Insights, News & Events

6 IMPORTANT CHANGES TO THE ILLINOIS EMPLOYMENT LAW LANDSCAPE FOR 2025: WHAT EMPLOYERS SHOULD DO TO PREPARE

Insights
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Following a busy 2024 session for the Illinois legislature that will impose new requirements on employers, Governor JB Pritzker signed into law a number of additional bills that will take effect on January 1, 2025, and have important implications for employers doing business in Illinois. What are the six most important changes to the workplace law landscape Illinois employers should be mindful of heading into 2025?

Greater Employee Access to Paystubs

Illinois lawmakers amended state law to provide current and former employees greater access to their paystubs – meaning you'll have some new obligations to be aware of. Thanks to the Wage Payment and Collection Act amendments, you should be prepared to update your payroll practices, payroll recordkeeping, and your responses to requests for paystubs. The new law clarifies the definition of "paystub," imposes additional recordkeeping obligations on employers that will require you to maintain paystub copies for three years, and requires you to furnish copies of an employee's (or former employee's) paystubs upon request. You can read all about the new law here, along with a three-step compliance plan.

Increased Time for Workers to File Illinois Human Rights Act Claims

The Illinois Human Rights Act (IHRA) will undergo some changes for 2025. By way of background, the IHRA is the state-level antidiscrimination and antiharassment statute in

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Illinois. In other words, the IHRA is the state analogue to Title VII of the Civil Rights Act of 1964. Generally, the IHRA requires allegedly aggrieved employees to file a Charge of Discrimination with a state agency before they are able to file a lawsuit and seek monetary relief.

New amendments will more than double the amount of time that an employee has to file a Charge with the applicable state agency from 300 days to two years. This may allow employees who missed the 300-day deadline to file a federal Charge of Discrimination another year to file a Charge concerning state law claims, increasing potential exposure for Illinois employers starting in 2025.

Boosted Penalties for Certain IHRA Claims

Moreover, effective January 1, 2025, the IHRA will provide for increased civil penalties for pattern-and-practice determinations. Namely, an employer that is found to have repeatedly discriminated against multiple employees in the same manner can be subjected to increased civil penalties that will take effect in 2025.

Expanded IHRA Protections

The final IHRA change for 2025: the statute will protect employees from discrimination or harassment based upon their "family responsibilities" and "reproductive health decisions," both of which are specifically defined in the IHRA amendment. These additions to the statute will greatly expand employee protections in the new year.

New E-Verify Obligations

SB0508 will grants additional protections to employees who receive a "no match" designation from the federal E-Verify system. Specifically, the new law prevents Illinois employers from imposing work authorization requirements greater than those required under federal law. It also creates certain notice obligations and prohibitions for employers who receive notice of a discrepancy in an employee's employment verification information, either form the employee directly or a federal or state agency such as the Social Security Administration or IRS.

Importantly, the Act states that employers are prevented from taking "any adverse employment action against the employee, including the re-verification, based on the receipt

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of the notification." The notification of discrepancy notification also triggers certain notice obligations for employers, as they must provide the affected employee with:

- the specific documents deemed to be deficient and the reason for the deficiency;
- instructions on how the employee might correct the discrepancy if required to do so by law;
- an explanation of the employee's rights to have representation present during any resultant meetings, discussions, or proceedings with the employer; and
- an explanation of any rights the employee may have in connection with the discrepancies.

Illinois employers who continue to use the federal E-Verify system, whether they are required to do so or not, should be aware of these policies and incorporate the requirements into their employment verification practices. This is especially true for companies that employ a significant number of foreign or international employees. Employers affected by this statute should confer with counsel to ensure that they have the proper documents and systems in place to handle verification discrepancies or "no match" designations.

Changes to the Illinois Whistleblower Act

If the foregoing changes were not enough, the Illinois Whistleblower Act will change effective January 1, 2025, as well. This statute protects employees who, among other things, disclose or threaten to disclose an employer's illegal activity to a government agency or law enforcement agency.

Perhaps the most notable change is the addition of a "good faith" requirement by employees. The amendment also adds a definition for "adverse employment action" to the statute. Under the IWA, an adverse employment action means one that a reasonable employee would find materially adverse. An action is materially adverse when it could dissuade a reasonable employee from disclosing or threatening to disclosure information protected by the statute. These amendments broaden the scope of conduct of reportable conduct by employees.

Employers should review their procedures for investigating employee complaints, even those of which are unrelated to harassment or discrimination. In the event that the employer activity at issue is not actually harmful or illegal, employers should nevertheless take precautions to ensure that the reporting employee understands why this is the case and is not subjected to any changes in the terms or conditions of their employment on the basis of their having reported the activity in good faith.

Conclusion

Employers should take this time to review their policies and ensure that they have programs in place which effectively train managers on their implementation. Human resources professionals should also review their internal processes for handling complaints of alleged workplace misconduct to make sure problems are dealt with quickly and effectively, so that they don't snowball into more troublesome situations.

If you have questions about potential changes to your operations or policies based on the amendments described above, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Chicago office. We will continue to monitor all labor and employment issues affecting employers, so make sure you are subscribed to the Fisher Phillips Insight System to gather the most up-to-date information.