use any "high-risk artificial intelligence system," which is defined as a system that is "specifically intended to autonomously make, or be a substantial factor in making, a consequential decision," including concerning employment.

California's October **veto** of the No Robo Bosses Act, which would have required written notice to employees and applicants about AI use, and would have prohibited employers from relying solely on the tools for decision-making, was also viewed as missing the mark.

Gov. Gavin Newsom declared the bill overly broad for failing to directly address incidents of AI misuse, and for imposing requirements on businesses "using even the most innocuous tools."[9]

These vetoes underscore the scrutiny being placed on new regulation, and highlight the value that these tools provide to significantly improve efficiency and decision-making in the employment context.

Litigation Risk Outlook

Courts are also testing and attempting to define the contours of liability for both employers and vendors that are deploying or developing AI tools. Recent cases highlight several key risks.

In Mobley v. Workday Inc., the U.S. District Court for the Northern District of California **agreed** in May to collective treatment of age discrimination claims based on AI-driven applicant screening software, where the plaintiffs allege that the software causes a common disparate impact.[10]

Also in May, a group of more than 200 Amazon workers sent a letter to company executives claiming that the company's automated or semi-automated denials of disability accommodations violate the ADA.[11]

An August lawsuit filed in the U.S. District Court for the Eastern District of Michigan, Harper v. Sirius XM Radio LLC, involves Title VII class allegations that vendor-provided matching and short-listing tools embed proxies for protected traits, e.g., school or geography, resulting in discriminatory outcomes.[12]

These developments show that vendors can be held liable as agents alongside employers; that selection procedures using AI are subject to disparate-impact analysis and must be job-related; and that opaque systems lacking retained records, audit trails or human oversight are the hardest to defend.

What This Means for Workplace AI Programs

To manage risk without sacrificing efficiency and other gains, organizations should implement controls that maintain the benefits of automation while addressing the issues that lead to litigation or other problems.

The most defensible programs combine use-case-specific bias testing and ongoing monitoring with clear documentation of data sources and feature logic. They also require human review for high-stakes decisions, e.g., accommodations, leave or termination, and contracts that ensure vendor cooperation, audit rights and fair allocation of risk.

Considering evolving legal standards, organizations can maximize the innovative benefits and mitigate the risks of using common AI tools by following the strategies below.

Résumé Scanners

Résumé scanners have become essential for high-volume recruiting, converting applications into standardized, comparable signals — such as skills, competencies and relevant experience — so that qualified candidates can be ranked against requirements.

These tools dramatically reduce screening time and apply consistent criteria, but they also carry risks if training data reflects past biases, if scoring logic relies on unreliable proxies, or if keyword lists are poorly curated.

In addition, when rankings lack job-related explanations, they are harder to defend, and if outcomes disproportionately affect protected groups, organizations can expect scrutiny under antidiscrimination law.

To address these risks, organizations should validate scanners for job-relatedness, test for disparate impact and maintain thorough records. This is especially important under California and Colorado law, which require these controls for tools that make or facilitate human decision-making.

By designing these safeguards to be lightweight and repeatable, organizations can retain efficiency while ensuring consistent compliance with obligations. Even if employers are piloting tools in more flexible states like Texas, national deployments should be engineered to meet the strictest standards.

HR Chatbots

HR chatbots streamline HR-related FAQs, candidate triage, interview scheduling, leave routing and onboarding, offering 24/7 service and consistent communication.

However, risks include perpetuating bias, disadvantaging users with disabilities if it is not accessible, and obscuring when interactions are automated.

Allegations of automated denials of disability accommodations highlight the danger of bots making consequential decisions without human review.

California treats chatbots that influence employment outcomes as subject to antidiscrimination and recordkeeping requirements, and potential vendor liability.

Using chatbots in leave and accommodations processes must also comply with the ADA and the FMLA, and employee monitoring may implicate the NLRA and state privacy laws. The key is to set up these tools as decision support, not decision-makers.

Organizations should maintain human oversight, monitor for bias, ensure accessibility, disclose automation, and secure vendor cooperation and documentation rights, all while keeping controls proportionate to preserve efficiency.

Workforce Analytics

Various AI tools that are deployed to provide workforce analytics can help organizations reveal patterns in their workforce that may benefit from further scrutiny, and, when used properly, lead to better decision-making in all aspects of the employment lifecycle, e.g., hiring, retention, productivity and workforce planning.

For example, these tools can analyze and interpret workforce data, which can help HR teams identify problem areas, such as slowed promotions or pay compression.

They can also provide predictive analytics, such as predicting employee turnover, forecasting workforce needs and analyzing performance metrics to identify underutilization.

Employers that are using workforce analytics tools should monitor their impact on employee morale, provide clarity on how and why the tools are being used and what data is analyzed, and focus on ensuring that

employees feel supported and not surveilled.

Employers should proceed cautiously if data is incomplete or inconsistent, and ensure that they understand the context behind data trends before making conclusions regarding them.

State requirements — such as California's testing and recordkeeping, and Colorado's risk program — do not serve to stifle these insights. Instead, they provide a structured framework that should enable confident leadership and garner employee trust when using these tools.

Accessibility

Accessibility features like captioning, live transcription, and speech or image recognition can make meetings and training more inclusive.

Governance for the use of these tools should be calibrated to preserve efficiency, e.g., tiered reviews or sampling audits, while ensuring that the features function as accommodations when needed, and that alternative assessments are available if automated tools might unfairly affect individuals with a disability.

Wearable Technologies

Wearables, such as smartwatches or glasses that monitor employees, and sensors and GPS devices that track location, also provide significant value, including important safety analytics and data to mitigate workplace safety incidents.

Sensors that detect repetitive strain risks or fatigue patterns can also prevent injuries and burnout. However, using the data requires strict purpose limits, role-based access and strict data retention policies.

When employment decisions rely on the collected data, organizations must conduct fairness testing and maintain documentation that is consistent with the emerging standards in California and Colorado.

Key Principles for Employers and Developers

Beyond the steps that are detailed above for common workplace AI tools, employers and developers should keep the following key principles in mind when developing and implementing AI in the workplace:

Inventory and Influence Mapping

Maintain an updated live map of the AI tools used across the employment lifecycle, including recruiting, hiring, performance, accommodations and leave.

Document what each system does, the data it relies on and how outputs influence decisions. Adjust oversight and controls based on the level of influence that each tool has, so that oversight is effective and not overly burdensome.

Human Oversight

Implement escalation protocols and reviewer guidance for high-stakes decisions, using the appropriate level of review to match the decision and, where appropriate, to preserve speed. Always document overrides and the reasoning behind them.

Recordkeeping

Build auditability into workflows by tracking what each tool did, when and with which data. Then, link AI outputs to human decisions, use automated logging where possible to minimize manual burden, and retain records that are related to automated decision systems, consistent with state requirements.

Vendor Governance

Do your due diligence when it comes to vendors' training data, fairness testing and mitigation practices.

Align on appropriate audit rights, cooperation obligations and indemnities in contracts in a way that makes sense for the tool in question.

Consider favoring vendors that follow recognized risk frameworks, such as those set forth by the National Institute of Standards and Technology, and offer prepackaged compliance controls.

Accessibility and Accommodations

Ensure that there are clear processes for accommodations or alternative assessments, especially when tools analyze physical or behavioral traits. Integrate these processes into workflows to avoid unnecessary delays in providing necessary accommodations.

Training and Transparency

Train HR, legal and management teams on state-specific requirements and the operational details of deployed tools.

Provide clear notices to employees and applicants where automation is used, and track operational key performance indicators, e.g., time to fill, cost per hire and throughput, alongside compliance metrics to ensure that the program supports both efficiency and fairness.

Bottom Line

State AI regimes and court decisions now set the standard for responsible workplace AI. Across varying approaches, the path forward is consistent: Innovate to the highest standard and balance risk controls against operational efficiency.

Design for transparency, fairness and auditability; pilot where flexibility exists; and scale solutions that satisfy California- and Colorado-level demands without losing Texas-style agility.

Done well, compliance becomes the steering that keeps efficiency gains on the road — protecting users and preserving the value proposition of AI-enabled HR.

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[1] https://www.law360.com/employment-authority/articles/2288280/ai-guidance-about-face-shouldn-t-alter-employers-approach.

[2] https://www.congress.gov/bill/119th-congress/house-bill/1/text.

[3] https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf.

[4] https://www.eeoc.gov/strategic-enforcement-plan-fiscal-years-2024-2028.

[5] https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2025/06/Notice-of-Approval-regulations-automated-employment-decision-systems.pdf.

[6] https://capitol.texas.gov/tlodocs/89R/billtext/pdf/HB00149I.pdf.

[7] https://leg.colorado.gov/sites/default/files/2024a_205_signed.pdf.

[8] https://lis.virginia.gov/bill-details/20251/HB2094/text/HB2094VG.

[9] https://www.gov.ca.gov/wp-content/uploads/2025/10/SB-7-Veto.pdf.

[10] Mobley v. Workday Inc., No. 3:23-cv-00770-RFL (N.D. Cal. May 16, 2025).

[11] https://www.theguardian.com/us-news/2025/jun/30/disabled-amazon-workers-discrimination.

[12] Harper v. Sirius XM Radio LLC, No. 2:25-cv-12403 (E.D. MI Aug. 4, 2025).