CLIENT ALERTS & INSIGHTS

Illinois Employers Take Note: Several New Requirements for Illinois Employers in 2025

JANUARY 14, 2025

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Illinois employers are subject to many new requirements in 2025. Below are some that employers need to address now.

New Pay Transparency Requirements for Job Postings

As previously addressed by Benesch, amendments to the Illinois Equal Pay Act went into effect on January 1, 2025, requiring Illinois employers with 15 or more employees to disclose the "pay scale and benefits" in all job postings. These requirements apply to (1) jobs that will be physically performed, at least in part, in Illinois and (2) jobs performed outside of Illinois if the employee reports to a supervisor, office, or other worksite within Illinois.

Employers may use any of the following considerations to determine the pay scale:

- The actual, applicable pay scale;
- The previously determined salary range for the position;
- The actual salary range of employees who currently hold the position; and/or
- The budgeted amount for the position.

Employers must also disclose "benefits" under the new requirements, but this disclosure can be a general description of benefits and other forms of compensation (such as bonuses, stock options, or other incentives). If an employer partners with third parties (such as external recruiters or employment service providers) to make or list job postings, the employer is responsible for providing pay scale and benefits information to the third party.

In addition to the above requirements for job postings, employers are now also required to announce, post, or otherwise make known all opportunities for promotion to current employees no later than 14 calendar days after making an external job posting for the same position.

The amendments to the Illinois Equal Pay Act also carry new recordkeeping requirements. Employers must make and preserve records of the job posting, pay scale, and benefits for each position for no less than five (5) years.

The Illinois Department of Labor will enforce these new requirements and provide a notice and cure period of 14 days for first offenses and seven (7) days for second offenses. For active job postings, the penalty scale is as follows:

- First Offense: A fine not to exceed $500 (if the violation is not remedied within the 14-day cure period)
- Second Offense: A fine up to $2,500 (if the violation is not remedied within the seven-day cure period)
- Third Offense and Subsequent Offenses: A fine up to $10,000 (no cure period)

For inactive job postings, the penalty scale is as follows:

- First Offense: A fine up to $250
- Second Offense: A fine up to $2,500
- Third Offense and Subsequent Offenses: A fine up to $10,000

Amendments to the Illinois Human Rights Act

A series of amendments to the Illinois Human Rights Act, effective January 1, 2025, expand the protected categories and also extend the time to file complaints under the Act.

Family Responsibilities. A new amendment to the Illinois Human Rights Act prohibits Illinois employers from discriminating against an employee or prospective employee based on the individual's "family responsibilities." Notably, this amendment does not create any new accommodation obligations for employers or require employers to modify or change reasonable policies related to scheduling, absenteeism, timeliness, or leave.

Reproductive Health. Under a separate amendment to the Illinois Human Rights Act, employers must not discriminate against an employee for actual or perceived "reproductive health decisions."

Extension of Time to File Complaints. Effective January 1, 2025, complainants will have two (2) years to file an employment discrimination, harassment, or retaliation charge with the Illinois Department of Human Rights from the date that the civil rights violation was allegedly committed. This is an increase from 300 calendar days.

Updates to Personnel Records Review Act

The Illinois Personnel Records Review Act has also been amended. Employees' requests under the Act must be made in writing (which includes email, text message, and other electronic communications) and must:

- Be made at reasonable intervals (employers are required to grant at least two requests per calendar year);
- Be made to a person responsible for maintaining the personnel records;
- Identify what personnel records, specifically, the employee is requesting and/or if the employee is requesting all records allowed under the Act;

- Specify if the employee is requesting to inspect, copy, or receive copies of the records and, if hard copy, in what form; and
- Specify whether inspection, copying, or receipt of copies will be performed by the requesting employee's representative and, if the records include medical information, a signed waiver to release records to the representative.

If an employee's request meets the above-listed requirements, the employer must provide:

- Any personnel documents that are, have been, or are intended to be used in determining the employee's qualifications for employment, promotion, transfer, compensation, benefits discharge, or disciplinary action;
- Any employment-related contracts or agreements that the employer maintains are legally binding on the employee;
- Any employee handbooks that the employer made available to the employee, or the employee acknowledged receiving; and
- Any other written employer policies or procedures that the employer contends the employee was subject to concerning qualifications for employment, promotion, transfer, compensation, benefits, discharge, or disciplinary action.

Employers must produce requested documents within seven working days after receipt of a proper employee request. If an employer can show that this deadline cannot be met, the employer may have seven additional calendar days to comply.

Illinois Whistleblower Act Amended

Coverage of the Illinois Whistleblower Act has expanded considerably as of January 1, 2025, in light of new amendments to the Act. Now, in addition to preexisting prohibitions under the Act, employers may not retaliate or commit an adverse action against employees who disclose or threaten to disclose an employer's unlawful activity (or activity reasonably believed to be unlawful) to an employee's supervisor, principal officer, board member, or a supervisory in an organization that has a contractual relationship with the employer.

Under the new amendments, "adverse action" is expanded to include "any action that could dissuade a reasonable worker from disclosing or threatening to disclose information protected by the law."

The amendments also clarify that any individual, other than an independent contractor, who is "permitted to work" by an employee is to be considered an "employee" for purposes of the Illinois Whistleblower Act.

Next Steps: What Should Illinois Employers Do Now?

Employers should ensure that they have procedures in place to address these new requirements under Illinois law. Employers can do this by reviewing internal policies and procedures and, where applicable and appropriate, considering amendments to employee handbooks to cover new protected characteristics, personnel record requests, and whistleblower rights.

Benesch attorneys are ready to assist with compliance with these changes to Illinois law. For more information, please contact Benesch's Labor & Employment Law attorneys listed below.

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