

2019 EMPLOYMENT LAWS

Employers in Illinois need to be aware of changes to state and federal employment laws that became effective in 2019. The following is a summary of some of the more important changes.

Illinois Human Rights Act Amendments

Effective 2019, the Illinois legislature passed two significant amendments to Illinois Human Rights Act (the “IHRA”). First, Illinois employers are now required to post and include in an employee handbook information concerning an employee’s rights under the IHRA, including the right to be free from unlawful discrimination and sexual harassment and the right to certain reasonable accommodations. The [notice](#) must also include details about reporting discrimination to the Illinois Department of Human Rights (“IDHR”). The second amendment provides that an individual who files a charge under the IHRA may now opt-out of the IDHR’s administrative investigation process and proceed directly to Illinois state court.

Illinois Wage Payment and Collection Act

Under a new amendment to the Illinois Wage Payment Collection Act (“IWPCA”) employers are required to reimburse employees for “all necessary expenditures or losses incurred by the employee within the employee’s scope of employment and directly related to services performed for the employer.” 820 ILCS § 115/9.5. “Necessary expenditures” is defined as “all reasonable expenditures or losses” the employee incurs in performing job duties and which primarily benefit the employer. Employers, however, are not required to reimburse for losses caused by employee negligence, normal wear or theft (unless the theft results from the employer’s negligence). Employers are also not required to reimburse unauthorized expenses requests that fail to comply with written reimbursement policies, or costs exceeding employer-established

expense caps. Employers may also limit the timeframe for submitting reimbursement requests, but employees must be allowed a minimum of 30 days to submit requests. To fall within the exceptions to the reimbursement, employers are required to maintain a written reimbursement policy.

The Illinois Service Employment Member Employment and Reemployment Rights Act

A recent amendment to the Illinois Service Employment Member Employment and Reemployment Rights Act (“ISERRA”) expanded rights for Illinois employees who perform active or reserve military services. ISERRA incorporates protections under the federal Uniform Services Employment & Reemployment Rights Act, and requires that employers: (i) post a notice detailing employee rights under the [statute](#); and (ii) average prior performance evaluation scores when evaluating an employee during periods of military-related absence.

Illinois Equal Pay Act of 2003

An amendment to Illinois’s Equal Pay Act of 2003 (“IEPA”) expands the statute’s coverage to include pay discrimination between African-Americans and non-African-Americans. Previously, the IEPA was limited to pay inequality between male and female employees.

Illinois One Day Rest In Seven Act

Illinois’s One Day Rest In Seven Act (“ODRISA”) was amended to exclude from ODRISA’s coverage on-call employees of private companies licensed under the Emergency Medical Services (“EMS”) Systems Act. ODRISA requires employers to provide employees with at least 1 day of rest in a 7-day period, and that employees who work at least 7.5 continuous hours

be provided a 20-minute meal break no more than 5 hours after starting their shift. The recent amendments provide an exemption to EMS employees who are required to be on call for 8-hour periods. Despite the exemption, on call employees covered by the exemption must be permitted a meal break at some point during the 8-hour on call period.

Illinois Nursing Mothers in the Workplace Act

A recent amendment to the Illinois Nursing Mothers in the Workplace Act requires employers to provide paid breaks to nursing parents who need to express milk at work. While break time used to express milk may run concurrently with any break time already provided to the employee, an employer cannot reduce an employee's compensation for time used for the purpose of expressing milk or nursing. The amendment also requires employers to provide a "reasonable" break time each time the employee needs to express milk for one year after the child's birth. An employer is required to provide these breaks unless it can demonstrate that doing so would create an undue hardship as defined by the Illinois Human Rights Act.