

Attention Illinois Employers: Senate Approves Amendments to Workplace Violence Prevention Act

Labor & Employment Law Update

on April 21, 2014

On April 9, 2014, the Illinois Senate unanimously passed amendments to the Illinois Violence Prevention Act ("VPA"), sending the bill to the House for consideration once the General Assembly reconvenes on April 29, 2014. The VPA, effective only since January 1, 2014, is meant to enable employers to protect its workforce, customers, guests and property by limiting access by potentially violent individuals ("PVI"). Under the Senate-approved amendments, an employer would obtain, through any state circuit court, a workplace restraining order to prohibit further threatened or actual violence by a PVI.

To obtain the restraining order, the employer would need to file an affidavit that shows (i) an actual or credible threat of violence by the PVI towards an employee to be carried out at the workplace, and (ii) that the employer (or its employees) has or will suffer irreparable harm at the workplace. Where the employer seeks a restraining order as a result of an employee being a victim of domestic violence, the employer must take additional steps of notifying the employee in writing of its intent to seek the order, and communicate directly and "verbally" with the employee to address other safety or well-being concerns that may result or whether the restraining order would interfere with the employee's own legal actions.

The restraining order may prohibit the PVI's presence in the workplace, and order the PVI to pay the employer for losses including property repair or replacement, attorneys' fees, and court costs. Under the VPA amendments, there is no right to a trial by jury in any proceeding to obtain, modify, vacate, or extend the restraining order. An emergency order would be effective for 14 to 21 days and other restraining orders would be effective for a fixed period of time not to exceed a year.

However, the amendments make clear that the restraining order may not be used to restrain workers or organizations from monitoring wage and safety laws, free speech or assembly, or rights under the National Labor Relations Act including lawful picketing. The amendment also reinforces an employer's responsibilities under the Victims' Employment Security and Safety Act ("VESSA").

Impact on the Workforce

The VPA provides Illinois businesses with the ability to seek judicial protection from violent acts that could result in physical or emotional harm to employees, customers, and guests, and also to avoid damage to property. This important tool may be used to restrain an employee's significant other, a disgruntled former employee, or an unruly customer.

Unfortunately, the amendments fail to curtail a labor union's ability to intimidate or threaten workers who wish to remain union-free or customers who wish to conduct business free of harassment. Illinois has joined a growing list of states that are tackling the growing need to maintain a safe, non-violent workplace.

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Prevention
Act