

LAW OFFICE OF LORI A. GOLDSTEIN, LLC

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NEW LAWS FOR 2025

As another interesting and challenging year comes to a close, Illinois employers should be prepared for new employment laws effective 1/1/25. Time to update employee handbooks and practices. Important reminders about 2024 developments follow. Wishing all a year of peace, success and well-being.

1. Discrimination and Harassment Claims Have New 2-Year Deadline

Illinois employees and contractors have become accustomed to the 300-day deadline to file claims under the Illinois Human Rights Act (IHRA.) It aligns with the federal deadline at the Equal Employment Opportunity Commission. But several states have increased theirs, and effective January 1, the Illinois deadline will become 2 years.

2. New Protected Categories under IHRA

The long list of protected categories under the IHRA will become longer at the new year. The amendment will prohibit discrimination based on one's "reproductive health decisions," defined as decisions regarding an individual's use of "contraception; fertility or sterilization care; assisted reproductive technologies; miscarriage management care; healthcare related to the continuation or termination of pregnancy; or prenatal, intranatal, or postnatal care."

Illinois will also ban harassment based on an employee's "family responsibilities," defined as "an employee's actual or perceived provision of personal care to" the employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent,

or stepparent. “Personal care” means: “activities to ensure that medical, hygiene, nutritional, or safety needs are met, providing transportation to medical appointments when the family member cannot do so” and “being physically present to provide emotional support when the family member has a serious health condition and is receiving inpatient or home care.” This law does *not* require employers to “make accommodations for the employee (e.g. leave, scheduling, attendance, performance.”

3. New Pay Transparency Requirements

Companies with at least 15 employees will be subject to the amended Illinois Equal Pay Act pay transparency mandates. These employers who use job postings will have to include “pay scale and benefits” information in every job posting. It covers employees physically working in Illinois, plus non-Illinois employees reporting to a supervisor, office, or other worksite in Illinois.

A hyperlink to a public webpage with the information is valid. Employers who use a third party to post or announce job postings are responsible for providing the pay scale and benefits information.

Current employees are also protected under the new rules. Employers must “announce, post, or otherwise make known all opportunities for promotion to all current employees no later than 14 calendar days” after posting the position externally. Businesses must also maintain documentation of the pay scale and benefits for each position and the related posting.

4. Pay Stub Notice

The Illinois Wage Payment Collection Act (IWPCA) is also getting a refresh next year. Starting January 1, employers must provide an employee with copies of their pay stubs within 21 calendar days of their written request – up to twice in any 12-month period, including for a year after employment ends. from employment. Companies who use electronic pay stubs that aren’t accessible to former employees for at least a year after separation have notice requirements. By the end of their final pay period, employers must offer in writing to provide employees a record of their pay stubs for their last year of employment. Employers must retain pay stubs for at least 3 years.

5. Expanded Rights to Personnel Records

The Illinois Personnel Record Review Act expands the types of personnel records that must be produced in response to requests by employees and former employees (within 1 year after separation.) It will not be enough to simply provide personnel documents which are or are

intended to be used to evaluate the employee's qualifications for employment, promotion, transfer, additional compensation, discharge, or other disciplinary action.”

In 2025, employers will also have to provide the following:

- Documents which are, have been, or are intended to be used in determining the employee's benefits;
- Any “employment-related contracts or agreements that the employer maintains are legally binding on the employee;”
- Any handbooks that the employer “made available to the employee or that the employee acknowledged receiving” (in other words, any handbook the employee ever received during employment); and
- Any “written policies or procedures that the employer contends the employee was subject to and that concern qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action.”

Employers have 7 working days from the date the employer *receives* the request to provide the files. Individuals’ requests must be in writing, must be made “in reasonable intervals,” no more than twice each calendar year.) A signed waiver to release medical information and records to that is appropriate.

Another change is that if an employee is unable to resolve a complaint with the Illinois Department of Labor within 180 days, they can file a lawsuit in state court. Knowing and willful violations of will require the employer to pay the employee’s attorneys’ fees.

6. Illinois Limits Restrictive Covenants in the Mental Health Industry

Three years after the Illinois Freedom to Work Act added significant new worker protections, it will now focus on the mental health industry. Providers serving veterans and first responders cannot be subject to non-compete and non-solicits provisions in contracts entered on or after January 1, if enforcement “is likely to result in an increase in cost or difficulty for any veteran or first responder seeking mental health services.”

Reminders

1. Chicago Paid Leave

Chicago employers with 51-100 employees will now be required to pay out up to 7 days (56 hours) of accrued, unused paid leave when employment ends. This is an increase from 16 hours. The payout is also required when an employee is transferred outside Chicago, or is not given a work assignment for 60 days and requests the payout. Employers with more than 100 employees are required to pay out ALL unused, accrued paid time off.

Note that the ordinance is not consistent with the IWPCA, which requires payout of all accrued, unused PTO, regardless of workforce size. I am monitoring any developments from IDOL or state court to resolve this conflict. Until that occurs, I am encouraging all Chicago employers to pay out all paid leave days.

2. No Federal Non-Compete Ban

The DOL proposed ban on federal non-competes was struck down by a Texas court in November. Non-competes (and non-solicits) remain subject to applicable state laws.

3. Exempt Minimum Salary Raise Struck Down

DOL's new increases on minimum salary for overtime exemptions were also overturned in Texas. The nationwide ruling reversed the increase that occurred on July 1 and ended the proposed second phase increase scheduled for January 1. The minimum salary remains \$35,568.

Most companies have already adjusted for the July 1, 2024 changes, and some may have announced the anticipated January 1, 2025 changes. Employers can legally reverse the July changes and forego the January increase (subject to state laws that may exceed FLSA requirements.)

But employers need to consider the practical effect on employee morale, at least with respect to undoing the July change. Also, be aware of applicable state/local law notice requirements for wage changes.

Finally, it is more important than ever to assess whether your "exempt" employees meet one of the applicable duties tests, as being salaried does not mean exempt.

*I work with both **employers and employees** (not at the same company!) on workplace matters, compliance, contracts, training, and dispute resolution.*

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