Index

ACTIONS
See also Arbitration
Americans With Disabilities Act of 1990
drug testing, **§ 3:30**
genetic testing, **§ 12:12**
HIV testing, **§ 11:15**
Civil Rights Act of 1964
fetal vulnerability policies, **§ 10:7-10:22**
genetic testing, **§ 12:10**
Drug testing
intrusive actions, employer justification for, **§ 1:2**
Labor-Management Relations Act, preemption, **§ 5:7**
National Labor Relations Act, preemption, **§ 5:8**
preemption
Labor-Management Relations Act, **§ 5:7**
National Labor Relations Act, **§ 5:8**
Railway Labor Act, **§ 5:9**
Railway Labor Act, preemption, **§ 5:9**
Rehabilitation Act of 1973, **§ 3:29**
Emotional distress, intentional
HIV testing, **§ 11:92**
Fetal vulnerability policies
anti-discrimination laws, state, **§ 10:16**
Civil Rights Act of 1964, **§ 10:7-10:22**
reproductive hazards, **§ 10:17**
state statutes, **§ 10:16, 10:17**
Genetic testing
Americans With Disabilities Act of 1990, **§ 12:12**
Civil Rights Act of 1964, **§ 12:10**
National Labor Relations Act, **§ 12:14**

ACTIONS—Cont'd
Genetic testing—Cont'd
Rehabilitation Act of 1973, **§ 12:11**
HIV testing
Americans With Disabilities Act of 1990, **§ 11:15**
common law, **§ 11:89**
denial
unemployment compensation benefits, **§ 11:93**
discrimination
wrongful discharge, **§ 11:90**
emotional distress, **§ 11:92**
fear of AIDS, **§ 11:95**
invasion of privacy, **§ 11:91**
Rehabilitation Act of 1973, **§ 11:14**
Intrusive actions, employer justification for, **§ 1:2**
Invasion of privacy
HIV testing, **§ 11:91**
National Labor Relations Act, preemption
drug testing, **§ 5:8**
Rehabilitation Act of 1973
drug testing, **§ 3:29**
genetic testing, **§ 12:11**
HIV testing, **§ 11:14**
Unemployment compensation
HIV testing, **§ 11:93**

ADMISSIBILITY
Polygraph testing
weight, **§ 6:84**

AIDS, HIV
Medical screening
workplace risks, **§ 11:5**

AIDS TESTING
See HIV Testing

ALABAMA
Drug testing, **§ 4A:2**
HIV testing, **§ 11:19**

ALABAMA—Cont'd
Polygraph testing, **§ 6:22**

ALASKA
Drug testing, **§ 4A:3**
Genetic testing, **§ 12:17**
HIV testing, **§ 11:59**
Polygraph testing, **§ 6:23**
Psychological and honesty testing, **§ 7:18**
Sexual orientation and gender identity discrimination, **§ 9:19**

AMERICANS WITH DISABILITIES ACT OF 1990
Definition
currently engaging in illegal use of drugs, **§ 3:30**
Drug testing, **§ 3:30**
Genetic testing, **§ 12:12**
HIV testing
infection, asymptomatic, **§ 11:15**
Polygraph testing, **§ 6:20**
Psychological and honesty testing, **§ 7:16**
Qualified individuals
HIV-positive persons, **§ 11:15**
Sexual orientation and gender identity discrimination, **§ 9:17**

ARBITRATION
See also Actions; Unionized Employers
Drug testing
accuracy, **§ 5:18**
arbitral treatment, **§ 5:11**
award challenges, **§ 5:24**
discipline, **§ 5:21**
failure to pursue grievances, **§ 5:25**
impairment, **§ 5:20**
injunctions pending, **§ 5:10**
off-duty use, **§ 5:20**
periodic, **§ 5:15**
post-accident, **§ 5:14**
preemployment, **§ 5:12**
privacy issues, **§ 5:19**
random, **§ 5:13**
reasonable suspicion, **§ 5:17**
refusal of tests, **§ 5:22**
rehabilitation plans, **§ 5:16**

ARBITRATION—Cont'd
Electronic monitoring and surveillance, **§ 8A:62-8A:64**
HIV testing, **§ 11:98**
Polygraph testing
employer use, **§ 6:80**
Searches
arbitral treatment, **§ 8:22**
collective bargaining agreements, **§ 8:27**
employee property outside workplace, **§ 8:25**
employee property in workplace, **§ 8:24**
employer policies, **§ 8:27**
employer property, **§ 8:23**
personal, **§ 8:26**

ARBITRATION CASES
Psychological and honesty testing, **§ 7:47**

ARIZONA
Drug testing, **§ 4A:4**
Genetic testing, **§ 12:18**
HIV testing, **§ 11:20, 11:60**
Polygraph testing, **§ 6:24**
Sexual orientation and gender identity discrimination, **§ 9:20**

ARKANSAS
Drug testing, **§ 4A:5, 12:19**
Electronic monitoring and surveillance, **§ 8A:23**
Genetic testing, **§ 12:19**
HIV testing, **§ 11:61**
Polygraph testing, **§ 6:25**
Sexual orientation discrimination, **§ 9:21**

ATTORNEY-CLIENT PRIVILEGE
Claims of waiver by employees and former employees, **§ 8A:56**

BENEFITS
Electronic monitoring and surveillance, **§ 8A:3**

BREACH OF COVENANT
Good faith, fair dealing
common law challenges
drug testing, **§ 4:12**

BREACH OF EMPLOYMENT
Based on policies
common law challenges
drug testing, **§ 4:13**

CALIFORNIA
Drug testing, **§ 4A:6**
Electronic monitoring and surveillance, **§ 8A:24**
Fetal vulnerability policies, **§ 10:18**
Genetic testing, **§ 12:20**
HIV testing, **§ 11:21, 11:62**
Off-duty conduct, **§ 13:13**
Polygraph testing, **§ 6:26**
Psychological and honesty testing, **§ 7:19**
Sexual orientation and gender identity discrimination, **§ 9:22**

CIVIL RIGHTS ACT OF 1964
AIDS
awareness training, **§ 11:17**
sexual harassment, **§ 11:17**
Drug testing, **§ 4:3**
Fetal vulnerability policies
EEOC position, **§ 10:10**
historical treatment, **§ 10:7**
International Union, United Automobile Workers of America v. Johnson Controls, Inc., **§ 10:11**
lower court analysis
before Johnson Controls, **§ 10:9**
lower court decisions, **§ 10:13**
need for Constitutional challenges, **§ 10:4**
privacy, **§ 10:5**
Supreme Court analysis, **§ 10:8**
Supreme Court decisions, **§ 10:12**
Genetic testing, **§ 12:10**
Polygraph testing, **§ 6:19**
Psychological and honesty testing, **§ 7:14**
Sexual harassment
AIDS, **§ 11:17**

COLLECTIVE BARGAINING
See Unionized Employers

COLORADO
Drug testing, **§ 4A:7**
Electronic monitoring and surveillance, **§ 8A:25**
HIV testing, **§ 11:22, 11:63**
Off-duty conduct, **§ 13:14**
Sexual orientation and gender identity discrimination, **§ 9:23**

COMMON LAW
Challenges to employer
Emotional distress
searches, **§ 8:14**
Searches
emotional distress, **§ 8:14**
False imprisonment
employer searches, **§ 8:15**
Invasion of privacy
searches, **§ 8:13**
Searches
challenges to employee generally, **§ 8:12**
invasion of privacy, **§ 8:13**

COMMON LAW CHALLENGES
Drug testing
Defamation, **§ 4:8**
invasion of privacy, **§ 4:7**
Negligence, **§ 4:10**
private sector employers, **§ 4:6**
National Labor Relations Act, preemption
searches, **§ 8:20**
Preemption, federal labor laws
searches, **§ 8:20**
Searches
common law
federal preemption, **§ 8:20**
preemption, federal labor laws, **§ 8:20**

COMMON-LAW RESTRICTIONS
Polygraph testing
assault, battery, false imprisonment, **§ 6:71**
defamation, **§ 6:69**
infliction, emotional distress, **§ 6:68**
invasion of privacy, **§ 6:67**

COMMON-LAW RESTRICTIONS —Cont'd
Polygraph testing—Cont'd
negligence, **§ 6:70**
other state law claims, **§ 6:74**
refusal to submit
grounds for discharge, **§ 6:73**
wrongful discharge
violation of public policy, **§ 6:72**

COMMUNICATIONS OF EMPLOYEE
Electronic monitoring and surveillance, **§ 8A:6**

COMPUTER MONITORING
Electronic monitoring and surveillance, **§ 8A:8**

CONFIDENTIALITY-SENSITIVE JOBS
See Drug Testing

CONNECTICUT
Drug testing, **§ 4A:8**
Electronic monitoring and surveillance, **§ 8A:26**
Fetal vulnerability policies, **§ 10:19**
Genetic testing, **§ 12:21**
HIV testing, **§ 11:23**
Off-duty conduct, **§ 13:15**
Polygraph testing, **§ 6:27**
Psychological and honesty testing, **§ 7:20**
Sexual orientation and gender identity discrimination, **§ 9:24**
State Anti-Discrimination Statutes
HIV testing, **§ 11:64**

CONSENT EXEMPTION
Omnibus Crime Control and Safe Streets Act 1968
Electronic monitoring and surveillance, **§ 8A:15**

CONSTITUTIONAL CHALLENGES
Drug testing
privacy
rights, **§ 3:28**
right to privacy, **§ 3:28**

CONSTITUTIONAL CHALLENGES—Cont'd
Privacy, right to
drug testing, **§ 3:28**

CONSTITUTIONAL ISSUES
See also Privacy Rights
See Sexual Orientation Discrimination
Challenges to employer
Privacy, right to
HIV testing, **§ 11:11**
Discrimination based on HIV status or AIDS, **§ 11:12**
Drug testing, **§ 3:3-3:28**
accuracy, **§ 3:22**
challenge elements, **§ 3:3**
due process, **§ 3:27**
early fourth Amendment challenges, **§ 3:4**
Early Fourth Amendment challenges
Implications, Skinner and Von Raab, **§ 3:7**
National Treasury Employees Union v. Von Raab, **§ 3:6**
Skinner v. Railway Labor Executives Ass'n, **§ 3:5**
equal protection, **§ 3:24**
First Amendment, **§ 3:26**
Fourth Amendment application, **§ 3:23**
lower court rulings
Skinner and Von Raab, **§ 3:8**
need, **§ 3:20**
particular program, **§ 3:20**
post-accident, **§ 3:18**
privacy
protections, **§ 3:21**
Protections to privacy, **§ 3:21**
random, **§ 3:17**
reasonable suspicion, **§ 3:19**
routine periodic, **§ 3:16**
self-incrimination, **§ 3:25**
Drug testing programs
particular, **§ 3:20**
Due process
drug testing, **§ 3:27**
polygraph testing, **§ 6:11**

CONSTITUTIONAL ISSUES —Cont'd
Due process—Cont'd
psychological and honesty testing, **§ 7:9**
Electronic monitoring and surveillance, **§ 8A:4-8A:11**
Employer searches
effect of regulations, **§ 8:9**
Equal protection
polygraph testing, **§ 6:10**
Equal protection, discrimination based on HIV status or AIDS, **§ 11:12**
Fetal vulnerability policies
privacy, **§ 10:5**
First Amendment
drug testing, **§ 3:26**
psychological or honesty testing as violation of, **§ 7:6**
Fourth Amendment
challenges to fetal vulnerability, **§ 10:6**
drug testing, **§ 3:3-3:28**
genetic testing, **§ 12:6**
HIV testing, **§ 11:10**
psychological and honesty testing as violation of, **§ 7:5**
searches, **§ 8:3-8:10**
Freedom of belief
psychological testing as violation of, **§ 7:7**
Genetic testing
Fourth Amendment, **§ 12:6**
privacy, right to, **§ 12:7**
HIV testing
Fourth Amendment, **§ 11:10**
privacy
right to, **§ 11:11**
Importance
Polygraph testing
generally, **§ 6:7**
Polygraph testing
due process, **§ 6:11**
equal protection, **§ 6:10**
privacy, right to, **§ 6:9**
self-incrimination, **§ 6:8**

CONSTITUTIONAL ISSUES —Cont'd
Privacy, right to
genetic testing, **§ 12:7**
HIV testing, **§ 11:11**
polygraph testing, **§ 6:9**
searches, **§ 8:11**
Psychological and honesty testing
equal protection, as violation of, **§ 7:10**
First Amendment, violation of, **§ 7:6**
Fourth Amendment, violation of, **§ 7:5**
right to privacy, as violation of, **§ 7:8**
Searches
generally, **§ 8:3-8:11**
employee property, **§ 8:7**
employee property within and outside workplace, **§ 8:7**
employer property, **§ 8:6**
exclusionary rule, **§ 8:10**
Fourth Amendment challenges, **§ 8:3**
lower court decisions, **§ 8:5**
O'Connor v. Ortega, **§ 8:4**
persons, **§ 8:8**
privacy, right to, **§ 8:11**
Searches of employer property
employees interest, **§ 8:6**
Self-incrimination
drug testing, **§ 3:25**
polygraph testing, **§ 6:8**
Types of drug testing
preemployment, **§ 3:15**

COSTS
Electronic monitoring and surveillance, **§ 8A:3**

COSTS, ECONOMIC AND HUMAN
Drug testing, **§ 2:6**
Psychological and honesty testing, **§ 7:4**

DEFAMATION
Drug testing
common law challenges, **§ 4:8**

DEFINITIONS
See Words and Phrases

DELAWARE
Drug testing, **§ 4A:9**
Electronic monitoring and surveillance, **§ 8A:27**
Genetic testing, **§ 12:22**
HIV testing, **§ 11:24**
Off-duty conduct, **§ 13:16**
Polygraph testing, **§ 6:28**
Psychological and honesty testing, **§ 7:21**
Sexual orientation and gender identity discrimination, **§ 9:25**

DISABILITIES
See Americans With Disabilities Act of 1990; Rehabilitation Act of 1973

DISABILITY CLAIMS
Electronic monitoring and surveillance, **§ 8A:54**

DISCHARGE
Psychological and honesty testing, **§ 7:40**

DISCIPLINARY ACTIONS
Psychological and honesty testing, **§ 7:40**

DISCIPLINE
Electronic monitoring and surveillance, challenges, arbitration decisions, **§ 8A:64**

DISCLOSURE TO STORED COMMUNICATIONS BY SERVICE PROVIDER
Electronic monitoring and surveillance, **§ 8A:19**

DISCRIMINATION
See Americans With Disabilities Act of 1990; Civil Rights Act of 1964; Rehabilitation Act of 1973; Sexual Orientation Discrimination

DISTRICT OF COLUMBIA
Drug testing, **§ 4A:10**

DISTRICT OF COLUMBIA —Cont'd
Genetic testing, **§ 12:23**
Polygraph testing, **§ 6:29**
Sexual orientation and gender identity discrimination, **§ 9:26**
State Anti-Discrimination Statutes
HIV testing, **§ 11:65**

DRUG-FREE WORKPLACE ACT OF 1988
See Drug Testing

DRUG TESTING
See also Drug Use; Preemployment Screenings; Public Health and Safety
Accuracy
arbitration, **§ 5:18**
constitutional issues, **§ 3:22**
Actions
Civil Rights Act of 1964, **§ 4:3**
Labor-Management Relations Act, preemption, **§ 5:7**
Railway Labor Act, preemption, **§ 5:9**
Rehabilitation Act of 1973, **§ 3:29**
Adulteration of sample
discipline, **§ 5:23**
Arbitration
accuracy, **§ 5:18**
arbitral treatment, **§ 5:11**
award challenges, **§ 5:24**
discipline, **§ 5:21**
failure to pursue grievances, **§ 5:25**
use, positive tests, **§ 5:25**
impairment, **§ 5:20**
injunctions pending, **§ 5:10**
off-duty use, **§ 5:20**
periodic, **§ 5:15**
post-accident, **§ 5:14**
preemployment, **§ 5:12**
privacy issues, **§ 5:19**
random, **§ 5:13**
reasonable suspicion, **§ 5:17**
refusal of tests, **§ 5:22**
rehabilitation plans, **§ 5:16**

DRUG TESTING—Cont'd
Arkansas
genetic monitoring implications, **§ 12:19**
Challenges to enforcement
enforcement of arbitration awards, **§ 5:24**
Civil Rights Act of 1964, **§ 4:3**
Common law
federal preemption, **§ 5:7-5:9**
other challenges, **§ 4:15**
Common law challenges
Breach of covenant
good faith, fair dealing, **§ 4:12**
Denial of unemployment benefits
positive test, **§ 4:16**
grounds for discharge, **§ 4:14**
Intentional, negligent, emotional distress, **§ 4:9**
Common law challenges
invasion of privacy, **§ 4:7**
Constitutional issues
generally, **§ 3:3-3:28**
challenge elements, **§ 3:3**
due process, **§ 3:27**
early cases, **§ 3:4**
early Fourth Amendment challenges, **§ 3:4**
Early Fourth Amendment challenges
Implications of Skinner and Von Raab, **§ 3:7**
National Treasury Employees Union v. Von Raab, **§ 3:6**
Skinner v. Railway Labor Executives Ass'n, **§ 3:5**
equal protection, **§ 3:24**
First Amendment, **§ 3:26**
Fourth Amendment application, **§ 3:23**
lower court rulings
Skinner and Von Raab, **§ 3:8**
need, **§ 3:20**
post-accident, **§ 3:18**
preemployment, **§ 3:15**
privacy
right to, **§ 3:28**
random, **§ 3:17**

DRUG TESTING—Cont'd
Constitutional issues—Cont'd
reasonable suspicion, **§ 3:19**
right to privacy, **§ 3:28**
routine periodic, **§ 3:16**
self-incrimination, **§ 3:25**
Costs, Economic and human, **§ 2:6**
Discipline
for attempts to interfere, **§ 5:23**
Drug-Free Workplace Act of 1998, **§ 4:2**
Drug usage
off-duty, arbitration, **§ 5:20**
Duty to bargain
National Labor Relations Act, **§ 5:3**
Effectiveness, **§ 2:5**
Extent, **§ 2:3**
employment, **§ 2:3**
Fifth Amendment issues
self-incrimination, **§ 3:25**
Follow-up treatment, **§ 5:16**
Fourth amendment challenges
Chandler v. Miller, **§ 3:12**
Implications, Chandler, **§ 3:13**
Lower court application, Chandler, **§ 3:14**
Fourth Amendment issues
generally, **§ 3:3-3:28**
challenge elements, **§ 3:3**
Implications of Acton, **§ 3:10**
lower court application of Acton, **§ 3:11**
lower court rulings, **§ 3:8**
periodic, **§ 3:16**
post-accident, **§ 3:18**
privacy
protections, **§ 3:21**
Protections to privacy, **§ 3:21**
random testing, **§ 3:17**
reasonable suspicion, **§ 3:19**
routine, **§ 3:16**
Vernonia School District 47J v. Acton, **§ 3:9**
Guidelines
federal agencies, **§ 3:33**

DRUG TESTING—Cont'd
Guidelines, Health and Human Services, **§ 3:33**
Federal Workplace Drug Testing Programs, **§ 3:33**
Interference
discipline for, **§ 5:23**
Intrusive actions, employer justifications for, **§ 1:2**
Labor-Management Relations Act, state law preemption, **§ 5:7**
Methods, **§ 2:4**
National Labor Relations Act
preemption, state law claims, **§ 5:8**
term and condition of employment, **§ 5:4**
Off-duty use
arbitration, **§ 5:20**
Omnibus Transportation Employee Testing Act of 1991, **§ 3:32**
On-duty impairment, **§ 5:20**
Periodic
Fourth Amendment challenge, **§ 3:16**
Positive result discipline, **§ 5:21**
Post-accident
arbitration, **§ 5:14**
Preemployment
arbitration, **§ 5:12**
constitutional issues, **§ 3:15**
Preemption, state law claims
Labor-Management Relations Act, **§ 5:7**
National Labor Relations Act, **§ 5:8**
Railway Labor Act, **§ 5:9**
Privacy
arbitration, **§ 5:19**
Private sector
Civil Rights Act of 1964, **§ 4:3**
federal legislation, **§ 4:1**
state statutes, **§ 4A:1-4:50**
Title VII, **§ 4:3**
unionized employers, **§ 5:1-5:25**
Private sector employers
other statutory regulation, **§ 4:5**
state statutes, **§ 4:4**

DRUG TESTING—Cont'd
Public sector
generally, **§ 3:1**
Americans With Disabilities Act of 1990, **§ 3:30**
constitutional issues, **§ 3:3-3:28**
Drug-Free Workplace Act of 1988, **§ 3:31**
executive order No. 12,564, **§ 3:2**
Fourth Amendment issues, **§ 3:3-3:28**
guidelines, federal, **§ 3:33**
history, **§ 3:1**
regulatory issues, **§ 3:29-3:34**
Rehabilitation Act of 1973, **§ 3:29**
statutory issues, **§ 3:29-3:34**
Railway Labor Act
preemption, state law claims, **§ 5:9**
Random
arbitration, **§ 5:13**
collective bargaining, **§ 5:13**
constitutional issues, **§ 3:17**
Reasonable suspicion
arbitration, **§ 5:17**
constitutional issues, **§ 3:19**
Refusal to be tested
arbitration, **§ 5:22**
Rehabilitation, **§ 5:16**
Rehabilitation Act of 1973, **§ 3:29**
Routine
arbitration, **§ 5:15**
constitutional issues, **§ 3:16**
Fourth Amendment challenge, **§ 3:16**
State statutes
generally, **§ 4A:1**
Alabama, **§ 4A:2**
Alaska, **§ 4A:3**
Arizona, **§ 4A:4**
Arkansas, **§ 4A:5**
California, **§ 4A:6**
Colorado, **§ 4A:7**
Connecticut, **§ 4A:8**
Delaware, **§ 4A:9**
District of Columbia, **§ 4A:10**
Florida, **§ 4A:11**
Georgia, **§ 4A:12**
Hawaii, **§ 4A:13**

DRUG TESTING—Cont'd
State statutes—Cont'd
Idaho, **§ 4A:14**
Illinois, **§ 4A:15**
Indiana, **§ 4A:16**
Iowa, **§ 4A:17**
Kansas, **§ 4A:18**
Kentucky, **§ 4A:19**
Louisiana, **§ 4A:20**
Maine, **§ 4A:21**
Maryland, **§ 4A:22**
Massachusetts, **§ 4A:23**
Michigan, **§ 4A:24**
Minnesota, **§ 4A:25**
Mississippi, **§ 4A:26**
Missouri, **§ 4A:27**
Montana, **§ 4A:28**
Nebraska, **§ 4A:29**
Nevada, **§ 4A:30**
New Hampshire, **§ 4A:31**
New Jersey, **§ 4A:32**
New Mexico, **§ 4A:33**
New York, **§ 4A:33.50**
North Carolina, **§ 4A:34**
North Dakota, **§ 4A:35**
Ohio, **§ 4A:36**
Oklahoma, **§ 4A:37**
Oregon, **§ 4A:38**
Pennsylvania, **§ 4A:39**
public employment, **§ 3:34**
Rhode Island, **§ 4A:40**
South Carolina, **§ 4A:41**
South Dakota, **§ 4A:42**
Tennessee, **§ 4A:43**
Texas, **§ 4A:44**
Utah, **§ 4A:45**
Vermont, **§ 4A:46**
Virginia, **§ 4A:47**
Washington, **§ 4A:48**
West Virginia, **§ 4A:49**
Wisconsin, **§ 4A:50**
Terms and condition of employment
National Labor Relations Act, application, **§ 5:4**
Union attitude, **§ 5:2**
Unionized employers
arbitration, **§ 5:10-5:25**
award challenges, **§ 5:24**

DRUG TESTING—Cont'd
Unionized employers—Cont'd
considerations, **§ 5:1**
discipline for attempts to interfere, **§ 5:23**
duty to bargain, **§ 5:3**
enforcement of arbitration awards, **§ 5:24**
follow-up treatment, **§ 5:16**
injunctions pending arbitration, **§ 5:10**
Labor-Management Relations Act, **§ 5:7**
National Labor Relations Act, **§ 5:3, 5:4, 5:8**
off-duty use, arbitration, **§ 5:20**
on-duty impairment, **§ 5:20**
periodic, arbitration, **§ 5:15**
positive result discipline, **§ 5:21**
post-accident, arbitration, **§ 5:14**
preemployment arbitration, **§ 5:12**
preemption, state law claims, **§ 5:7-5:9**
privacy issues, arbitration, **§ 5:19**
Railway Labor Act, **§ 5:5, 5:6, 5:9**
random, arbitration, **§ 5:13**
reasonable suspicion, arbitration, **§ 5:17**
refusal of tests, arbitration, **§ 5:22**
refusal to be tested, **§ 5:22**
rehabilitation, **§ 5:16**
routine, arbitration, **§ 5:15**
term and condition of employment, **§ 5:4**
terms and conditions of employment, **§ 5:4**
Urinalysis
observation of urine production, **§ 5:16**
Wrongful discharge
common law challenges, **§ 4:11**

DRUG USE
See also Drug Testing
Effect
employees, **§ 2:2**
Effect of drug use by employees, **§ 2:2**

DRUG USE—Cont'd
Intrusive actions, employer justifications for, **§ 1:2**
Off-duty use, unionized employees, **§ 5:20**
Society, among employees, **§ 2:1**
Testing
as response to, **§ 2:1-2:6**
Unionized employees
off-duty use, **§ 5:20**

DUE PROCESS
See Sexual Orientation Discrimination
Off duty conduct, employer regulation of, **§ 13:8**
Psychological and honesty testing, **§ 7:9**

DUTY TO BARGAIN
Psychological and honesty testing, **§ 7:44**

EFFECTIVENESS
Drug testing, **§ 2:5**

EFFECT OF REGULATIONS
Employer searches
constitutional issues, **§ 8:9**

ELECTRONIC COMMUNICATIONS
Monitoring and surveillance
California, **§ 8A:24**
First Amendment implications, **§ 8A:11**
Maryland, **§ 8A:31**
Rhode Island, **§ 8A:43**

ELECTRONIC COMMUNICATIONS ACT OF 1986
See Omnibus Crime Control and Safe Streets Act of 1968

ELECTRONIC MONITORING AND SURVEILLANCE
Generally, **§ 8A:1 et seq.**
Arbitral treatment
employer monitoring and surveillance, **§ 8A:62**
Arbitration decisions, **§ 8A:62-8A:64**

ELECTRONIC MONITORING AND SURVEILLANCE —Cont'd
Arkansas, **§ 8A:23**
Benefits, **§ 8A:3**
California, **§ 8A:24**
Colorado, **§ 8A:25**
Common law restrictions
Generally, **§ 8A:52-8A:56**
disability claims, **§ 8A:54**
emotional distress, **§ 8A:52**
intentional infliction of emotional distress, **§ 8A:52**
invasion of privacy, **§ 8A:53**
other challenges to employer, **§ 8A:55**
worker's compensation claims, **§ 8A:54**
Communications of employee, **§ 8A:6**
Computer monitoring, **§ 8A:8**
Connecticut, **§ 8A:26**
Consent exemption, **§ 8A:15**
Constitutional restrictions, **§ 8A:4-8A:11**
Costs, **§ 8A:3**
Delaware, **§ 8A:27**
Disability claims, **§ 8A:54**
Discipline, challenges to, arbitration decisions, **§ 8A:64**
Effect of practice or policy of monitoring, **§ 8A:9**
Emotional distress, **§ 8A:52**
Exemption, **§ 8A:15, 8A:16**
Federal regulation
Generally, **§ 8A:12-8A:20**
consent exemption, **§ 8A:15**
exemption, **§ 8A:15, 8A:16**
Omnibus Crime Control and Safe Streets Act of 1968, **§ 8A:12-8A:20**
First Amendment implications, **§ 8A:11**
Fourth Amendment violations
Generally, **§ 8A:4-8A:9**
communications of employee, **§ 8A:6**
computer monitoring, **§ 8A:8**

ELECTRONIC MONITORING AND SURVEILLANCE —Cont'd
Fourth Amendment violations —Cont'd
effect of practice or policy of monitoring, **§ 8A:9**
monitoring and surveillance, **§ 8A:4**
video surveillance, **§ 8A:5**
Illinois, **§ 8A:28**
Intentional infliction of emotional distress, **§ 8A:52**
Justifications, **§ 8A:2**
Labor Management Relations Act, **§ 8A:60**
Louisiana, **§ 8A:29**
Maine, **§ 8A:30**
Maryland, **§ 8A:31**
Methods and extent, **§ 8A:1**
Michigan, **§ 8A:32**
Missouri, **§ 8A:33**
Montana, **§ 8A:34**
National Labor Relations Act, **§ 8A:58**
Nebraska, **§ 8A:35**
Nevada, **§ 8A:36**
New Hampshire, **§ 8A:37**
New Jersey, **§ 8A:38**
New Mexico, **§ 8A:39**
New York, **§ 8A:40**
Oklahoma, **§ 8A:41**
Omnibus Crime Control and Safe Streets Act 1968
Access to stored communications, **§ 8A:18**
Definitions, **§ 8A:13**
Disclosure to stored communications by service provider, **§ 8A:19**
Electronic communications, definition, **§ 8A:13**
Exemption, **§ 8A:17**
Federal regulation
access to stored communications, **§ 8A:18**
definitions, **§ 8A:13**

ELECTRONIC MONITORING AND SURVEILLANCE —Cont'd
Omnibus Crime Control and Safe Streets Act 1968—Cont'd
Federal regulation—Cont'd
disclosure to stored communications by service provider, **§ 8A:19**
electronic communications, definition, **§ 8A:13**
exemption, **§ 8A:17**
oral communications, definition, **§ 8A:13**
ordinary course of business exemption, **§ 8A:16**
provider of wire or electronic communication service, exemption, **§ 8A:17**
restrictions, **§ 8A:14**
USA Patriot Act, **§ 8A:20**
wire communications, definition, **§ 8A:13**
Indirect regulation, **§ 8A:21**
State statutes
indirect regulation, **§ 8A:21**
Oregon, **§ 8A:42**
Policies, challenges to, arbitration decisions, **§ 8A:63**
Position of unions, **§ 8A:57**
Preemption of common law challenges, **§ 8A:60**
National Labor Relations Act, **§ 8A:58**
Privacy, constitutional right to, **§ 8A:10**
Railway Labor Act, **§ 8A:59, 8A:61**
Rhode Island, **§ 8A:43**
South Dakota, **§ 8A:44**
State statutes
Generally, **§ 8A:21-8A:51**
California, **§ 8A:24**
Connecticut, **§ 8A:26**
Delaware, **§ 8A:27**
Illinois, **§ 8A:28**
Missouri, **§ 8A:33**
Montana, **§ 8A:34**
Nebraska, **§ 8A:35**
New York, **§ 8A:40**

ELECTRONIC MONITORING AND SURVEILLANCE —Cont'd
State statutes—Cont'd
Rhode Island, **§ 8A:43**
South Dakota, **§ 8A:44**
Tennessee, **§ 8A:45**
West Virginia, **§ 8A:50**
Wisconsin, **§ 8A:51**
State statutes dealing, **§ 8A:22**
Tennessee, **§ 8A:45**
Unionized employers, **§ 8A:57**
Generally, **§ 8A:57-8A:64**
discipline, challenges to, arbitration decisions, **§ 8A:64**
Labor Management Relations Act, **§ 8A:60**
National Labor Relations Act, **§ 8A:58**
position of unions, **§ 8A:57**
Railway Labor Act, **§ 8A:59**
Union positions, **§ 8A:57**
Utah, **§ 8A:46**
Vermont, **§ 8A:47**
Video surveillance, **§ 8A:5**
Virginia, **§ 8A:48**
Washington, **§ 8A:49**
West Virginia, **§ 8A:50**
Wisconsin, **§ 8A:51**
Worker's compensation claims, **§ 8A:54**

EMOTIONAL DISTRESS
Electronic monitoring and surveillance, **§ 8A:52**

EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988
See also Polygraph Testing
Psychological and honesty testing, **§ 7:13**
Statutory regulations
Polygraph testing, **§ 6:12**

EMPLOYEE PRIVACY RIGHTS
Importance, **§ 1:4**
Need for recognition of, **§ 1:3**
Private information
Scope, **§ 1:5**
Scope, **§ 1:5**

EMPLOYERS
See Private Sector Employers; Public Sector Employers; Unionized Employers
Searches
common-law actions, **§ 8:12**
invasion of privacy, **§ 8:13**
unemployment compensation benefits, **§ 8:17**

EMPLOYER SEARCHES
See Searches
Common law
federal preemption, **§ 8:20, 8:21**
Common law
defamation, **§ 8:16**
Constitutional issues
effect of regulations, **§ 8:9**
Defamation
searches, **§ 8:16**
Labor-Management Relations Act
preemption, state law claims, **§ 8:20**
National Labor Relations Act
preemption, state law claims, **§ 8:20**
searches, **§ 8:20**
searches, **§ 8:20**
Preemption, federal labor laws, **§ 8:20, 8:21**
Preemption, federal labor laws
Railway Labor Act, **§ 8:21**
Preemption, state law claims
National Labor Relations Act, **§ 8:20**
Preemption, state law claims
National Labor Relations Act, **§ 8:20**
searches, **§ 8:20**
Searches
defamation, **§ 8:16**
federal preemption, **§ 8:20**
preemption, state law claims, **§ 8:20**

EMPLOYMENT
Drug testing
extent, **§ 2:3**

EQUAL PROTECTION
Discrimination based on HIV status or AIDS, **§ 11:12**

EQUAL PROTECTION VIOLATION
Psychological and honesty testing, **§ 7:10**
Sexual orientation and gender identity discrimination, **§ 9:6**

EXEMPTION
Electronic monitoring and surveillance, **§ 8A:15-8A:17**

EXTENT
Drug testing, **§ 2:3**
employment, **§ 2:3**

FAILURE TO CONDUCT OR ACT ON RESULTS
Psychological and honesty testing, **§ 7:11**

FALSE IMPRISONMENT
Common law
employer searches, **§ 8:15**

FEDERAL REGULATION
See Electronic Monitoring and Surveillance

FETAL VULNERABILITY POLICIES
Actions
anti-discrimination laws, state, **§ 10:16**
breach of contract claims, **§ 10:22**
Civil Rights Act of 1964, **§ 10:7-10:22**
intentional infliction of emotional distress, **§ 10:20**
reproductive hazards, **§ 10:17**
state statutes, **§ 10:16**
Anti-discrimination laws, state, **§ 10:16**
Breach of contract, **§ 10:22**
Civil Rights Act of 1964
application, **§ 10:8**
EEOC position, **§ 10:10**
International Union, United Automobile Workers of America v. Johnson Controls, Inc., **§ 10:11**
lower court analysis before Johnson Controls, **§ 10:9**
lower court decisions, **§ 10:13**
need for Constitutional challenges, **§ 10:4**
privacy, **§ 10:5**
Supreme Court analysis, **§ 10:8**
Supreme Court decisions, **§ 10:12**
Common-law claims
intentional infliction of emotional distress, **§ 10:20**
prenatal death claims, **§ 10:21**
prenatal injury claims
injuries after Johnson Controls, **§ 10:21**
Constitutional issues
Fourth Amendment, **§ 10:6**
privacy, right to, **§ 10:5**
Costs and benefits, **§ 10:3**
Fetal vulnerability, **§ 10:2**
Historical treatment, **§ 10:7**
Occupational Safety and Health Act
applicability, **§ 10:15**
policies, impact, **§ 10:15**
reproductive hazards, **§ 10:14**
Privacy, right to, **§ 10:5**
Reproductive capacity, **§ 10:2**
Reproductive hazards, **§ 10:1**
Occupational Safety and Health Act, **§ 10:14**
State statutes
anti-discrimination laws, **§ 10:16**
California, **§ 10:18**
Connecticut, **§ 10:19**

FIRST AMENDMENT
Monitoring and surveillance, **§ 8A:11**
Psychological and honesty testing
freedom of speech, **§ 7:6**
Sexual orientation and gender identity discrimination, **§ 9:9**
right to freedom of association, **§ 9:11**

FLORIDA
Drug testing, **§ 4A:11**
Genetic testing, **§ 12:24**
HIV testing, **§ 11:25**
Psychological and honesty testing, **§ 7:22**

42 U.S.C.A. § 1983
Psychological and honesty testing, **§ 7:15**
Sexual orientation and gender identity discrimination, **§ 9:14**

42 U.S.C.A. § 1985
Sexual orientation and gender identity discrimination, **§ 9:15**

FOURTH AMENDMENT
Electronic monitoring of employee conduct, **§ 8A:7**

FOURTH AMENDMENT APPLICATION
Constitutional issues
Drug testing, **§ 3:23**

FOURTH AMENDMENT CHALLENGES
Drug testing
Chandler v. Miller, **§ 3:12**
Implications, Chandler, **§ 3:13**
Lower court application, Chandler, **§ 3:14**

FOURTH AMENDMENT VIOLATIONS
See also Electronic Monitoring and Surveillance
Psychological and honesty testing, **§ 7:5**

FREEDOM OF BELIEF
Violation
Psychological and honesty testing, **§ 7:7**

FREEDOM OF SPEECH
Psychological and honesty testing, **§ 7:6**

GAY MEN
See Sexual Orientation Discrimination

GENDER IDENTITY
See Sexual Orientation and Gender Identity Discrimination

GENETIC TESTING
See also Preemployment Screening
Actions
Americans With Disabilities Act of 1990, **§ 12:12**
Civil Rights Act of 1964, **§ 12:10**
Rehabilitation Act of 1973, **§ 12:11**
Benefits, **§ 12:5**
Civil Rights Act of 1964, **§ 12:10**
Common law
Employer discipline based on results, **§ 12:56**
intentional infliction of emotional distress, **§ 12:55**
Invasion of privacy, **§ 12:54**
Constitutional issues
Fourth Amendment, **§ 12:6**
privacy, right to, **§ 12:7**
Costs, **§ 12:5**
Diseases discoverable, **§ 12:2**
Executive Order
prohibit discrimination, federal employment, **§ 12:9**
Federal legislative
Genetic Information Nondiscrimination Act of 2008, **§ 12:8**
Fourth Amendment issues, **§ 12:6**
Justifications, **§ 12:4**
National Labor Relations Act, **§ 12:14**
Occupational Safety and Health Act, **§ 12:13**
Prevalence, **§ 12:3**
Privacy, right to, **§ 12:7**
Public sector
Fourth Amendment issues, **§ 12:6**
privacy, right to, **§ 12:7**
State statutes
generally, **§ 12:16**
Alaska, **§ 12:17**
Arizona, **§ 12:18**
Arkansas, **§ 12:19**
California, **§ 12:20**
Connecticut, **§ 12:21**
Delaware, **§ 12:22**

GENETIC TESTING—Cont'd
State statutes—Cont'd
District of Columbia, **§ 12:23**
Florida, **§ 12:24**
Hawaii, **§ 12:25**
Idaho, **§ 12:26**
Illinois, **§ 12:27**
Iowa, **§ 12:28**
Kansas, **§ 12:29**
Louisiana, **§ 12:30**
Maine, **§ 12:31**
Maryland, **§ 12:32**
Massachusetts, **§ 12:33**
Michigan, **§ 12:34**
Minnesota, **§ 12:35**
Missouri, **§ 12:36**
Nebraska, **§ 12:37**
Nevada, **§ 12:38**
New Hampshire, **§ 12:39**
New Jersey, **§ 12:40**
New Mexico, **§ 12:41**
New York, **§ 12:42**
North Carolina, **§ 12:43**
Oklahoma, **§ 12:44**
Oregon, **§ 12:45**
Rhode Island, **§ 12:46**
South Dakota, **§ 12:47**
Texas, **§ 12:48**
Utah, **§ 12:49**
Vermont, **§ 12:50**
Virginia, **§ 12:51**
Washington, **§ 12:52**
Wisconsin, **§ 12:53**
Types, **§ 12:1**
Unionized employers
National Labor Relations Act, **§ 12:14**
Railway Labor Act, **§ 12:15**

GEORGIA
Drug testing, **§ 4A:12**
HIV testing, **§ 11:26, 11:66**
Polygraph testing, **§ 6:30**

GROUNDS FOR DISCHARGE
Common law challenges
drug testing, **§ 4:14**

GROUNDS FOR DISCHARGE —Cont'd
Common-law restrictions
polygraph testing
refusal to submit, **§ 6:73**

HAWAII
Drug testing, **§ 4A:13**
Genetic testing, **§ 12:25**
HIV testing, **§ 11:27, 11:67**
Off-duty conduct, **§ 13:18**
Polygraph testing, **§ 6:31**
Psychological and honesty testing, **§ 7:23**
Sexual orientation and gender identity discrimination, **§ 9:27**

HEALTH CARE WORKERS
HIV testing, West Virginia, **§ 11:56**

HIV, AIDS
Workplace
Medical screening, **§ 11:1**

HIV/AIDS DISCRIMINATION
Equal protection, denial, **§ 11:12**
New Mexico, **§ 11:78**
Oklahoma, **§ 11:81**
Virginia, **§ 11:86**

HIV TESTING
See also Preemployment Screening
Generally, **§ 11:18**
Actions
Americans with Disabilities Act of 1990, **§ 11:15**
common law, **§ 11:89**
emotional distress, **§ 11:92**
fear of AIDS, **§ 11:95**
invasion of privacy, **§ 11:91**
Rehabilitation Act of 1973, **§ 11:14**
unemployment compensation, **§ 11:93**
AIDS
Dementia Complex, **§ 11:2**
employer response, **§ 11:6**
fear of acquiring, **§ 11:95**
infliction of distress by employee, **§ 11:95**
infliction of distress by employer, **§ 11:92**

HIV TESTING—Cont'd
AIDS—Cont'd
invasion of privacy, **§ 11:91**
Arbitration, **§ 11:98**
Bargaining requirements
Railway Labor Act, **§ 11:97**
Benefits, **§ 11:8**
Civil Rights Act of 1964, **§ 11:17**
Common-law claims
generally, **§ 11:89**
emotional distress, **§ 11:92**
fear of AIDS, **§ 11:95**
invasion of privacy, **§ 11:91**
Confidentiality
insurance administrators, Florida, **§ 11:25**
workers' compensation proceedings, **§ 11:94**
Consent requirements
Delaware, **§ 11:24**
Maine, **§ 11:33**
North Dakota, **§ 11:46**
Constitutional issues, **§ 11:10**
Costs, **§ 11:8**
Emotional distress claims, **§ 11:92**
Fourth Amendment issues, **§ 11:10**
Georgia, **§ 11:26**
Guidelines for prevention
immunodeficiency, hepatitis B, **§ 11:13**
Hawaii, **§ 11:67**
Health care workers
public sector, **§ 11:11**
Health care workers, West Virginia, **§ 11:56**
Hepatitis B, **§ 11:13**
Insurance administrators, confidentiality of results
Florida, **§ 11:25**
Invasion of privacy claims, **§ 11:91**
Massachusetts, **§ 11:34**
Medical personnel
fear of AIDS, **§ 11:95**
Michigan, **§ 11:35**
Minnesota, **§ 11:76**
National Labor Relations Act
application, **§ 11:96**
Nevada, **§ 11:40**

HIV TESTING—Cont'd
New York, **§ 11:44**
Occupational Safety and Health Act, **§ 11:16**
Preemployment screening
National Labor Relations Act, application, **§ 11:96**
Prevalence, **§ 11:9**
Privacy, right to, **§ 11:11**
Railway Labor Act, **§ 11:97**
Reporting requirements, Kansas, **§ 11:30**
State Anti-Discrimination Statutes
Generally, **§ 11:58**
Alaska, **§ 11:59**
Arizona, **§ 11:60**
Arkansas, **§ 11:61**
California, **§ 11:62**
Colorado, **§ 11:63**
Connecticut, **§ 11:64**
District of Columbia, **§ 11:65**
Georgia, **§ 11:66**
Illinois, **§ 11:68**
Indiana, **§ 11:69**
Kansas, **§ 11:70**
Louisiana, **§ 11:71**
Maine, **§ 11:72**
Maryland, **§ 11:73**
Massachusetts, **§ 11:74**
Michigan, **§ 11:75**
Missouri, **§ 11:77**
New York, **§ 11:79**
North Carolina, **§ 11:80**
Oregon, **§ 11:82**
Pennsylvania, **§ 11:83**
Tennessee, **§ 11:84**
Utah, **§ 11:85**
West Virginia, **§ 11:87**
Wisconsin, **§ 11:88**
State statutes
generally, **§ 11:18**
Alabama, **§ 11:19**
California, **§ 11:21**
Colorado, **§ 11:22**
Connecticut, **§ 11:23**
Delaware, **§ 11:24**
Florida, **§ 11:25**
Hawaii, **§ 11:27**

HIV TESTING—Cont'd
State statutes—Cont'd
Illinois, **§ 11:28**
Iowa, **§ 11:29**
Kansas, **§ 11:30**
Kentucky, **§ 11:31**
Louisiana, **§ 11:32**
Maine, **§ 11:33**
Massachusetts, **§ 11:33**
Minnesota, **§ 11:36**
Missouri, **§ 11:37**
Montana, **§ 11:38**
Nebraska, **§ 11:39**
New Hampshire, **§ 11:41**
New Jersey, **§ 11:42**
New Mexico, **§ 11:43**
North Carolina, **§ 11:45**
North Dakota, **§ 11:46**
Ohio, **§ 11:47**
Oklahoma, **§ 11:48**
Oregon, **§ 11:49**
Pennsylvania, **§ 11:50**
Rhode Island, **§ 11:51**
Texas, **§ 11:52**
Vermont, **§ 11:53**
Washington, **§ 11:55**
West Virginia, **§ 11:56**
Wisconsin, **§ 11:57**
Transmission risks
Occupational Safety and Health Act, **§ 11:16**
Unemployment compensation, **§ 11:93**
Unionized employers
arbitration, **§ 11:98**
bargaining requirements, **§ 11:97**
National Labor Relations Act, **§ 11:96**
Railway Labor Act, **§ 11:97**
Virginia, **§ 11:54**
Virus
AIDS Dementia Complex, **§ 11:2**
employer response, **§ 11:6**
prevalence, **§ 11:3**
transmission, **§ 11:4**
Workers' compensation claims, **§ 11:94**
Wrongful discharge claims, **§ 11:90**

HOMOSEXUALS
See Sexual Orientation Discrimination

HONESTY TESTING
See Psychology and Honesty Testing

IDAHO
Drug testing, **§ 4A:14**
Genetic testing, **§ 12:26**
Polygraph testing, **§ 6:32**

ILLINOIS
Drug testing, **§ 4A:15**
Electronic monitoring and surveillance, **§ 8A:28**
Genetic testing, **§ 12:27**
HIV testing, **§ 11:28, 11:68**
Off-duty conduct, **§ 13:19**
Polygraph testing, **§ 6:33**
Psychological and honesty testing, **§ 7:24**
Sexual orientation and gender identity discrimination, **§ 9:28**

IMPORTANCE
Employee privacy rights, **§ 1:4**

INDIANA
Drug testing, **§ 4A:16**
HIV testing, **§ 11:69**
Off-duty conduct, **§ 13:20**
Polygraph testing, **§ 6:34**
Psychological and honesty testing, **§ 7:25**

INDIRECT REGULATION
Electronic monitoring and surveillance, **§ 8A:21**

INTEGRITY TESTING
See Polygraph Testing; Psychological and Honesty Testing

INTENTIONAL, NEGLIGENT, EMOTIONAL DISTRESS
Common law challenges
drug testing, **§ 4:9**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
Electronic monitoring and surveillance, **§ 8A:52**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS —Cont'd
Sexual orientation and gender identity discrimination, **§ 9:60**

INVASION OF PRIVACY
Drug testing
common law challenges, **§ 4:7**
Psychological and honesty testing, **§ 7:41**

IOWA
Drug testing, **§ 4A:17**
Genetic testing, **§ 12:28**
HIV testing, **§ 11:29**
Polygraph testing, **§ 6:35**
Sexual orientation and gender identity discrimination, **§ 9:29**

KANSAS
Drug testing, **§ 4A:18**
Genetic testing, **§ 12:29**
HIV testing, **§ 11:30, 11:70**
Psychological and honesty testing, **§ 7:26**

KENTUCKY
Drug testing, **§ 4A:19**
HIV testing, **§ 11:31**
Off-duty conduct, **§ 13:21**
Polygraph testing, **§ 6:36**
Sexual orientation and gender identity discrimination, **§ 9:30**

LABOR MANAGEMENT RELATIONS ACT
See also National Labor Relations Act; Railway Labor Act; Unionized Employers
Drug testing, **§ 5:7**
Electronic monitoring and surveillance, **§ 8A:60**
Preemption, state law claims
drug testing, **§ 5:7**
searches, **§ 8:20**
Searches, **§ 8:20**

LESBIANS
See Sexual Orientation Discrimination

LIE DETECTION DEVICES
See Polygraph Testing

LIFESTYLE
See Off-Duty Conduct

LOUISIANA
Drug testing, **§ 4A:20**
Electronic monitoring and surveillance, **§ 8A:29**
Genetic testing, **§ 12:30**
HIV testing, **§ 11:32, 11:71**
Off-duty conduct, **§ 13:22**
Polygraph testing, **§ 6:37**

MAINE
Drug testing, **§ 4A:21**
Electronic monitoring and surveillance, **§ 8A:30**
Genetic testing, **§ 12:31**
HIV testing, **§ 11:33, 11:72**
Off-duty conduct, **§ 13:23**
Polygraph testing, **§ 6:38**
Sexual orientation and gender identity discrimination, **§ 9:31**

MARYLAND
Drug testing, **§ 4A:22**
Electronic monitoring and surveillance, **§ 8A:31**
Genetic testing, **§ 12:32**
HIV testing, **§ 11:73**
Polygraph testing, **§ 6:39**
Sexual orientation and gender identity discrimination, **§ 9:32**

MASSACHUSETTS
Drug testing, **§ 4A:23**
Genetic testing, **§ 12:33**
HIV testing, **§ 11:34, 11:74**
Off-duty conduct, **§ 13:24**
Polygraph testing, **§ 6:40**
Psychological and honesty testing, **§ 7:27**
Sexual orientation and gender identity discrimination, **§ 9:33**

MEDICAL SCREENING
AIDS, HIV
workplace risks, **§ 11:5**

MEDICAL SCREENING—Cont'd
Workplace
AIDS and HIV
prevalence, **§ 11:3**
HIV
method, transmission, **§ 11:4**
HIV, AIDS, **§ 11:1**

METHODS
Drug testing, **§ 2:4**

MICHIGAN
Drug testing, **§ 4A:24**
Electronic monitoring and surveillance, **§ 8A:32**
Genetic testing, **§ 12:34**
HIV testing, **§ 11:35, 11:75**
Polygraph testing, **§ 6:41**
Psychological and honesty testing, **§ 7:28**
Sexual orientation and gender identity discrimination, **§ 9:34**

MINNESOTA
Drug testing, **§ 4A:25**
Genetic testing, **§ 12:35**
HIV testing, **§ 11:36, 11:76**
Off-duty conduct, **§ 13:25**
Polygraph testing, **§ 6:42**
Psychological and honesty testing, **§ 7:29**
Sexual orientation and gender identity discrimination, **§ 9:35**

MISSISSIPPI
Drug testing, **§ 4A:26**
Off-duty conduct, **§ 13:26**
Polygraph testing, **§ 6:43**
Sexual orientation and gender identity discrimination, **§ 9:36**

MISSOURI
Drug testing, **§ 4A:27**
Electronic monitoring and surveillance, **§ 8A:33**
Genetic testing, **§ 12:36**
HIV testing, **§ 11:37, 11:77**
Off-duty conduct, **§ 13:27**
Sexual orientation and gender identity discrimination, **§ 9:37**

MONTANA
Drug testing, **§ 4A:28**
Electronic monitoring and surveillance, **§ 8A:34**
HIV testing, **§ 11:38**
Off-duty conduct, **§ 13:28**
Polygraph testing, **§ 6:44**
Sexual orientation and gender identity discrimination, **§ 9:38**

NATIONAL LABOR RELATIONS ACT
See also Unionized Employers
Bargaining requirements
HIV testing, **§ 11:96**
polygraph testing, **§ 6:77**
Drug testing
preemption, state law claims, **§ 5:8**
Electronic monitoring and surveillance, **§ 8A:58**
Polygraph testing
bargaining requirements, **§ 6:77**
Preemption, state law claims
drug testing, **§ 5:8**
searches, **§ 8:20**
Searches
preemption, state law claims, **§ 8:20**
Unilateral employers action, **§ 8:18**

NEBRASKA
Drug testing, **§ 4A:29**
Electronic monitoring and surveillance, **§ 8A:35**
Genetic testing, **§ 12:37**
HIV testing, **§ 11:39**
Polygraph testing, **§ 6:45**

NEGLIGENCE
Drug testing
Common law challenges, **§ 4:10**

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
Sexual orientation and gender identity discrimination, **§ 9:60**

NEVADA
Drug testing, **§ 4A:30**
Electronic monitoring and surveillance, **§ 8A:36**

NEVADA—Cont'd
Genetic testing, **§ 12:38**
HIV testing, **§ 11:40**
Off-duty conduct, **§ 13:29**
Polygraph testing, **§ 6:46**
Psychological and honesty testing, **§ 7:30**
Sexual orientation and gender identity discrimination, **§ 9:39**

NEW HAMPSHIRE
Drug testing, **§ 4A:31**
Electronic monitoring and surveillance, **§ 8A:37**
Genetic testing, **§ 12:39**
HIV testing, **§ 11:41**
Off-duty conduct, **§ 13:30**
Sexual orientation and gender identity discrimination, **§ 9:40**

NEW HAMPSHIRE REGULATIONS
Psychological and honesty testing, **§ 7:31**

NEW JERSEY
Drug testing, **§ 4A:32**
Electronic monitoring and surveillance, **§ 8A:38**
Genetic testing, **§ 12:40**
HIV testing, **§ 11:42**
Off-duty conduct, **§ 13:31**
Polygraph testing, **§ 6:47**
Sexual orientation and gender identity discrimination, **§ 9:41**

NEW MEXICO
Drug testing, **§ 4A:33**
Electronic monitoring and surveillance, **§ 8A:39**
Genetic testing, **§ 12:41**
HIV/AIDS discrimination, **§ 11:78**
HIV testing, **§ 11:43**
Off-duty conduct, **§ 13:32**
Polygraph testing, **§ 6:48**
Sexual orientation and gender identity discrimination, **§ 9:42**

NEW YORK
Drug testing, **§ 4A:33.50**

NEW YORK—Cont'd
Electronic monitoring and surveillance, **§ 8A:40**
Genetic testing, **§ 12:42**
HIV testing, **§ 11:44, 11:79**
Off-duty conduct, **§ 13:33**
Polygraph testing, **§ 6:49**
Sexual orientation and gender identity discrimination, **§ 9:43**

NORTH CAROLINA
Drug testing, **§ 4A:34**
Genetic testing, **§ 12:43**
HIV testing, **§ 11:45, 11:80**
Off-duty conduct, **§ 13:34**
Sexual orientation and gender identity discrimination, **§ 9:44**

NORTH DAKOTA
Drug testing, **§ 4A:35**
HIV testing, **§ 11:46**
Off-duty conduct, **§ 13:35**
Polygraph testing, **§ 6:50**
Sexual orientation and gender identity discrimination, **§ 9:45**

OCCUPATIONAL SAFETY AND HEALTH ACT
Fetal vulnerability policies
applicability, **§ 10:15**
policies, impact, **§ 10:15**
reproductive hazards, **§ 10:14**
Genetic testing, **§ 12:13**
HIV testing, **§ 11:16**

OFF-DUTY CONDUCT
Common-law actions
denial, unemployment compensation benefit, **§ 13:51**
grounds for discharge, **§ 13:47**
intentional infliction of emotional distress, **§ 13:50**
invasion of privacy, **§ 13:49**
lifestyle discrimination, **§ 13:46**
wrongful discharge, **§ 13:48**
Constitutional protections
due process and liberty rights, **§ 13:8**
employee lifestyle
right to privacy, **§ 13:4**

OFF-DUTY CONDUCT—Cont'd
Constitutional protections—Cont'd
equal protection, **§ 13:5**
First Amendment, **§ 13:6**
freedom of association, **§ 13:7**
Employee lifestyle
Civil Service Reform Act, **§ 13:9**
State laws, **§ 13:12-13:46**
Employer lifestyle
extent, **§ 13:1**
Employer regulation
effects, **§ 13:3**
reputation justifications, **§ 13:2**
Employer restrictions
justifications, **§ 13:2**
Equal protection, classification of activity, **§ 13:5**
State laws
Colorado, **§ 13:14**
Connecticut, **§ 13:15**
Delaware, **§ 13:16**
District of Columbia, **§ 13:17**
Hawaii, **§ 13:18**
Illinois, **§ 13:19**
Indiana, **§ 13:20**
Kentucky, **§ 13:21**
lifestyle discrimination, **§ 13:46**
Louisiana, **§ 13:22**
Maine, **§ 13:23**
Massachusetts, **§ 13:24**
Minnesota, **§ 13:25**
Mississippi, **§ 13:26**
Missouri, **§ 13:27**
Montana, **§ 13:28**
Nevada, **§ 13:29**
New Hampshire, **§ 13:30**
New Jersey, **§ 13:31**
New Mexico, **§ 13:32**
New York, **§ 13:33**
North Carolina, **§ 13:34**
North Dakota, **§ 13:35**
Oklahoma, **§ 13:36**
Oregon, **§ 13:37**
Rhode Island, **§ 13:38**
South Carolina, **§ 13:39**
South Dakota, **§ 13:40**
Tennessee, **§ 13:41**
Virginia, **§ 13:42**

OFF-DUTY CONDUCT—Cont'd
State laws—Cont'd
West Virginia, **§ 13:43**
Wisconsin, **§ 13:44**
Statutory protections
Americans With Disabilities Act of 1990, **§ 13:10**
Civil Service Reform Act, **§ 13:9**
Title VII of the Civil Rights Act of 1964, **§ 13:11**
Unemployment benefits, denial, **§ 13:51**
Unionized employers
arbitral treatment, **§ 13:53**
discipline challenges, **§ 13:55**
federal preemption, **§ 13:52**
regulation challenges, **§ 13:54**

OHIO
Drug testing, **§ 4A:36**
HIV testing, **§ 11:47**
Polygraph testing, **§ 6:51**
Psychological and honesty testing, **§ 7:32**
Sexual orientation and gender identity discrimination, **§ 9:46**

OKLAHOMA
Drug testing, **§ 4A:37**
Electronic monitoring and surveillance, **§ 8A:41**
Genetic testing, **§ 12:44**
HIV/AIDS discrimination, **§ 11:81**
HIV testing, **§ 11:48**
Off-duty conduct, **§ 13:36**
Polygraph testing, **§ 6:52**
Psychological and honesty testing, **§ 7:33**

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT 1968
Consent exemption
Electronic monitoring and surveillance, **§ 8A:15**
Electronic monitoring and surveillance
Access to stored communications, **§ 8A:18**
Definitions, **§ 8A:13**

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT 1968 —Cont'd
Electronic monitoring and surveillance—Cont'd
Disclosure to stored communications by service provider, **§ 8A:19**
Exemption, **§ 8A:17**
Federal regulation
ordinary course of business exemption, **§ 8A:16**
restrictions, **§ 8A:14**

OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991
See Drug Testing
Drug testing, **§ 3:32**

OREGON
Drug testing, **§ 4A:38**
Electronic monitoring and surveillance, **§ 8A:42**
Genetic testing, **§ 12:45**
HIV testing, **§ 11:49, 11:82**
Off-duty conduct, **§ 13:37**
Polygraph testing, **§ 6:53**
Sexual orientation and gender identity discrimination, **§ 9:47**

OTHER COMMON LAW
Psychological and honesty testing, **§ 7:42**

OTHER STATUTORY REGULATION
Private sector employers
drug testing, **§ 4:5**

PAPER AND PENCIL TESTS
See Psychological and Honesty Testing

PENNSYLVANIA
Drug testing, **§ 4A:39**
HIV testing, **§ 11:50, 11:83**
Polygraph testing, **§ 6:54**
Sexual orientation and gender identity discrimination, **§ 9:48**

PERSONALITY TESTING
See Psychological and Honesty Testing

PERSONAL SEARCHES
See Searches

POLYGRAPH TESTING
See also Preemployment Screening
Alabama, **§ 6:22**
Alaska, **§ 6:23**
Americans With Disabilities Act of 1990, **§ 6:20**
Arbitration
issues, **§ 6:80**
weight, **§ 6:84**
Arizona, **§ 6:24**
Arkansas, **§ 6:25**
California
generally, **§ 6:26**
Civil Rights Act of 1964, **§ 6:19**
Collective bargaining
Railway Labor Act, **§ 6:78**
Common-law restrictions
assault, battery, false imprisonment, **§ 6:71**
defamation, **§ 6:69**
infliction, emotional distress, **§ 6:68**
invasion of privacy, **§ 6:67**
negligence, **§ 6:70**
Other state law claims, **§ 6:74**
refusal to submit
grounds for discharge, **§ 6:73**
state claim challenges, **§ 6:66**
wrongful discharge
violation of public policy, **§ 6:72**
Connecticut, **§ 6:27**
Constitutional issues
due process, **§ 6:11**
equal protection, **§ 6:10**
privacy, right to, **§ 6:9**
self-incrimination, **§ 6:8**
Delaware, **§ 6:28**
Disabilities, Americans With Disabilities Act, **§ 6:20**
Disclosure limitations, **§ 6:17**
Disclosure limitations, **§ 6:17**
District of Columbia, **§ 6:29**

POLYGRAPH TESTING—Cont'd
Duty to bargain, **§ 6:78**
Employee Polygraph Protection Act of 1988
preemption, **§ 6:18**
state law, effect, **§ 6:18**
Employer justifications, **§ 6:5**
Employer's
duty to bargain, **§ 6:77**
National Labor Relations Act, **§ 6:77**
National Labor Relations Act, **§ 6:77**
Unionized employers
bargaining requirements, **§ 6:77**
National Labor Relations Act, **§ 6:77**
Employment uses, **§ 6:3**
Equal protection, **§ 6:10**
Evidence, admissibility of test results, **§ 6:84**
Exemptions
drug distributors, **§ 6:15**
drug manufacturers, **§ 6:15**
test requirements
Employee Polygraph Protection Act of 1988, **§ 6:16**
Federal preemption, **§ 6:79**
Georgia
generally, **§ 6:30**
Hawaii, **§ 6:31**
History
lie detection devices, **§ 6:1**
Idaho, **§ 6:32**
Illinois
generally, **§ 6:33**
Indiana
generally, **§ 6:34**
Iowa
generally, **§ 6:35**
Kentucky
generally, **§ 6:36**
Limited exemption
investigations of economic loss or injury, **§ 6:13**
Limited exemptions
security services, **§ 6:14**

POLYGRAPH TESTING—Cont'd
Louisiana
generally, **§ 6:37**
Maine, **§ 6:38**
Maryland
generally, **§ 6:39**
Massachusetts, **§ 6:40**
Methods of examination, **§ 6:4**
Michigan, **§ 6:41**
Minnesota, **§ 6:42**
Mississippi, **§ 6:43**
Montana, **§ 6:44**
Nebraska, **§ 6:45**
Nevada, **§ 6:46**
New Jersey, **§ 6:47**
New Mexico
generally, **§ 6:48**
New York
generally, **§ 6:49**
North Dakota, **§ 6:50**
Ohio
generally, **§ 6:51**
Oklahoma, **§ 6:52**
Oregon, **§ 6:53**
Pennsylvania
generally, **§ 6:54**
Preemption, state law claims, **§ 6:79**
Privacy, right to, **§ 6:9**
Public sector
constitutional issues, **§ 6:7**
due process, **§ 6:11**
Employee Polygraph Protection Act of 1988, **§ 6:12**
equal protection, **§ 6:10**
privacy, right to, **§ 6:9**
self-incrimination, **§ 6:8**
Railway Labor Act
bargaining requirements, **§ 6:78**
Refusal of tests
discharge grounds, **§ 6:82**
evidence of guilt, **§ 6:83**
Refusal of tests
discharge grounds, **§ 6:82**
evidence of guilt, **§ 6:83**
grounds for discharge, **§ 6:82**
Refusal to submit polygraph tests
discharge grounds, **§ 6:82**

POLYGRAPH TESTING—Cont'd
Regulations
Civil Rights Act of 1964, **§ 6:19**
state statutes, **§ 6:21-6:65**
Requirements for limited exemptions
Employee Polygraph Protection Act of 1988, **§ 6:16**
Restrictions
common law, **§ 6:66**
federal preemption, **§ 6:79**
preemption, federal labor laws, **§ 6:79**
reasonableness, **§ 6:81**
Results, disclosure limitations, **§ 6:17**
Rhode Island, **§ 6:55**
Self-incrimination, **§ 6:8**
South Carolina
generally, **§ 6:56**
South Dakota, **§ 6:57**
Special considerations
unionized employers, **§ 6:76**
State statutes
generally, **§ 6:21**
Alabama, **§ 6:22**
Alaska, **§ 6:23**
Arizona, **§ 6:24**
Arkansas, **§ 6:25**
California, **§ 6:26**
Connecticut, **§ 6:27**
Delaware, **§ 6:28**
District of Columbia, **§ 6:29**
federal preemption, **§ 6:79**
Georgia, **§ 6:30**
Hawaii, **§ 6:31**
Idaho, **§ 6:32**
Illinois, **§ 6:33**
Indiana, **§ 6:34**
Iowa, **§ 6:35**
Kentucky, **§ 6:36**
Louisiana, **§ 6:37**
Maine, **§ 6:38**
Maryland, **§ 6:39**
Massachusetts, **§ 6:40**
Michigan, **§ 6:41**
Minnesota, **§ 6:42**
Mississippi, **§ 6:43**
Montana, **§ 6:44**
Nebraska, **§ 6:45**

POLYGRAPH TESTING—Cont'd
State statutes—Cont'd
Nevada, **§ 6:46**
New Jersey, **§ 6:47**
New Mexico, **§ 6:48**
New York, **§ 6:49**
North Dakota, **§ 6:50**
Ohio, **§ 6:51**
Oklahoma, **§ 6:52**
Oregon, **§ 6:53**
Pennsylvania, **§ 6:54**
preemption, **§ 6:18**
Rhode Island, **§ 6:55**
South Carolina, **§ 6:56**
South Dakota, **§ 6:57**
Tennessee, **§ 6:58**
Texas, **§ 6:59**
Utah, **§ 6:60**
Vermont, **§ 6:61**
Virginia, **§ 6:62**
Washington, **§ 6:63**
West Virginia, **§ 6:64**
Wisconsin, **§ 6:65**
Statutory regulation
exemptions
ongoing investigations, **§ 6:13**
Statutory regulations
Employee Polygraph Protection Act of 1988, **§ 6:12**
Tennessee
correctional department employees, **§ 6:58**
Texas
generally, **§ 6:59**
Types
modern lie detectors, **§ 6:2**
Unemployment compensation benefits, **§ 6:75**
Unionized employers
bargaining requirements, **§ 6:78**
Railway Labor Act, **§ 6:78**
Special considerations, **§ 6:76**
Utah
generally, **§ 6:60**
Utility, **§ 6:6**
Validity, **§ 6:6**
Validity and utility, **§ 6:6**
Vermont, **§ 6:61**

POLYGRAPH TESTING—Cont'd
Virginia
generally, **§ 6:62**
Washington, **§ 6:63**
West Virginia
generally, **§ 6:64**
Wisconsin, **§ 6:65**

PREEMPLOYMENT
Drug testing
constitutional issues, **§ 3:15**

PREEMPLOYMENT SCREENING
See also Drug Testing; Genetic Testing; HIV Testing; Polygraph Testing; Psychological and Honesty Testing
Drug testing
arbitration, **§ 5:12**

PREEMPLOYMENT TESTING
See also Preemployment Screening

PREEMPTION
Sexual orientation and gender identity discrimination, effect of federal labor law, **§ 9:65**
State law claims regarding psychological and honesty testing by federal labor law, **§ 7:46**

PREEMPTION, FEDERAL LABOR LAWS
Drug testing, **§ 5:7-5:9**

PREGNANCY DISCRIMINATION ACT OF 1978
See Fetal Vulnerability Policies

PRIVACY RIGHTS
See also Constitutional Issues
Generally, **§ 1:1-1:5**
AIDS status of individual, publicizing, **§ 11:91**
Employer actions, **§ 1:1**
Fetal vulnerability policies, **§ 10:5**
Genetic testing, **§ 12:7**
HIV testing, **§ 11:11**
Importance, **§ 1:4**
Preemption
Railway Labor Act, **§ 5:9**

PRIVACY RIGHTS—Cont'd
Psychological and honesty testing as violation of, **§ 7:8**
Searches
generally, **§ 8:11**

PRIVATE INFORMATION
Employee privacy rights
Scope, **§ 1:5**

PRIVATE SECTOR EMPLOYERS
See also Unionized Employers
Drug testing
Civil Rights Act of 1964, **§ 4:3**
common law challenges, **§ 4:6**
other statutory regulation, **§ 4:5**
state statutes, **§ 4:4**
unionized employers, **§ 5:1-5:25**
Genetic testing
Civil Rights Act of 1964, **§ 12:10**

PROPERTY INTERESTS
Sexual orientation and gender identity discrimination, deprivation of property interest without due process, **§ 9:8**

PROPERTY SEARCHES
See Searches

PSYCHOLOGICAL AND HONESTY TESTING
See also Preemployment Screening
Alaska regulations, **§ 7:18**
Americans with Disabilities Act of 1990, **§ 7:16**
Arbitration cases, **§ 7:47**
California regulations, **§ 7:19**
Challenges to testing as revealing evidence of union bias or sympathy, **§ 7:45**
Civil Rights Act of 1964, Title VII, **§ 7:14**
Common law challenges
generally, **§ 7:39-7:42**
invasion of privacy, **§ 7:41**
results of or refusal to submit to testing, **§ 7:40**
Connecticut regulations, **§ 7:20**

PSYCHOLOGICAL AND HONESTY TESTING—Cont'd
Constitutional issues
First Amendment, violation of, **§ 7:6**
Fourth Amendment, violation of, **§ 7:5**
Costs, economic and human, **§ 7:4**
Delaware regulations, **§ 7:21**
Discharges or discipline based upon results of or refusal to submit to testing, **§ 7:40**
Due process challenges, **§ 7:9**
Duty to bargain, employer's, **§ 7:44**
Employee Polygraph Protection Act of 1988, **§ 7:13**
Employer justification, **§ 7:2**
Employer's duty to bargain, **§ 7:44**
Employer's failure to conduct or act on results, **§ 7:11**
Equal protection, as violation of, **§ 7:10**
Extent, **§ 7:2**
Federal statutes relevant to, **§ 7:12-7:38**
First Amendment, as violation of freedom of speech, **§ 7:6**
Florida regulations, **§ 7:22**
42 U.S.C.A. § 1983, **§ 7:15**
Fourth Amendment, as violation of, **§ 7:5**
Freedom of speech, violation of, **§ 7:6**
Hawaii regulations, **§ 7:23**
Illinois regulations, **§ 7:24**
Indiana regulations, **§ 7:25**
Invasion of privacy, **§ 7:41**
Invasion of privacy, **§ 7:41**
Kansas regulations, **§ 7:26**
Massachusetts regulations, **§ 7:27**
Michigan regulations, **§ 7:28**
Minnesota regulations, **§ 7:29**
Nevada regulations, **§ 7:30**
New Hampshire regulations, **§ 7:31**
Ohio regulations, **§ 7:32**
Oklahoma regulations, **§ 7:33**
Other common law, **§ 7:42**

PSYCHOLOGICAL AND HONESTY TESTING—Cont'd
Preemption of state law claims regarding testing by federal labor law, **§ 7:46**
Purpose of, **§ 7:1**
Results of or refusal to submit to testing, discharges or discipline based upon, **§ 7:40**
Rhode Island regulations, **§ 7:34**
Right to privacy, as violation of, **§ 7:8**
Special duties of unionized employers, **§ 7:43**
State regulation, **§ 7:17-7:38**
Texas regulations, **§ 7:35**
Types of common law challenges, **§ 7:39**
Union bias or sympathy, challenges to testing as revealing evidence of, **§ 7:45**
Unionized employees
arbitration cases, **§ 7:47**
challenges to testing as revealing evidence of union bias or sympathy, **§ 7:45**
employer's duty to bargain, **§ 7:44**
preemption of state law claims regarding testing by federal labor law, **§ 7:46**
special duties of unionized employers, **§ 7:43**
union bias or sympathy, challenges to testing as revealing evidence of, **§ 7:45**
Validity, **§ 7:3**
Washington regulations, **§ 7:36**
West Virginia regulations, **§ 7:37**
Wisconsin regulations, **§ 7:38**

PSYCHOLOGICAL STRESS EVALUATOR
See Polygraph Testing

PSYCHOLOGICAL TESTING AS VIOLATION OF
Constitutional issues
freedom of belief, **§ 7:7**
Freedom of belief
constitutional issues, **§ 7:7**

PUBLIC EMPLOYMENT
State statutes
drug testing, **§ 3:34**

PUBLIC HEALTH AND SAFETY
See also Drug Testing

PUBLIC POLICY VIOLATION
Sexual orientation and gender identity discrimination, **§ 9:58**

PUBLIC SECTOR EMPLOYERS
Drug testing
generally, **§ 3:1**
constitutionality, **§ 3:3-3:28**
executive order No. 12,564, **§ 3:2**
Fourth Amendment issues, **§ 3:3-3:28**
Health and Human Services, **§ 3:33**
history, **§ 3:1**
periodic, **§ 3:16**
random, **§ 3:17**
regulatory issues, **§ 3:29-3:34**
Rehabilitation Act of 1973, **§ 3:29**
routine, **§ 3:16**
statutory issues, **§ 3:29-3:34**
Genetic testing
Fourth Amendment issues, **§ 12:6**
privacy, right to, **§ 12:7**
HIV testing
constitutional issues, **§ 11:11**
Polygraph testing
constitutional issues, **§ 6:7**
due process, **§ 6:11**
equal protection, **§ 6:10**
self-incrimination, **§ 6:8**
Rehabilitation Act of 1973
drug testing, **§ 3:29**
Searches
employee property, **§ 8:7**
Fourth Amendment challenges, **§ 8:3**
lower court decisions
O'Connor v. Ortega, **§ 8:5**
personal searches, **§ 8:8**
persons, **§ 8:8**
privacy, right to, **§ 8:11**
Supreme Court analysis, **§ 8:4**

PUBLIC SECTOR EMPLOYERS —Cont'd
Sexual orientation and gender identity discrimination
generally, **§ 9:1-9:65**
condemnation of homosexuality as protected speech under First Amendment, **§ 9:10**
disclosure of homosexuality as protected speech under First Amendment, **§ 9:9**
due process
deprivation of property without, **§ 9:8**
equal protection violation, **§ 9:6**
First Amendment, **§ 9:10**
property interests, deprivation of without due process, **§ 9:8**
religion, freedom of, **§ 9:12**
right to privacy violation, **§ 9:5**

RAILWAY LABOR ACT
See also Unionized Employers
Bargaining requirements
HIV testing, **§ 11:97**
polygraph testing, **§ 6:78**
Dispute types, **§ 5:6, 11:97**
Drug testing
major disputes, **§ 5:6**
minor disputes, **§ 5:6**
preemption, state law claims, **§ 5:9**
Duty to negotiate
searches, **§ 8:19**
Electronic monitoring and surveillance, **§ 8A:59, 8A:61**
Employers
Duty to bargain, **§ 5:5**
Employers covered, **§ 8:19**
HIV testing, bargaining requirements, **§ 11:97**
Preemption, state law claims
drug testing, **§ 5:9**
searches, **§ 8:21**
Searches
duty to negotiate, **§ 8:19**
preemption, state law claims, **§ 8:21**

REGULATIONS
Americans With Disabilities Act of 1990
polygraph testing, **§ 6:20**
Civil Rights Act of 1964
drug testing, **§ 4:3**
polygraph testing, **§ 6:19**
Drug testing
Civil Rights Act of 1964, **§ 4:3**
Polygraph testing
Civil Rights Act of 1964, **§ 6:19**
state statutes, **§ 6:21-6:65**

REHABILITATION ACT OF 1973
Drug testing, **§ 3:29**
Genetic testing, **§ 12:11**
Sexual orientation and gender identity discrimination, **§ 9:16**

RELIGION
See Drug Use
Sexual orientation and gender identity discrimination, freedom of religion, **§ 9:12**

REPRODUCTIVE HAZARDS
See Fetal Vulnerability Policies

RESTRICTIONS
Polygraph testing
common law, **§ 6:66**
federal preemption, **§ 6:79**
preemption, **§ 6:79**
reasonableness, **§ 6:81**
refusal of tests
evidence of guilt, **§ 6:83**

RHODE ISLAND
Drug testing, **§ 4A:40**
Electronic monitoring and surveillance, **§ 8A:43**
Genetic testing, **§ 12:46**
HIV testing, **§ 11:51**
Off-duty conduct, **§ 13:38**
Polygraph testing, **§ 6:55**
Psychological and honesty testing, **§ 7:34**
Sexual orientation and gender identity discrimination, **§ 9:49**

ROUTINE PERIODIC
Constitutional issues
drug testing, **§ 3:16**

SCOPE
Employee privacy rights, **§ 1:5**
Private information
Employee privacy rights, **§ 1:5**

SEARCHES
Actions
emotional distress, **§ 8:14**
false imprisonment, **§ 8:15**
Agreements, **§ 8:9**
Arbitration
arbitral treatment, **§ 8:22**
collective bargaining agreements, **§ 8:27**
employee property
outside workplace, **§ 8:25**
employee property in workplace, **§ 8:24**
employees, **§ 8:26**
employer policies, **§ 8:27**
employer property, **§ 8:22**
personal, **§ 8:26**
Common law
federal preemption, **§ 8:21**
Constitutional issues
generally, **§ 8:3-8:11**
employee property within and outside workplace, **§ 8:7**
employees, **§ 8:8**
exclusionary rule, **§ 8:10**
Fourth Amendment, **§ 8:3**
lower court decisions
O'Connor v. Ortega, **§ 8:5**
personal, **§ 8:8**
privacy, right to, **§ 8:11**
Defamation claims, **§ 8:16**
Drug testing
reasonable suspicion, **§ 3:19**
Duty to negotiate
Railway Labor Act, **§ 8:19**
Emotional distress claims, **§ 8:14**
Employee property
outside workplace, **§ 8:25**
Employees
arbitration, **§ 8:26**

SEARCHES—Cont'd
Employees—Cont'd
emotional distress claims, **§ 8:14**
Employer property
arbitration, **§ 8:23**
constitutional issues, **§ 8:6**
Fourth Amendment issues, **§ 8:6**
Exclusionary rule, **§ 8:10**
False imprisonment claims, **§ 8:15**
Fourth Amendment issues
challenge elements, **§ 8:3**
consent, **§ 8:3-8:10**
exclusionary rule, **§ 8:10**
lower court decisions, **§ 8:5**
Invasion of privacy, **§ 8:13**
Personal
arbitration, **§ 8:26**
Preemption, federal labor laws, **§ 8:21**
Preemption, state law claims
Railway Labor Act, **§ 8:21**
Preemption, state law claims
Railway Labor Act, **§ 8:21**
Privacy
right to, **§ 8:11**
Public sector
personal searches, **§ 8:8**
persons, **§ 8:8**
Railway Labor Act
duty to negotiate, **§ 8:19**
preemption, state law claims, **§ 8:21**
Regulations, **§ 8:9**
Types, **§ 8:1**
Unionized employees, arbitration
employer property, **§ 8:23**
Unionized employers
arbitration
arbitral treatment, **§ 8:22**
collective bargaining agreements, **§ 8:27**
employee property in workplace, **§ 8:24**
employees, **§ 8:26**
employer policies, **§ 8:27**
personal, **§ 8:26**
duty to negotiate, **§ 8:19**
federal preemption, **§ 8:21**

SEARCHES—Cont'd
Unionized employers—Cont'd
National Labor Relations Act, **§ 8:18**
Railway Labor Act, **§ 8:21**

SEARCHES OF EMPLOYEES AND PROPERTY
Justifications, **§ 8:2**
Types of searches
by employers, **§ 8:1**

SECURITY-SENSITIVE JOBS
See Drug Testing

SECURITY SERVICES
Limited exemptions
polygraph testing, **§ 6:14**

SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION
Generally, **§ 9:1 et seq.**
Alaska, **§ 9:19**
Americans with Disabilities Act (ADA), **§ 9:17**
Arizona, **§ 9:20**
Arkansas, **§ 9:21**
California, **§ 9:22**
Collective bargaining
"just cause" provisions, **§ 9:64**
provisions prohibiting discrimination, **§ 9:63**
Colorado, **§ 9:23**
Common law, **§ 9:57-9:61**
Condemnation of homosexuality as protected speech under First Amendment, **§ 9:10**
Connecticut, **§ 9:24**
Constitutional issues. Public sector employers, constitutional limitations, below
Contractual limitations, **§ 9:62-9:65**
Delaware, **§ 9:25**
Disclosure of homosexuality as protected speech under First Amendment, **§ 9:9**
District of Columbia, **§ 9:26**
Due process
deprivation of liberty without, **§ 9:7**

SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION—Cont'd
Due process—Cont'd
deprivation of property without, **§ 9:8**
Effects of, **§ 9:3**
Equal protection violation, **§ 9:6**
Federal statutes, **§ 9:13-9:17**
First Amendment, **§ 9:9, 9:10**
42 U.S.C.A. § 1985, **§ 9:15**
Gender identity, **§ 9:2**
Hawaii, **§ 9:27**
Illinois, **§ 9:28**
Intentional infliction of emotional distress, **§ 9:60**
Invasion of privacy, **§ 9:59**
Iowa, **§ 9:29**
"Just cause" provisions, **§ 9:64**
Justifications, employer justifications for discrimination, **§ 9:1**
Kentucky, **§ 9:30**
Labor law, preemptive effect, **§ 9:65**
Maine, **§ 9:31**
Maryland, **§ 9:32**
Massachusetts, **§ 9:33**
Michigan, **§ 9:34**
Minnesota, **§ 9:35**
Mississippi, **§ 9:36**
Missouri, **§ 9:37**
Montana, **§ 9:38**
Negligent infliction of emotional distress, **§ 9:60**
Nevada, **§ 9:39**
New Hampshire, **§ 9:40**
New Jersey, **§ 9:41**
New Mexico, **§ 9:42**
New York, **§ 9:43**
Non-unionized private sector employees, **§ 9:62**
North Carolina, **§ 9:44**
North Dakota, **§ 9:45**
Ohio, **§ 9:46**
Oregon, **§ 9:47**
Pennsylvania, **§ 9:48**
Preemptive effect of federal labor law, **§ 9:65**
Prevalence, **§ 9:4**

SEXUAL ORIENTATION AND GENDER IDENTITY DISCRIMINATION—Cont'd
Property interests, deprivation of without due process, **§ 9:8**
Public policy violation, **§ 9:58**
Public sector employers
due process
deprivation of liberty without, **§ 9:7**
Public sector employers, constitutional limitations
generally, **§ 9:1-9:65**
condemnation of homosexuality as protected speech under First Amendment, **§ 9:10**
disclosure of homosexuality as protected speech under First Amendment, **§ 9:9**
due process
deprivation of liberty without, **§ 9:7**
deprivation of property without, **§ 9:8**
equal protection violation, **§ 9:6**
First Amendment, **§ 9:9, 9:10**
property interests, deprivation of without due process, **§ 9:8**
religion, freedom of, **§ 9:12**
right to privacy violation, **§ 9:5**
Rehabilitation Act, **§ 9:16**
Religion, freedom of, **§ 9:12**
Rhode Island, **§ 9:49**
Right to privacy violation, **§ 9:5**
State statutes, **§ 9:18-9:56**
Statutes, generally, **§ 9:13-9:56**
Tennessee, **§ 9:50**
Title VII, **§ 9:13**
Unemployment compensation benefits, **§ 9:61**
Unionized employers. Collective bargaining, above
Utah, **§ 9:51**
Vermont, **§ 9:52**
Virginia, **§ 9:53**
Washington, **§ 9:54**
West Virginia, **§ 9:55**
Wisconsin, **§ 9:56**

SOUTH CAROLINA
Drug testing, **§ 4A:41**
Off-duty conduct, **§ 13:39**
Polygraph testing, **§ 6:56**

SOUTH DAKOTA
Drug testing, **§ 4A:42**
Electronic monitoring and surveillance, **§ 8A:43**
Genetic testing, **§ 12:47**
Off-duty conduct, **§ 13:40**
Polygraph testing, **§ 6:57**

SPECIAL ISSUES
Drug testing
Union attitude
Unionized employers, **§ 5:2**

STATE REGULATIONS
Psychological and honesty testing, **§ 7:17-7:38**

STATE STATUTES
See Electronic Monitoring and Surveillance
Drug testing
public employment, **§ 3:34**

STATUTORY REGULATIONS
Polygraph testing
Employee Polygraph Protection Act of 1988, **§ 6:12**

STRIP SEARCHES
See Searches

TENNESSEE
Drug testing, **§ 4A:43**
Electronic monitoring and surveillance, **§ 8A:45**
HIV testing, **§ 11:84**
Off-duty conduct, **§ 13:41**
Polygraph testing, **§ 6:58**
Sexual orientation and gender identity discrimination, **§ 9:50**

TESTING FOR HIV AND AIDS
Methods, **§ 11:7**

TEXAS
Drug testing, **§ 4A:44**
Genetic testing, **§ 12:48**
HIV testing, **§ 11:52**

TEXAS—Cont'd
Polygraph testing, **§ 6:59**
Psychological and honesty testing, **§ 7:35**

TITLE VII
See Civil Rights Act of 1964
Sexual orientation and gender identity discrimination, **§ 9:13**

TRANSPORTATION INDUSTRY
See Drug Testing; Public Health and Safety

TYPES OF DRUG TESTING
Preemployment testing, **§ 3:15**

UNEMPLOYMENT COMPENSATION
HIV testing, **§ 11:93**
Polygraph test failure, **§ 6:75**
Searches as grounds for denial of benefits, **§ 8:17**
Sexual orientation and gender identity discrimination, **§ 9:61**

UNION ATTITUDE
Drug testing, **§ 5:2**

UNION BIAS OR SYMPATHY
Psychological and honesty testing, **§ 7:45**

UNIONIZED EMPLOYERS
See also Arbitration; Labor-Management Relations Act; National Labor Relations Act; Railway Labor Act; Electronic Monitoring and Surveillance
Arbitration
drug testing, **§ 5:10-5:25**
HIV testing, **§ 11:98**
searches, **§ 8:22-8:27**
Bargaining requirements
National Labor Relations Act
polygraph testing, **§ 6:77**
polygraph testing, **§ 6:77, 6:78**
Railway Labor Act
HIV testing, **§ 11:97**
polygraph testing, **§ 6:78**
Disciplinary actions, reasonable suspicion requirement, **§ 5:17**

UNIONIZED EMPLOYERS —Cont'd
Drug testing
actions, federal labor law preemption, **§ 5:7-5:9**
arbitration, **§ 5:10-5:25**
considerations, **§ 5:1**
follow-up treatment, **§ 5:16**
impairment, arbitration, **§ 5:20**
injunctions pending arbitration, **§ 5:10**
National Labor Relations Act
preemption, state law claims, **§ 5:8**
off-duty use, arbitration, **§ 5:20**
periodic, arbitration, **§ 5:15**
post-accident, arbitration, **§ 5:14**
preemployment
arbitration, **§ 5:12**
preemption, state law claims, **§ 5:7-5:9**
Railway Labor Act
preemption, state law claims, **§ 5:9**
random, arbitration, **§ 5:13**
reasonable suspicion, arbitration, **§ 5:17**
refusal of tests, arbitration, **§ 5:22**
rehabilitation, **§ 5:16**
routine, arbitration, **§ 5:15**
terms and conditions of employment, **§ 5:4**
Duty to negotiate
National Labor Relations Act
searches, **§ 8:18**
Railway Labor Act
searches, **§ 8:19**
Genetic testing
National Labor Relations Act, **§ 12:14**
HIV testing
arbitration, **§ 11:98**
bargaining requirements, **§ 11:97**
Railway Labor Act, **§ 11:97**
Just cause provisions
sexual orientation and gender identity discrimination, **§ 9:64**

UNIONIZED EMPLOYERS —Cont'd
Labor-Management Relations Act
drug testing, **§ 5:7**
preemption of state claims, **§ 5:7**
searches, **§ 8:20**
National Labor Relations Act
bargaining requirements
polygraph testing, **§ 6:77**
drug testing, **§ 5:8**
employers covered, **§ 6:77**
National Labor Relations Board, powers, **§ 6:77**
polygraph testing, **§ 6:77**
preemption, state law claims
drug testing, **§ 5:8**
searches, **§ 8:18**
Off-duty conduct
arbitral treatment, **§ 13:53**
discipline challenges, **§ 13:55**
federal preemption, **§ 13:52**
regulation challenges, employer, **§ 13:54**
Polygraph testing
bargaining requirements, **§ 6:77, 6:78**
Railway Labor Act, **§ 6:78**
Preemption, state law claims
drug testing, **§ 5:7-5:9**
National Labor Relations Act, **§ 5:8**
Railway Labor Act, **§ 5:9, 8:21**
searches, **§ 8:21**
Railway Labor Act
bargaining requirements
HIV testing, **§ 11:97**
polygraph testing, **§ 6:78**
dispute types, **§ 5:6**
drug testing, **§ 5:6, 5:9**
major disputes, **§ 5:6**
minor disputes, **§ 5:6**
preemption, state law claims
drug testing, **§ 5:9**
searches, **§ 8:21**
searches, **§ 8:21**
Searches
arbitration, **§ 8:22-8:27**
federal preemption, **§ 8:21**

UNIONIZED EMPLOYERS —Cont'd
Searches—Cont'd
preemption, state law claims, **§ 8:21**
Railway Labor Act, **§ 8:21**

UTAH
Electronic monitoring and surveillance, **§ 8A:46**
Genetic testing, **§ 12:49**
HIV testing, **§ 11:85**
Polygraph testing, **§ 6:60**
Sexual orientation and gender identity discrimination, **§ 9:51**

VERMONT
Drug testing, **§ 4A:46**
Electronic monitoring and surveillance, **§ 8A:47**
Genetic testing, **§ 12:50**
HIV testing, **§ 11:53**
Polygraph testing, **§ 6:61**
Sexual orientation and gender identity discrimination, **§ 9:52**

VIDEO SURVEILLANCE
Electronic monitoring and surveillance, **§ 8A:5**

VIRGINIA
Drug testing, **§ 4A:47**
Electronic monitoring and surveillance, **§ 8A:48**
Genetic testing, **§ 12:51**
HIV/AIDS discrimination, **§ 11:86**
HIV testing, **§ 11:54**
Off-duty conduct, **§ 13:42**
Polygraph testing, **§ 6:62**
Sexual orientation and gender identity discrimination, **§ 9:53**

VOICE STRESS ANALYZER
See Polygraph Testing

WAIVER
Attorney-client privilege, **§ 8A:56**

WASHINGTON
Drug testing, **§ 4A:48**
Electronic monitoring and surveillance, **§ 8A:49**

WASHINGTON—Cont'd
Genetic testing, **§ 12:52**
HIV testing, **§ 11:55**
Polygraph testing, **§ 6:63**
Psychological and honesty testing, **§ 7:36**
Sexual orientation and gender identity discrimination, **§ 9:54**

WEST VIRGINIA
Drug testing, **§ 4A:49**
Electronic monitoring and surveillance, **§ 8A:50**
Health care workers, **§ 11:56**
HIV testing, **§ 11:56, 11:87**
Off-duty conduct, **§ 13:43**
Polygraph testing, **§ 6:64**
Psychological and honesty testing, **§ 7:37**
Sexual orientation and gender identity discrimination, **§ 9:55**

WISCONSIN
Drug testing, **§ 4A:50**
Electronic monitoring and surveillance, **§ 8A:51**
Genetic testing, **§ 12:53**
HIV testing, **§ 11:57, 11:88**
Off-duty conduct, **§ 13:44**
Polygraph testing, **§ 6:65**
Psychological and honesty testing, **§ 7:38**
Sexual orientation and gender identity discrimination, **§ 9:56**

WORDS AND PHRASES
Railway Labor Act
minor disputes, **§ 11:92**

WORKERS' COMPENSATION
Electronic monitoring and surveillance, **§ 8A:54**
HIV status, **§ 11:94**

WORKPLACE
Medical screening
HIV, AIDS, **§ 11:1**

WORKPLACE SEARCHES
See Psychological and Honesty Testing; Searches

WRONGFUL DISCHARGE
Drug testing
common law challenges, **§ 4:11**

WYOMING
Off-duty conduct, **§ 13:45**