

2019 Brings Employment Law Changes for Illinois Employers

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As 2018 draws to a close, state and local lawmakers in Illinois have been passing legislation that will further regulate a variety of employers' practices. Here is a look at what Illinois employers can expect in 2019.

New Laws Effective January 1, 2019

- **Employee Reimbursement for Business Expenses** – An amendment to the Illinois Wage Payment Collection Act ("IWPCA") will require employers 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. However, employers are not required to reimburse for losses caused by employee negligence, normal wear or theft (unless the theft results from the employer's negligence). Nor are employers 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.
- **Additional Protections for Military Service Members** – The Illinois Service Employment Member Employment and Reemployment Rights Act ("ISERRA") expands existing protections for Illinois employees who perform active or reserve military service. ISERRA incorporates protections under the federal Uniform Services Employment & Reemployment Rights Act, and requires that employers: (i) post a conspicuous notice detailing employee rights under the statute; and (ii) average prior performance evaluation scores when evaluating an employee during periods of military-related absence. The required notice is available [here](#).
- **Equal Pay Protections for African-American Employees** – An amendment to Illinois's Equal Pay Act of 2003 ("IEPA") expands the statute to cover pay discrimination between African-Americans and non-African-Americans. The amendment will prohibit employers from paying African-Americans less than non-African-Americans who are performing "the same or substantially similar work."

(The IEPA previously was limited to ensuring equal pay between male and female employees.)

- **New Government Office for Enforcing Chicago Employment Ordinances** – Beginning on January 1, 2019, Chicago will have a new agency tasked with enforcing the city’s employment ordinances: The Office of Labor Standards (“OLS”). The OLS will investigate and respond to employee complaints under the City’s minimum wage, paid sick time and anti-wage theft laws. These types of complaints were previously handled by the Department of Business Affairs and Consumer Protection, which is responsible for business licensing and enforcement of consumer fraud ordinances. It is likely that this change will result in an increased focus on enforcement of City employment ordinances.

New Laws Effective Immediately

- **Paid Breaks for Nursing Mothers** – 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 (“IHRA”).
- **Illinois Human Rights Act Amendments** – On August 24, 2018, Governor Rauner signed a bill that made two notable amendments to the IHRA. First, the IHRA’s notice requirement has been updated to require Illinois employers to 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. Second, 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. To exercise this provision, the employee must send notice of his or her intent to opt out of the IDHR investigation within 10 days of filing a charge. Once the employee’s request is granted, he or she has 90 days to file suit in state court.
- **Emergency Medical Services Employees Exempt from One Day of Rest Act** – Illinois’s One Day Rest In Seven Act (“ODRISA”) was amended, effective August 24, 2018, to exempt 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 amendment to ODRISA, however, provides an exemption to EMS employees who are required to be on call for 8-hour periods. Under the amendment, those employees must only be allowed to eat a meal at some point during the 8 hours they are on call.

Given these forthcoming and recently enacted changes, Illinois employers should review their workplace policies to ensure compliance with these updated requirements.

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