

Illinois Legislature Advances Proposed Amendment to Right to Privacy in the Workplace Act

Law and the Workplace on May 16, 2023

On May 8, 2023, the Illinois legislature passed [Senate Bill 1515](#) (the “Amendment”), which would amend the Illinois Right to Privacy in the Workplace Act (820 ILCS § 55) to mandate a specified process employers would need to follow if they choose to take an adverse employment action against an employee after receiving notice from any Employment Eligibility Verification Systems, including E-Verify, of a discrepancy between an employee’s name or social security number. The Amendment would also grant employees certain rights and protections if any such discrepancies arise.

More specifically, if signed into law by Governor Pritzker, the Amendment would require employers who use Employment Eligibility Verification Systems, such as the federal E-Verify program, to comply with the following:

1. Unless otherwise required by state or federal law, an employer would not be permitted to voluntarily enroll in the E-Verify program or a similar Electronic Employment Verification System.
2. If an employer receives a notification from the Social Security Administration of a discrepancy between an employee’s name or social security number and the Social Security Administration’s records, and the employer takes any adverse action against the employee, the employer must: 1) provide the employee with: a) the specific documents that are deemed to be deficient and the reason why the documents are deficient; b) instructions on how the employee can correct the deficient documents; c) an explanation of the employee’s right to have representation during the verification or re-verification process; and d) an explanation of other rights that the employee may have in connection with the verification or re-verification process; and 2) grant the employee no less than 30 days of unpaid leave to correct any verification discrepancy.
3. When an employer receives notification from any federal or state agency of a discrepancy, the employee is granted the following rights and protections: 1) to choose which work authorization documents to present to the employer during the verification or re-verification process; and 2) to choose to be represented by

counsel or represent his or herself in any meetings, discussions, or proceedings with the employer.

4. If an employer receives notification from any federal or state agency of a discrepancy and the discrepancy has been remedied, the employer must: 1) return the employee to their former position, without loss of seniority, compensation rate or salary, or benefits; and 2) not consider the discrepancy in future promotion decisions or continued employment considerations.

Illinois employers should begin reviewing how the Amendment may impact their internal processes for determining employment eligibility. We will continue to monitor developments relating to this Amendment.

[View original.](#)

Related Professionals

- **Steven J. Pearlman**

Partner

- **Edward C. Young**

Senior Counsel