

Illinois Employers Subject to New Requirements in 2023

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Authors: [Margo Wolf O'Donnell](#), [Charles B. Leuin](#), [Jordan J. Call](#)

Illinois employers should be prepared to take on several new requirements in 2023 and take steps to ensure that their policies and practices are up to date with current Illinois laws. As previously highlighted by Benesch, these new requirements affect meal periods and bereavement leave, among other areas of employment law noted below.

Minimum Wage Increase

An increase of the Illinois minimum wage took effect on January 1, 2023, raising the minimum wage to \$13.00/hour within Illinois. Illinois has been on the path to a \$15.00/hour minimum wage since 2019 when Governor J.B. Pritzker signed legislation establishing a schedule of wage increases.

The minimum wage for employees who regularly earn tips has also been increased to \$7.80/hour as of January 1, 2023. Finally, employees under the age of 18 who work fewer than 650 hours per year are now entitled to a minimum wage of \$10.50/hour as of January 1, 2023.

Illinois employers should ensure that they are paying their employees the appropriate minimum wage and be advised that Illinois is currently set to periodically continue increases toward a \$15.00/hour minimum wage by 2025.

Family Bereavement Leave Act Goes Into Effect

The Family Bereavement Leave Act ("FBLA"), which went into effect on January 1, 2023, broadens the scope of the Child Bereavement Leave Act by covering additional family members and reasons for leave. The FBLA requires that covered employers (i.e., employers with 50 or more employees during 20 or more workweeks in the current or previous calendar year) provide up to 10 workdays of unpaid leave to eligible employees who are absent due to any of the following: (1) a miscarriage; (2) an unsuccessful intrauterine insemination or assisted reproductive technology procedure; (3) a failed adoption; (4) an adoption match that is not finalized because it was contested; (5) a failed surrogacy agreement; (6) a diagnosis that negatively impacts pregnancy or fertility; or (7) a stillbirth.

The FBLA also requires employers to provide 10 workdays of unpaid leave for employees attending the funeral of, grieving the death of, or making arrangements due to the death of a "covered family member." Under the FBLA, a "covered family member" includes children, stepchildren, spouses, domestic partners, siblings, parents, parents-in-law, grandchildren, grandparents, and stepparents.

An employer may require the employee provide documentation supporting the leave request, but the employer cannot require that the employee identify which category of leave they are requesting to take under the FBLA.

To be eligible for leave under the FBLA, an employee must have 1) been employed by the employer for at least one year; 2) worked at least 1,250 hours for the employer during the prior 12-month period; and 3) worked at a worksite with at least 50 employees within a 75-mile radius.

Illinois Human Rights Act Amended

The Create a Respectful and Open Workplace for Natural Hair (“CROWN”) Act, which amends the Illinois Human Rights Act, went into effect on January 1, 2023 and broadens the scope of the Illinois Human Rights Act’s protections. The CROWN Act expands the definition of “race” to include “traits associated with race, including but not limited to hair texture and protective hairstyles such as braids, locks and twists.” Practically, the CROWN Act prohibits discrimination on the basis of hairstyles that are often associated with race.

One Day Rest in Seven Act Amended

Governor Pritzker signed SB 3146 into law in May 2022, amending the One Day Rest in Seven Act (“ODRISA”) in several ways. All of these amendments to ODRISA went into effect on January 1, 2023.

First, the amendments to ODRISA provide a new definition of the period covered by the Act. The amendment replaces the term “calendar week” with “seven-day period.” Thus, ODRISA now applies to any non-exempt employee who works six consecutive days and requires that non-exempt employees receive a day off within each consecutive seven-day period, regardless of where those days fall on the standard Sunday to Saturday workweek.

Second, the amendments to ODRISA require an additional meal period for non-exempt employees when their shifts are 12 or more hours. Employers must provide an additional 20-minute meal period for every 4.5 hours worked beyond the initial 7.5 hours worked. If an employee works only 7.5 hours, the employer must provide the employee with one 20-minute meal period no later than 5 hours after the start of the work period. If an employee works more than 7.5 hours, then the employer must provide an additional 20-minute meal period for every 4.5 continuous hours worked after the first 7.5 hours.

Third, the ODRISA amendments impose new penalties on non-compliant employers. Specifically, employers with fewer than 25 employees may be fined \$250 in penalties, payable to the Illinois Department of Labor, as well as \$250 in damages, payable to the affected employee(s), per offense. Employers with 25 or more employees may be fined \$500 in penalties, payable to the Illinois Department of Labor, as well as \$500 in damages, payable to the affected employee(s), per offense.

Guidance for Employers

It is important that Illinois employers are prepared to take on the new requirements that 2023 presents. Specifically, Illinois employers should do the following:

- Ensure that all employees are paid the required minimum wage under Illinois law.
- Review and, where necessary, revise their bereavement leave policies so that they comply with the FBLA.
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Review and, where necessary, revise their equal employment opportunity policy, grooming policy, and any other policies to make sure they take into account the newly protected categories under the CROWN Act.

- Review and, where necessary, revise their meal period policies if they schedule employees for shifts of 12 or more hours.
- Review and, where necessary, revise scheduling to ensure that all employees receive at least one day off in each consecutive seven-day period.

Illinois employers should seek legal counsel to ensure continuing compliance with employment laws. For more information, please contact Benesch's Labor & Employment Law attorneys listed below.

Margo Wolf O'Donnell at modonnell@beneschlaw.com or 312.212.4982

Charles Leuin at cleuin@beneschlaw.com or 312.624.6344

Jordan Call at jcall@beneschlaw.com or 216.363.6169