Legal Updates for Illinois Employers in 2025

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11.25.2024

In 2025, Illinois will have several new laws and regulations going into effect. The following article summarizes many of these new laws. If you have any questions regarding the implementation of these new laws or how they impact your company, please call your Laner Muchin attorney.

Illinois Equal Pay Act (Pay Transparency Amendments)

Effective January 1, 2025, all Illinois employers with 15 or more employees must include in all posted positions the wage or salary, or the wage or salary range, as well as a general description of the benefits and other compensation the employer expects, in good faith, to offer for the position. Employers may include a hyperlink to this information on a publicly viewable webpage to make any updates to the information easier to implement. Additionally, for each externally posted job opening, the law requires employers to notify their current employees of the opportunity for promotion within 14 days of making the external job posting. If the employer utilizes a third party to post its job openings, the employer must provide this information to the third party and the third party must include it in the posting. Employers must preserve records that document the name, address, and occupation of each employee, the wages paid to each employee, the pay scale and benefits for each position, and the job posting for each position for five (5) years from the date of posting.

Illinois Wage Payment & Collection Act Amendments (Pay Stubs)

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All Illinois employers are required to provide pay stubs to their employees each pay period effective January 1, 2025. “Pay stub” means an itemized statement reflecting an employee’s hours worked, rate of pay, overtime pay, and overtime hours worked, gross wages earned, deductions made from the employee’s wages, and the total of wages and deductions year to date. Pay stubs must be provided in physical or electronic format, *at the employee’s election*.

Employees have the right to inspect their pay stubs within twenty-one (21) days of a request, and twice per 12-month period. The employer can require the employee to complete a request form. Employers must maintain records of employee names, addresses, and wages paid (including hours, overtime, rates, totals), and retain the pay stubs for at least three (3) years from the payment date.

Former employees may also request pay stubs twice in a 12-month period after separation from employment. If the employer provides electronic pay stubs, and the employee cannot access them for at least 12 months following separation of employment, the employer must offer to provide outgoing employees physical copies of their pay stubs covering the prior 12 months during their last pay period. This offer must be in writing, dated, signed, and retained in employer’s records.

Failure to comply with these regulations may result in a civil penalty up to $500.00 per violation, payable to the Illinois Department of Labor.

Illinois Personnel Records Review Act Amendments

This Illinois Personnel Records Review Act applies to employers with five (5) or more employees. The amendments provide the employee with not only the right to inspect, but now also the ability to copy and receive certain specified categories of documents in addition to the employee’s personnel file. Effective January 1, 2025, the new list of relevant documents to be provided to the employee in addition to the contents of their personnel file include: 1) any personnel documents which are, have been or are intended to be used in making decisions affecting the employee’s employment; 2) any employment-related contracts or agreements that the employer maintains are legally binding on the employee; 3) any employee handbooks that the employer made available to the employee (this could include several iterations of handbooks if your handbook is frequently updated); 4) any written employer policies or procedures the employer contends the employee was subject to that relate to employment decisions or disciplinary action; and 5) third-party documents related to employment (for example, third-party FMLA administrator documents).

The employee can now request paper or electronic copies and can ask you to deliver them to the employee or their representative (which may include an attorney, union, or family member). The employee can be charged the actual cost to copy these records. The actual costs do not include the time spent copying, only the copy cost itself.

If your company does not presently have a written personnel file review request form, one should be prepared. You should also have a written policy covering the request process that identifies to whom the request should be submitted and may require the request be submitted in writing. The regulation, however, indicates the request can be submitted via text or email; your policy should address these options. A written request shall require the employee to: 1) identify what personnel records the employee is requesting or if the employee is requesting all of the records allowed to be requested under the Act; 2) specify if the employee is requesting to inspect, copy, or receive copies of the records; 3) specify whether records should be provided in hardcopy or in a reasonable and commercially available electronic format; 4) specify whether the inspection, copying, or receipt of the copies will be performed or received by that employee's representative, including family members, lawyers, union stewards, other union officials, or translators; and 5) if the records being requested include medical information and medical records, include a signed waiver to release medical information and medical records to the employee's specified representative.

Employees can typically make these requests up to twice a year, however if the employee is covered by a collective bargaining agreement, the agreement will control.

If you receive a request from an employee to provide personnel records, especially to an attorney or a union representative, please contact your Laner Muchin attorney to assist you in the record collection as well as the production of the documents to the representative.

Illinois Human Rights Act Amendments

Effective January 1, 2025, the amendments to the Illinois Human Rights Act (IHRA) has added two new categories of protected classes, “family responsibilities” and “reproductive health”. The amendments also extend the deadline for filing a charge with the Illinois Human Rights commission from 300 days to two (2) years. And finally, the new amendments grant the Attorney General new enforcement rights under this regulation, including 1) the authority to address unlawful patterns and practice of discrimination under the IHRA it deems have occurred and 2) the ability for the Attorney General’s office to file civil suits within two (2) years in the circuit court if it determines there is reasonable cause to believe a pattern of discrimination exists.

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The IHRA prohibits employers from harassing or discriminating in hiring, promoting, firing, or from making employment decisions, or retaliating against an employee based upon their membership in one or more protected classes, which now also include "family responsibilities" or "reproductive health". "Family responsibilities" are an employee's actual or perceived provision of personal care to a family member. "Personal care" means ensuring that a family member's basic medical, hygiene, nutritional or safety needs are met, or providing transportation to medical appointment for a family member who request assistance. "Personal care" also means being physically present to provide emotional support to a covered family member with a serious health condition who is receiving inpatient or home care.

The amendments, however, do not require the employer to accommodate for family responsibilities or to provide lower performance, conduct, or attendance standards due to family responsibilities. Employers may still take adverse action or enforce reasonable workplace rules or policies relating to leave, scheduling, productivity, attendance, absenteeism, timeliness, work performance, referrals from a labor union hiring hall, and benefits against an employee with family responsibilities, as long as their policies are applied in accordance with the IHRA.

An employer cannot harass, discriminate, or retaliate against an employee based on their reproductive health decisions. "Reproductive health" decisions include contraception, fertility, or sterilization care, assisted reproductive technologies, miscarriage management care, healthcare related to the continuation or termination of pregnancy; and prenatal, intra-natal or postnatal care. This amendment also prohibits discrimination for an employee's association with someone else's reproductive health decisions.

On January 1, 2026, an amendment to the IHRA relating to Artificial Intelligence (AI) will go into effect. Employers will be prohibited from using AI in any way that results in discrimination based on a protected class. Employers will be required to provide notice to an employee (and likely an applicant) if the employer uses AI in its hiring, promotion, training, discharge, discipline, tenure, or employment conditions.

These amendments will require companies to update their handbooks and written policies, update their harassment and discrimination training materials, review any utilized technologies for compliance with the AI protections, and train Human Resource personnel and management on these new protections.

Illinois Whistleblower Act Amendments

Effective January 1, 2025, the State of Illinois has broadened the definitions of "employer", "employee", "adverse employment action", "public body", "retaliatory action", and "supervisor" found in the Illinois Whistleblower Act. It has also expanded the protections for retaliation against whistleblowers.

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Employers are prohibited from retaliating against employees who disclose or threaten to disclose activities that they have a good faith belief violate laws or pose public health risks to governmental agencies.

Illinois Child Labor Law of 2024

This new law repeals Illinois' prior child labor law and covers minors under the age of 16 and creates new obligations for the employer. Under the new law, the employer cannot hire a teen under 16 years of age who fails to present an approved work certificate. Additionally, children 13 years or younger may not be employed unless this new law specifically exempts or authorizes their employment.

The new law includes several work restrictions based upon the minor's age, whether the minor is in school or on summer vacation, or whether the requested work is on a weekend or holiday and lists 30 hazardous occupations that minors are prohibited from working in. Employers must also provide a meal period of at least 30 minutes no later than the fifth consecutive hour of work. If your company employs children under the age of 16, please contact your Laner Muchin attorney to discuss how this new law affects your present employment policies and procedures.

In addition to the work-related requirements, there are new requirements regarding employment certificates. The minor must obtain the employment certificate before the minor's employment begins. To obtain a certificate, an employer must issue a Notice of Intention to employ the minor signed by the prospective employer. This notice will include 1) the specific nature of the occupation and 2) the exact hours of the day, number of hours per day and days per week the minor will work. The minor and their parents or guardian will bring this notice to the issuing officer at the minor's school, along with an application for the employment certificate. This application for certificate must be filled out by the minor and their parent or guardian. The issuing officer will issue the employment certificate once they have verified all information in the application. The certificate will be valid for one year.

If a minor is injured or killed while at work, the employer must report the work-related fatality and injuries to both the Illinois Department of Labor and to the issuing officer of the minor's school, in addition to other reporting requirements.

Where both the Illinois Child Labor Law and the Fair Labor Standards Act provisions cover the employer, the stricter of the two laws will prevail.

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Illinois Right of Publicity Act Amendments

On January 1, 2025, amendments to the Illinois Right of Publicity Act will add protections for an individual against the unauthorized use of AI created digital replicas of an individual's voice, image, or likeness for commercial purposes. This amendment prohibits knowingly distributing, transmitting, or making available to the public a sound recording or audiovisual work with the actual knowledge that the work contains an unauthorized digital replica. There are listed exceptions, such as news or sports broadcasting to name a few.

Employers should review previous employee consents to ensure they contain language covering these new amendments. An employee can provide written consent to their employer to use AI created digital replicas.

Similarly, the **Illinois Digital Voice & Likeness Protection Act** was enacted on November 1, 2024. It also addresses AI created digital replicas of an individual's voice, image, or likeness for commercial purposes. Agreements allowing for creation and use of digital replicase in places of work where the individual would otherwise have performed in person is unenforceable unless the agreement includes reasonably specific descriptions of the intended uses, and the individual was represented by counsel or a labor union during the negotiation of the licensing terms.

Illinois Worker Freedom of Speech Act (Captive Audience Ban)

As of January 1, 2025, all employers, with union or non-union employees, are prohibited from retaliating against an employee who refuses to attend or participate in meetings or to receive communications about the employer's religious or political opinions. Additionally, employers cannot mandate or coerce employees' attendance at these meetings. Employees are further protected from retaliation if they report violations of this act in good faith. Employers must post a notice of employee's rights under this new regulation by January 31, 2025.

Similarly, the National Labor Relations Board has recently banned "anti-union" captive audience meetings wherein an employer might provide their anti-union opinion to their employees deeming these meetings to interfere with employees' rights under the National Labor Relation Act. This decision overrules 76 years of prior law. Voluntary meetings with workers to share the employer views on unionization remain lawful with certain restrictions.