

Illinois Employment Laws and Developments

Overview: Illinois employers must (i) provide annual sexual harassment prevention training, (ii) revise arbitration agreements and non-disclosure agreements to comply with the Workplace Transparency Act (“WTA”), (iii) be aware that contract employees can assert claims under the Illinois Human Rights Act (“IHRA”), (iv) be aware that the IHRA now allows for perceived status claims, and (v) provide job-protected leave under the Victims Economic Security and Safety Act (“VESSA”) to “gender violence” victims. From July 1, 2020, employers must disclose annually to the Illinois Department of Human Rights (“IDHR”) all final and non-appealable adverse judgments and administrative rulings.

How to Prepare: Review your harassment training program and consult the IDHR’s guidelines and model training, amend employment and/or settlement agreements to comply with the WTA, track administrative rulings and adverse judgments, and revise VESSA policies. [Click here for more info.](#)

Illinois Sexual Harassment Developments and Workplace Transparency Act



Overview: Effective September 29, 2019, amendments to the 2003 Equal Pay Act (“EPA”) strengthen equal pay protections and prohibit employers from seeking salary history information. (820 ILCS 112/1 *et seq.*)

Highlights: Employers are not allowed to solicit salary history and are prohibited from, among other things, screening job applicants based on their wages and requiring employees to disclose salary information. The equal pay provisions have also been amended to require that any compensation discrepancy that does not fall under the three stated exceptions be job-related and consistent with a business necessity. If an employer relies on the fourth exception, the factor must account for the pay differential. The EPA was also amended to lower the standard to state a claim—employees now can show that they perform either the same or “substantially similar work.”

How to Prepare: Remove questions about salary history from the application process; coordinate with vendors to ensure background check forms do not request salary history; confirm that external recruiters will comply with the salary history ban when seeking Illinois job applicants; train human resources staff and any other staff involved with hiring on the EPA’s requirements and how to handle salary discussions; review pay practices; and ensure that wage differentials among substantially similar jobs are based on objective factors, as discussed in the EPA. [Click here for more info.](#)

Equal Pay Act



School Visitation Rights Act



Highlights: Effective August 1, 2020, the School Visitation Rights Act was amended to prohibit employers from terminating an employee for work absences due solely to the employee’s attendance at a school conference, behavioral meeting, or academic meeting. (820 ILCS 147/1 *et seq.*)

Minimum Wage Law



Highlights: Illinois Governor JB Pritzker raised the minimum wage to \$15 per hour by 2025. The minimum wage will first increase to \$9.25 by January 1, 2020, and to \$10 on July 1, 2020. The minimum wage will then increase by \$1 per hour each January 1 until it reaches \$15 per hour in 2025. (820 ILCS 105/1 *et seq.*)

Chicago Fair Workweek Ordinance



Highlights: Effective July 1, 2020, covered employers must provide covered employees with 10-days’ notice of their schedules (increasing to 14 days’ notice on July 1, 2022). Covered employees may decline any previously unscheduled hours made after the prescribed notice deadline or shifts with less than a 10-hour break from the last shift. Subject to certain exceptions, covered employers must pay covered employees (i) 1.25 times their regular rate if the covered employee works a second shift with less than a 10-hour break from the previous shift worked, (ii) one extra hour of pay on top of a covered employee’s regular compensation if the employer alters the employee’s schedule after the deadline, and (iii) 50 percent of a covered employee’s regular pay rate for any scheduled hours if the shift is canceled or reduced in hours with less than 24 hours’ notice. Covered employers must also provide any newly hired covered employee with a good-faith estimate of the covered employee’s projected days and hours of work for the first 90 days of employment.

Biometric Information

Privacy Act



Overview: In January 2019, the Illinois Supreme Court ruled that a technical violation of the Biometric Information Privacy Act (“BIPA”) is sufficient to state a claim under the BIPA. The BIPA imposes statutory penalties of \$1,000 for each negligent violation and \$5,000 for each intentional or reckless violation. (740 ILCS 14/1 *et seq.*)

How to Prepare: Determine if your company collects, uses, stores, or transmits biometric information or identifiers; develop or review written policies concerning your company’s use and destruction of biometric information under the BIPA; implement policies concerning proper notice to employees and other affected individuals about how your company handles such data, and obtain written and signed consent forms from all affected individuals; and establish practices to protect individuals’ privacy against improper disclosure of biometric data. [Click here for more info.](#)

Illinois Cannabis Regulation and Tax Act



Overview: Starting January 1, 2020, Illinois residents over 21 years of age can legally possess marijuana, up to a certain amount, for personal use. (410 ILCS 705/1, *et seq.*)

Highlights: Section 10-50 of the Illinois Cannabis Regulation and Tax Act (“ICRTA”) lists specific protections for employers, including reasonable drug-free workplace policies. Employers can also take disciplinary actions based on “impairment” but must afford the employee a reasonable opportunity to contest the basis of the impairment determination. (410 ILCS 705/10-50)

How to Prepare: Discuss how your company will address the legalization of marijuana; update your workplace drug policies, reasonable accommodation policies, and disciplinary action policies to ensure they comply with the ICRTA; establish a written procedure for employees to be able to contest a cannabis-based impairment disciplinary action; and train supervisors on marijuana-related impairment signs and procedures. [Click here for more info.](#)

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