

# Introduction to New Illinois Employment Laws for 2026

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# Firm Overview

- We represent management exclusively in every aspect of employment, benefits, labor, and immigration law and related litigation.
- As leaders in educating employers about the laws of equal opportunity, we understand the importance of having a workforce that reflects the various communities we serve.
- With 60 locations and more than 1,100 attorneys, we offer local knowledge backed by the support of a national firm.
- We are founding members of L&E Global, a global alliance of premier employer's counsel firms.

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# Agenda

- Family Neonatal Intensive Care Leave Act
- Victims Economic Security and Safety Act Amendment
- Illinois Human Rights Act Amendments (2025 and 2026)
- Warehouse Tornado Preparedness Act
- Blood and Organ Donation Leave Act Amendment
- Transportation Benefits Program Act Amendment
- Nursing Mothers in the Workplace Act Amendment
- Military Leave Act Amendment
- Unemployment Insurance Act Amendment
- 2025 Refreshers



# Family Neonatal Intensive Care Leave Act

# Family Neonatal Intensive Care Leave Act

- Signed on August 15, 2025
- Effective June 1, 2026
- Requires Illinois employers with 16 or more employees to provide unpaid, job-protected leave to employees whose child is hospitalized in a Neonatal Intensive Care Unit (NICU)
- The Act mandates up to 10 days of unpaid leave for employers with 16 to 50 employees

# Family Neonatal Intensive Care Leave Act (cont'd)

- The Act mandates up to 20 days for those with 51 or more employees
- Leave may be taken continuously or intermittently
- Employers with 15 or fewer employees are exempt
- If taken intermittently, leave must be taken with a minimum increment of 2 hours

# Family Neonatal Intensive Care Leave Act (cont'd)

- Employees who are eligible for leave under the FMLA must first exhaust their FMLA entitlement before using NICU leave
- Employees may choose to substitute available paid leave for unpaid NICU leave, but employers cannot require it
- Employer may request reasonable verification of the child's NICU stay
- Employer cannot demand confidential medical details

# Family Neonatal Intensive Care Leave Act (cont'd)

- Employee Protections
  - Guaranteed reinstatement to the same or equivalent position
  - Continuation of health insurance benefits
  - Protection from retaliation



# Victims Economic Security and Safety Act Amendment

# What is VESSA?

- Available to employees who are victims of domestic violence, sexual violence, gender violence, or any other crime of violence or who have family or household members or who are victims of such violence
- Take up to 12 weeks of unpaid leave (depending on employer size) per any 12-month period
- To seek help, legal assistance, counseling, safety planning, and other assistance

# What is VESSA? (cont'd)

- Allows employees to take up to two weeks of unpaid, job-protected leave from work to attend a funeral, arrange a funeral, or grieve, if a family or household member is killed in a crime of violence
- Employers prohibited from discriminating
- Three years to file a complaint with the Department of Labor
- Public Hearing

# What is VESSA? (cont'd)

- Damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual
- Equitable relief: hiring, reinstatement, promotion, reasonable accommodations
- Attorney's fees

# VESSA Amendment

- Employees can use employer-issued devices, such as phones or computers, to record incidents of domestic violence, sexual violence, gender violence, or other crimes committed against themselves or their family or household members
- Employers prohibited from disciplining or retaliating against employees for making such recordings
- Employers must allow employees to access any recordings made using these devices



# Illinois Human Rights Act Amendments from 2025 and 2026

# Changes to the Statute of Limitations Period

- Effective January 1, 2025, the deadline for filing an administrative charge with the IDHR based upon employment, harassment, or retaliation will be extended to two years after the date that a civil rights violation allegedly has been committed (formerly 300 calendar days)
- No changes to limitations period for federal employment discrimination claims brought in Illinois
- However, this will allow employment discrimination claims to proceed under the IHRA where they are considered untimely under Title VII

# Illinois Human Rights Act Amendment

- Amendment makes fact-finding conferences for open charges of discrimination discretionary rather than mandatory
- Parties may still request a fact-finding conference if they make a joint, written request within 90 days of the charge being filed
- Adds civil penalties to violations of the Act “to vindicate the public interest”
- Ranging from \$16,000 for first-time violations up to \$70,000 for employers with two or more violations within a seven-year period

# Regulations on the Use of AI – Employment

- Effective January 1, 2026, employers will be required to provide notice to employees when an AI tool is used for the purpose of “recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment.
- Employers are liable if the use of AI for any of the purposes listed above results in discrimination based on the protected classes covered by the IHRA
- The amendment also specifies that it is a civil rights violation to use zip codes “as a proxy for protected classes” when making decisions for the purposes above



# Blood and Organ Donation Leave Act Amendment

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- Amendment expands eligibility for blood and organ donor leave to part-time employees
- Both full-time and part-time employees may take up to 10 days of leave in a 12-month period to serve as an organ donor
- For part-time employees, employers must calculate and compensate leave based on the employee's average daily pay over the prior two months



# Transportation Benefits Program Act Amendment

# Transportation Benefits Program Act Amendment

- Amendment expands eligibility for pre-tax commuter benefits to part-time employees
- Old definition: “Covered employee” means any person who performs an average of at least 35 hours of work per week for compensation on a full-time basis
- New definition: “Covered employee” means any person who is employed by a covered employer

# Transportation Benefits Program Act Amendment (cont'd)

- Covered employers – entity that employs 50 or more employees at an address that is located within one mile of fixed-route transit service
- Amendment excludes construction workers covered by a collective bargaining agreement from receiving such benefits



## Nursing Mothers in the Workplace Act

# Nursing Mothers in the Workplace Act

- Effective January 1, 2026
- Amendment requires employers to provide paid break time for employees to express breast milk for one year after childbirth
- Exception: Undue Hardship
- Breaks may run concurrently with existing break periods
- Employers cannot require employees to use paid leave
- Employers cannot reduce compensation during this time



# Military Leave Act

# Military Leave Act

- Effective August 1, 2025
- Illinois employers with 51 or more employees must provide up to 8 hours of paid leave per month, or 40 hours per year, to eligible employees who participate in military funeral honors details
- To qualify: employee must have worked at least 12 months and logged 1,250 hours in the preceding year

# Military Leave Act (cont'd)

- To qualify: employee must be trained to perform funeral honors as either active or retired military members, reservists, national guard members, or authorized providers such as veterans service organization members
- Leave must be paid at the employee's regular rate
- Cannot require employee to use other paid leave before granting this time off
- Employee only needs to give reasonable notice

# Military Leave Act (cont'd)

- Employer may request confirmation of participation
- Employer may deny a request for leave if it is an independent living facility, assisted living facility, nursing home facility, or other similar care facility or at a facility providing 24/7 care and leave would reduce staffing levels to below the established minimum or impair the safe and efficient operations of the facility



# Unemployment Insurance Act Amendment

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- An individual who leaves work voluntarily without good cause attributable to the employer is typically not eligible for unemployment benefits
- Amendment: does not apply to individual who, prior to voluntarily leaving
  - Is deemed physically unable to perform their work by a licensed and practicing physician, licensed and practicing nurse practitioner, or licensed and practicing physician assistant and the employer is unable to accommodate the individual

# Unemployment Insurance Act Amendment (cont'd)

- Is deemed to be able to perform the individual's work due to a mental health disability by a licensed and practicing psychiatrist and the employer is unable to accommodate the individual (only for claims dated December 28, 2025 – December 24, 2028)
- Is providing necessary assistance to care for the individual's spouse, child, or parent, who, is in poor physical or mental health or is a person with a mental or physical disability and the employer is unable to accommodate the individual's need to provide such assistance

# 2025 Refreshers

# Illinois Personnel Records Review Act

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New Employee Requirements – all requests must be made in writing.

Each request also must:

1. Be made at reasonable intervals, unless otherwise provided in a CBA;
2. Be made to a person responsible for maintaining the employer's personnel records, or to an individual as provided in the employer's written policy;
3. Identify what personnel records the employee is requesting or if the employee is requesting all records allowed to be requested under the Act

# Illinois Personnel Records Review Act (cont'd)

4. Specify if the employee is requesting to inspect, copy, or receive copies of the records
5. Specify whether records be provided in hardcopy or in a reasonable and commercially available electronic format
6. Specify whether inspection, copying, or receipt of copies will be performed by that employee's representative, which could include a family member, lawyer, union
7. Include a signed waiver if requesting records that include medical information and medical records

# Illinois Personnel Records Review Act (cont'd)

## New Employer Obligations and Protections

1. Personnel documents which are, have been, or are intended to be used in determining that employee's qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action (with exceptions in Section 10 of the Act)
2. Any employment related contracts or agreements that the employer maintains are legally binding on the employee
3. Employee handbooks
4. Any written employer 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

# Pay Transparency

# Illinois Pay Transparency: Definitions

Effective January 1, 2025, the Salary Transparency amendment to the Equal Pay Act of 2003 requires employers with more than 15 employees to include “**pay scale and benefit**” information in all job postings.

“**Pay scale**”: the wage or salary, or the wage or salary range. What the employer “reasonably expects in good faith to offer.” No guidance on how big the “range” can be.

# Illinois Pay Transparency: Definitions (cont'd)

## **Ways to Set the Pay Scale:**

1. Applicable Pay Scale; or
2. Previously Determined Range for Position; or
3. Actual Range for Equivalent Positions; or
4. Budgeted Amount for Position.

**“Benefits”**: “general description of benefits and other compensation.” Specifically includes bonuses, stock options, or other incentives.

# Illinois Pay Transparency: Scope

## **Applies to postings for jobs that:**

1. Will be physically performed in Illinois (even if only partially); or
2. Will be physically performed outside Illinois, but will report to a supervisor, office, or site in Illinois.

**Use of Third Parties for Job Postings.** If using a third party to publish job posting, employer must give pay scale and benefits (or hyperlink) to third party. Third party is liable for failure to include them, unless it can show that employer failed to provide.

# Illinois Pay Transparency: Scope (cont'd)

**Posting Not Mandatory!** Employers not required to post jobs in the first place.

- But: if there is no posting, and an applicant applies or inquires about the position, and if the applicant requests it, employer (or its agency) must disclose pay scale and benefits prior to any offer or discussion of compensation.

# Illinois Pay Transparency: Internal Postings & Enforcement

- **Internal Notification Rule.** If an employer makes an external job posting, it must make the opportunity known to “all current employees” within 14 calendar days of the external posting.
- **No Private Lawsuits.** No private lawsuits; enforced exclusively by the Illinois Department of Labor (IDOL).
- **Fines for Non-Compliance.** Fines ranging from \$500-\$10,000.
  - Applies to both failing to include pay and benefits information in job postings and failing to notify current employees about external postings.
- **Cure Periods for First and Second Offenses.** Employers are given an opportunity to correct violations during their first and second offenses.

# Thank you.

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