

LAW OFFICE OF LORI A. GOLDSTEIN, LLC

CLIENT BULLETIN WINTER 2019

New Illinois Employment Laws

In the past few months, employers have seen some changes and new employment laws, and more are in store for 2019. Most important, **employee handbooks should be reviewed and updated** to include valid policies on discrimination, harassment and retaliation, expense reimbursement, nursing mother breaks, and military leave and more.

New Laws Effective Immediately

- **Illinois Human Rights Act Amendments** – Last August, Governor Rauner signed a bill that made two notable amendments to the Illinois Human Rights Act (“IHRA.”) First, employers must include in an **employee handbook an employee’s rights under the IHRA, including the right to be free from unlawful discrimination and sexual harassment and the right to reasonable accommodations for pregnancy and disability**. 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.
- **Paid Breaks for Nursing Mothers** –Last July, the Illinois Nursing Mothers in the Workplace Act was amended, requiring paid breaks to nursing parents who need to express milk at work. The amendment 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.

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 must allow a **minimum of 30 days to submit requests**.
- **Sexual Harassment Policies for State Contractors and Tax Credits** – The Governor approved this new legislation, requiring each bidder who submits an offer for a state contract to have a **sexual harassment policy and provide a copy** of the policy to the

state agency entering into the contract, upon request. The law also requires taxpayers claiming tax credits under the Illinois Economic Development for a Growing Economy Tax Credit Act to submit an **annual report detailing their sexual harassment policy** and the report's minimum requirements.

- **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.
- **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.
- **Paid Sick Leave** – Almost 90% of Cook County voters showed support for paid sick leave in their towns in the advisory referendum last November. At least 2 towns – Northbrook and Wilmette – have **reversed their original decisions to opt out of the Cook County ordinance** and will provide paid sick leave beginning in 2019. Watch for more reversals and be sure to **monitor the ever-changing list** of opt-in and opt-out Cook County towns.

Announcements

- ✓ *I am a proud recipient of the **Super Lawyers Illinois award for 2018** (3rd consecutive year.)*
- ✓ *I work with **both employers and employees** on workplace matters, compliance, contracts, training, and dispute resolution.*
- ✓ ***Career Resource Center is here for you!** As a proud CRC Board member, I can’t say enough about the wonderful career transition services offered by CRC, a nonprofit celebrating almost 30 years of success. We are here for newly RIF’d employees, graduates, individuals returning to the workforce, those seeking a change of employment or career, and employees who need a boost in their career transition search. Stop by for a tour, try out a workshop, or join for a year. Volunteers and donors always welcome too! careerresourcecenter.org*

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