

Illinois Enacts Statutory Amendments Creating Variety of New Obligations for Employers

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On March 23, 2021, Illinois Governor J.B. Pritzker signed into law SB 1480, which specified new obligations for employers, as detailed in a [recent alert](#). Now that SB 1480 has been signed into law, employers should implement any new policies or procedures necessary to take into account the following prohibitions and new requirements under the law:

Amendment to the Illinois Human Rights Act Regarding Employment Decisions Based on Criminal Convictions. The Illinois Human Rights Act is now amended to require Illinois employers to demonstrate the following before making an employment decision based on a criminal conviction: (i) a substantial relationship between the conviction and the position sought; or (ii) that the granting of employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. The new law sets forth several factors that employers must consider in making this determination:

- The length of time since the conviction
- The number of convictions that appear on the conviction record
- The severity of the conviction
- Circumstances surrounding the conviction
- Age of employee at the time of the conviction
- Evidence of rehabilitation

In the event an employer seeks to disqualify an applicant or makes the decision not to promote an employee based on criminal history, the employer must give notice to the affected applicant or employee and commence an interactive process. The employer must consider any information provided by an applicant or employee as to why the conviction should not be considered before the employer makes a decision to disqualify the applicant or not to promote the employee. In the event an employer decides to disqualify the applicant or not to promote the employee, the employer must provide additional information to the applicant or employee.

New Obligation to Report Equal Employment Opportunity Data in Annual Reports to Illinois Secretary of State. Under the new law, corporations that are required to file an EEO-1 (a survey on company employment data by race, ethnicity, gender, and job category) with the federal Equal Employment Opportunity Commission must include in their annual corporate reports filed with the Illinois

Secretary of State information that is substantially similar to the employment data required by Section D of the federal EEO-1 form. The equal employment opportunity data must be included in the corporation's annual reports filed with the Illinois Secretary of State on and after January 1, 2023. Such corporations will have their data published on the Illinois Secretary of State's website.

New Obligation for Employers with More Than 100 Employees to Obtain an Equal Pay Certificate. The new law requires employers with more than 100 employees in Illinois to obtain an "equal pay registration certificate." Existing corporations must obtain certificates within three years after the effective date of the new law. New corporations must obtain certificates within three years after commencing operations. Employers should compile a list of all employees during the past calendar year categorized by gender, race, ethnicity, and the total wages to each employee. In order to obtain a certificate, an employer also must submit a statement signed by a corporate officer, legal counsel, or other authorized agent(s) of the business certifying the employer's compliance with certain federal and state laws as well as the employer's nondiscriminatory compensation practices. An employer that fails to obtain a certificate or that is subject to suspension of its certificate after an Illinois Department of Labor investigation is subject to a monetary penalty in an amount equal to 1% of the employer's gross profits.

Illinois employers should seek legal counsel to ensure continuing compliance with employment laws. For more information, please contact a member of Benesch's Labor & Employment Practice Group.

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