

JacksonLewis

Illinois Desk Guide | FEBRUARY 2026

Desk Guide to Illinois Employment Statutes, Regulations, and Ordinances

Disclaimer

This desk guide is intended solely as a general reference to assist employers in identifying common employment issues under Illinois law. It does **not** address or interpret federal employment laws, nor does it cover the laws of neighboring jurisdictions—an area that frequently presents challenges for employers.

This guide is designed for use by managers and supervisors only and should not be distributed to employees. It is not intended to constitute legal advice. Employers should consult legal counsel before acting on any specific legal matter.

For tailored guidance, please reach out to your Jackson Lewis attorney contact or visit us at [jacksonlewis.com](https://www.jacksonlewis.com).

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I. Leaves of Absence & Time Off

Employee Blood and Organ Donation Leave Act

This Act provides paid leave for blood and organ donation. Under the Act, covered employers with at least 51 employees must permit participating employees up to one hour of paid time off, or more if authorized by the employer or a collective bargaining agreement (CBA), to donate blood every 56 days. Any participating employee who serves as an organ donor is also entitled to 10 days of paid leave in any 12-month period. See 820 ILCS 149/1 *et seq.*

Effective Jan. 1, 2026, the Act expands eligibility for blood and organ donor leave to all employees. For part-time employees, employers must calculate and compensate leave based on the employee's daily average pay over the prior two months. See Public Act 104-0193.

Organ Donor Leave Act

The Organ Donor Leave Act protects state employees who request leave to donate blood, an organ, or bone marrow. An employee may use up to 30 days in a 12-month period to donate bone marrow or an organ and may use up to one hour to donate blood, 1.5 hours to donate double red cells, and 2 hours to donate blood platelets. An employee must obtain advance approval from their employer for this leave and may not be required to use sick or vacation leave before being eligible for organ donation leave. The Act prohibits an employer from retaliating against an employee for requesting or obtaining leave under the Act. It is also unlawful to charge higher premiums, refuse to insure, or limit the coverage available for life, disability, or long-term care insurance due solely to a person's status as an organ donor. See 5 ILCS 327/1 *et seq.*

Employee Blood Donation Leave Code

Under the Illinois Administrative Code, employers have the authority to establish a policy allowing employees paid leave to donate or attempt to donate blood. If an employer chooses to offer paid leave for blood donation, the donating employee must submit a request for leave before donating blood. Once the employer approves the employee's leave, the employee is entitled to one hour or less of leave to donate blood every 56 days. Employers may also require medical documentation as proof that the employee donated blood. See 77 Ill. Adm. Code 985.400.

Civil Air Patrol Leave Act

Under this Act, employers with 15 to 50 employees must grant eligible employees up to 15 days of unpaid civil air patrol leave. Employers with more than 50 employees must grant eligible employees up to 30 days of unpaid civil air patrol leave. Employees must have worked 12 months and 1,250 hours within the prior 12-month period to be eligible. Employees also must provide 14 days of advance notice for leave of at least five consecutive days and reasonable notice for fewer than five days. See 820 ILCS 148/1 *et seq.*

Military Leave Act

This Act requires employers of more than 50 employees to grant up to 30 days of unpaid leave to employees who are the spouses or parents of military personnel during their federal or state deployment orders. Employers of 15 to 50 workers must provide up to 15 days of unpaid leave to the spouses or parents of military personnel while deployment orders are in effect. The Act also obligates covered employers to facilitate employees continuing their employment benefits at their own expense during periods of protected leave.

Effective Aug. 1, 2025, this Act requires employers with at least 51 employees to provide up to eight hours of paid leave per month, or 40 hours per calendar year (or more if authorized by the employer or provided for in a CBA), to eligible employees who participate in military funeral honors details. To qualify, employees must have been employed by the employer for at least 12 months and been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. Employees must also 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, and employers cannot require the use of other paid leave before granting this paid time off. Employees need only give reasonable notice, though employers may request confirmation of participation. Certain care facilities may deny leave if it would compromise staffing or safety.

Covered employers must restore employees who take family military leave or funeral honors detail leave to positions providing equivalent seniority status, benefits, pay, and other terms and conditions of employment. See Public Act 104-0078. See also 820 ILCS 151/1 *et seq.*

Family Leave for Education Employees

The Illinois legislature amended various laws related to public schools, public universities, and public community colleges in the state to provide those employees with protections under the federal Family and Medical Leave Act of 1993 (FMLA). The amendments took effect on Jan. 1, 2022.

The School Code was amended to provide any school district employee employed for at least 12 months by the school district and who has worked at least 1,000 hours in the previous 12-month period to be eligible for family and medical leave under the same terms and conditions as leave provided to eligible employees under the federal FMLA.

Similarly, the University of Illinois Act, Southern Illinois University Management Act, Chicago State University Law, Eastern Illinois University Law, Governors State University Law, Illinois State University Law, Northeastern Illinois University Law, Northern Illinois University Law, Western Illinois University Law, and the Public Community College Act provide that university/college employees who have been employed by their respective institutions for at least 12 months and have worked at least 1,000 hours in the previous 12-month period are

eligible for family and medical leave under the same terms and conditions as leave provided to eligible employees under the federal FMLA.

Jury Duty Leave Law

An employee is entitled to time off for jury duty. The employee may not be discharged, intimidated, or coerced because of the absence. The employer need not compensate a non-exempt employee for the time off. See 705 ILCS 305/4.1 and 310/10.1. Exempt employees must be paid for the day, but the amount received for jury duty may be deducted.

Official Meetings Leave Law

Under this law, an employer must grant any elected official of a unit of local government or school district time away from work to attend an official meeting of the public body to which the employee was elected. The time off must also include the necessary traveling time to and from the meeting. The employee must provide advance notice of the intent to attend the meeting. The employer is not required to pay the employee for the time off. See 50 ILCS 115/0.1 *et seq.*

School Visitation Rights Act

This Act grants employed parents and guardians an allotment of time during the school year to attend necessary school conferences, behavioral meetings, or academic meetings at their children's schools if they are unable to meet with educators because of a work conflict. An employer must grant an employee leave of up to eight hours during the school year, no more than four hours of which may be taken on the same day, to attend school conferences, behavioral meetings, or academic meetings if they cannot be scheduled during non-work hours. Employees covered under this Act must work for at least six consecutive months before they are eligible for leave. Finally, an employer may not terminate an employee for an absence from work if the absence is due solely to the employee's attendance at a school conference, behavioral meeting, or academic meeting. See 820 ILCS 147/1 *et seq.*

Victims' Economic Security and Safety Act (VESSA)

This Act provides that an employee who is a victim of domestic, sexual, or gender violence or has a family or household member who is a victim of domestic, sexual, or gender violence may take up to a total of 12 workweeks of leave from work during any 12-month period to address domestic or sexual violence. For employers with 1 to 14 employees, however, leave can be limited to four workweeks; for employers with 15 to 49 employees, leave can be limited to eight weeks. For employers with at least 50 employees, eligible employees are entitled to up to 12 workweeks of leave. The employee is to provide the employer at least 48 hours of advance notice of the employee's intention to take the leave unless providing such notice is not practicable. Employers may require employees to provide certification to the employer. Employers are required to post a notice to employees summarizing the requirements of this Act.

As of Jan. 1, 2022, the Act allows employees to take leave if they or a covered family or household member is a victim of any "crime of violence." That term is defined to include a

number of crimes, including homicide, sex offenses, bodily harm, harassing and obscene communications, terrorism, and armed violence. The Act was also amended to expand the definition of “family or household member” to include a party to a civil union, grandparent, child, grandchild, sibling, or any other person related by blood or by present or prior marriage or civil union, or any other person who shares a relationship through a child, or any other individual whose close association with the employee is the equivalent of a family relationship as determined by the employee. The Act also requires that any information provided to the employer pursuant to the Act be retained in strict confidence.

If the employee possesses documentation, records, or other corroborating evidence to support the certified statement, the employee must provide at least one such supporting document to the employer. However, the employer cannot require the employee or the employee’s family or household member to obtain any documentation, records, or other corroborating evidence that is not in the employee’s possession. The employee must choose which document to submit, and the employer may not request or require more than one document to be submitted during the same 12-month period leave requested or taken if the reason for leave is related to the same incident or incidents of violence or the same perpetrator or perpetrators of the violence. See 56 Ill. Adm. Code 280.110.

As of Jan. 1, 2024, employees may take leave to grieve a family member’s death arising from a crime of violence. Employees may take leave: (1) to attend the funeral or alternative to funeral or wake of a family or household member who is killed in a crime of violence; (2) to make arrangements necessitated by the death of a family or household member who is killed in a crime of violence; or (3) to grieve the death of a family or household member who is killed in a crime of violence. An employee who takes leave for any of the above three purposes is entitled to a cumulative total of two workweeks of unpaid leave (10 workdays), which must be used within 60 days after the employee receives notice of the death of the victim family or household member. See 820 ILCS 180/1 *et seq.*

Effective Jan. 1, 2026, employees are permitted to use employer-issued electronic devices — such as phones or computers — to record incidents of domestic violence, sexual violence, gender violence, or any other crime of violence committed against themselves or their family or household members. Employers may not take any adverse action or retaliate against employees for making such recordings. Additionally, employers must allow employees to access such recordings made using these devices. See 820 ILCS 180/33; Public Act 104-0171.

Voter Leave Law

The Illinois Election Code grants eligible employees up to two hours of paid time off to vote in a general or special election if their working hours on the day of the election begin less than two hours after the opening of the polls and end less than two hours before the closing of the polls, so long as the application for such leave of absence is made before the day of election. See 10 ILCS 5/17-15.

Leave for Election Judges

Any person who is appointed an election judge under the Illinois Election Code, after giving their employer at least 20 days' written notice, may be absent from their place of work for the purpose of serving as an election judge. An employer may not penalize an employee for that absence other than a deduction in salary for the time the employee was absent from their place of employment. An employer may not require an employee to use earned vacation time or any form of paid leave time to serve as an election judge. This law does not apply to an employer with "fewer than 25 employees." An employer "with more than 25 employees" will not be required to permit more than 10% of the employees to be absent under this law on the same election day. See 10 ILCS 5/13-2.5.

Witness Duty Leave Law

An employer may not discharge or threaten to discharge an employee who is a witness to a crime because of lost time at work due to attendance under the sanctuary at a court proceeding relating to the crime. The employer need not compensate the employee for the time off. See 725 ILCS 5/115-18.

Nursing Mothers in the Workplace Act

This Act requires reasonable break time to express breast milk for an infant child. These rest periods must be provided in a suitable, private location, other than a bathroom, which is near the employee's work area. The breaks may run concurrently with regularly scheduled break times or lunches. In order to deny a request for reasonable break time for purposes of expressing breast milk, an employer must show it would create an undue hardship as defined by the Illinois Human Rights Act (IHRA). Under the Act, break time need only be provided to the mother for up to one year after her child's birth. As of Jan. 1, 2026, employers must compensate employees at their regular rate of pay during the break and may not require employees to use other paid leave or reduce employees' compensation during the break. See 820 ILCS 260/1 *et seq.*; Public Act 104-0076.

Family Bereavement Leave Act

The Family Bereavement Leave Act (FBLA) mandates that Illinois employers with at least 50 employees provide employees two weeks (10 work days) of unpaid bereavement leave so that the employee can: (1) attend the funeral, or an alternative to a funeral, of a covered family member; (2) make arrangements necessitated by the death of a covered family member; (3) grieve the death of a covered family member; or (4) be absent from work because of a miscarriage, unsuccessful round of intrauterine insemination or other artificial insemination procedure, failed adoption match, failed surrogacy agreement, a diagnosis that negatively affects pregnancy or fertility, or delivery of a stillborn child. 820 ILCS 154/10 (a)(1)-(4). If an employee suffers the death of more than one covered family member in any 12-month period, the employee is entitled to take up to six weeks of unpaid bereavement leave in the 12-month period. The leave provided under the Act must be taken within 60 days after the employee

receives notice of a qualifying event. The Act defines “covered family member” broadly to include an employee’s child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. Employees must provide their employers with at least 48 hours of advance notice of the intention to take leave under the Act, unless it is not reasonable or practical to do so. Additionally, employers may require eligible employees to provide reasonable documentation of the need for leave under the Act but cannot require the employee to identify which category of event (1)-(4) caused the exercise of rights under the Act. However, for leave resulting from an event arising under the fourth category described above, the employee must submit information from their healthcare provider on a form prepared by the Illinois Department of Labor (IDOL) or, in the case of adoption, provide documentation from the adoption agency corroborating that the employee experienced a qualifying event. Although employees may elect to substitute paid leave provided under any other federal, state, or local law, CBA, or employer policy for unpaid leave under the Act, employers may not require them to do so. Employers are prohibited from retaliating or taking any other adverse action against employees who exercise or attempt to exercise their rights under the Act, oppose practices the employee believes constitute violations of the Act, or support the exercise of the rights of others under the Act. See 820 ILCS 154/1 *et seq.*

Child Extended Bereavement Leave Act

Effective Jan. 1, 2024, this Act extends the amount of unpaid leave to which employees are entitled for certain categories of child bereavement. “Child” includes biological, adopted, foster, and stepchildren, as well as legal wards and children of people legally serving in the place of a parent (*in loco parentis*). Employers with between 50 and 249 full-time employees in Illinois will be required to provide six weeks of unpaid leave to employees who lose a child to homicide or suicide. Employers with at least 250 full-time employees in Illinois must provide 12 weeks of unpaid leave to affected employees. Employees are entitled to the leave if they have worked for their employer for at least two weeks and take the leave within one year of notifying their employer of their child’s death. Leave may be taken in a single continuous period or intermittently in increments of no less than four hours. If an employee takes unpaid leave under this Act, they are not entitled to leave under the Illinois FBLA for the same bereavement. This Act also does not extend the maximum period of leave to which an employee is entitled under the FMLA or under any other paid or unpaid leave provided under federal, state, or local law, a CBA, or an employment benefits program or plan. Employers can require reasonable advance notice and documentation from employees intending to take leave under the Act. Required documentation can be in the form of a death certificate, published obituary, or other written verification of the death. An employer may also require that the documentation state the child’s cause of death. When they return from bereavement leave, employees are entitled to the position they had before leave under the Act. If their position has been filled or is no longer available, returning employees are entitled to an equivalent position with equivalent pay, benefits, and job responsibilities. See 820 ILCS 156/1 *et seq.*

Employee Sick Leave Act

The Act requires Illinois employers who provide personal sick leave benefits to their employees to allow employees to take such leave for absences due to the illness, injury, medical appointment, or to care for the illness of the employee's child, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. The leave must be granted on the same terms under which the employee is able to use sick leave benefits for their own illness or injury. The Act allows employers to limit the use of sick leave benefits for absences due to illness, injury, medical appointment, or to care for the illness of a family member to an amount that is not less than the amount of personal sick leave the employee would accrue for six months at the employee's current accrual rate. Employers are prohibited from denying employees the right to use personal sick leave benefits for the care of specified family members in accordance with the Act. See 820 ILCS 191/1 *et seq.*

Paid Leave For All Workers Act (PLAWA)

This Act, which became effective on Jan. 1, 2024, mandates that employers allow eligible employees working in Illinois (generally outside of Chicago and Cook County) to accrue up to 40 hours of paid time off in each 12-month period of their employment. Leave accrues at the rate of one hour for every 40 hours worked up to a minimum of 40 hours of paid leave—or a greater amount if provided by the employer. Exempt employees are deemed to work 40 hours in each workweek unless their regular workweek is less than 40 hours, in which case paid leave accrues based on that regular workweek. Paid leave starts to accrue at the commencement of employment, and employees are entitled to begin using the leave 90 days following the commencement of their employment or 90 days following the effective date of the Act. “Employer” and “employee” are defined by reference to the terms’ respective definitions in the Illinois Wage Payment and Collection Act (IWPCA). “Employee” also includes domestic workers.

An employee may request leave in writing or verbally, but employers may impose reasonable notification requirements:

- If the need for leave is foreseeable, the employer may require the employee to provide no more than seven calendar days’ notice; or
- If the need for leave is not foreseeable, the employer may require the employee to provide notice as soon as practicable.

On April 30, 2024, the IDOL published Final Regulations interpreting PLAWA, which took effect immediately.

The Final Regulations provide that an employer may deny a paid leave request in certain limited citations.

Unused paid leave earned under the Act must carry over annually, unless the employer makes the minimum number of hours of paid leave— *i.e.*, 40—available to employees on the first day of employment or the first day of the 12-month benefit period. In this case, the employers can

require employees to use all paid leave before the end of the benefit period or forfeit the unused paid leave.

If an employer chooses to credit leave under the Act to an existing paid leave allowance, any unused leave under the Act must be paid to the employee upon their separation from employment to the same extent vacation time is paid out under the IWPCA. However, an employer is not required to reimburse or pay out unused leave under the Act upon the employee's separation from employment if the employer does not provide an additional form of paid leave allowance or does not choose to combine or credit the multiple forms of leave together.

The Act's paid leave requirements may be waived in a *bona fide* CBA if the waiver is explicit and unambiguous. The Act also does not apply to employees in the construction industry who are covered by a *bona fide* CBA nor to employers that provide services nationally and internationally of delivery, pickup, and transportation of parcels, documents, and freight. Short-term employees of an institution of higher education, as well as part-time student employees of a college or university who are employed on a temporary basis are not covered by the Act. Employers subject to any local ordinance in effect before Jan. 1, 2024, that requires paid leave are also exempt from the Act.

The Act also requires employers to post a notice of employees' rights prepared by the IDOL in a location where notices to employees are customarily posted and include in any employee handbook information concerning employees' rights under the Act, including information on how to file a charge with the IDOL. If an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer must notify the IDOL and a notice in the appropriate language will be prepared by the IDOL. An employee may also request that the IDOL provide a notice in languages other than English, which the employer must post. See 820 ILCS 192/1 *et seq.*

Under IDOL's Final Regulations, employers must notify employees of the following, if applicable: (1) an existing PTO policy is being used for compliance with the Act; (2) the employer plans to frontload the Paid Leave hours; and (3) any changes to the Paid Leave policy. The Final Regulations also excuse employers with "qualifying pre-existing paid leave policies" from modifying their existing policy. A "qualifying pre-existing paid leave policy" is a *bona fide* paid leave policy that an employer has enacted prior to Jan. 1, 2024, that, in practice, satisfies the minimum amount of leave required by PLAWA if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason.

Cook County Paid Leave Ordinance

Effective Dec. 31, 2023, and amended March 14, 2024, this Ordinance supersedes the preexisting Cook County Earned Sick Leave Ordinance and requires employers to offer up to 40 hours of general Paid Leave to employees working in Cook County.

Covered employees include those working in Cook County (outside of Chicago), except for: (1) employees as defined in the federal Railroad Unemployment Insurance Act, 45 U.S.C. § 351, *et seq.*; (2) temporary college or university student-employees; (3) short-term employees employed by higher education institutions for fewer than two consecutive quarters during a calendar year who do not expect to be rehired by the same employer the following year; and (4) employees in the construction industry who are covered by a bona fide CBA.

Under the Ordinance, “employer” does not include: (1) the government of the United States; (2) an Indian tribe or corporation owned by an Indian tribe; or (3) the government of Illinois, including any state agency or department.

Employees who work in Cook County are entitled to accrue at least 1 hour of Paid Leave for every 40 hours worked, up to 40 hours per consecutive 12-month period. If an employer provides Paid Leave on an accrual basis, the Ordinance requires that employees carry over unused accrued Paid Leave annually.

Employers may frontload the minimum number of hours of Paid Leave to employees on their first day of employment or the first day of the 12-month period chosen by the employer. Employers that frontload at least 40 hours of Paid Leave are not required to allow carryover of unused Paid Leave time into the next 12-month benefit period.

Employers may require employees to exhaust all Paid Leave accrued under the Ordinance before taking unpaid FMLA leave.

Under the Ordinance, employers may set a minimum increment for the use of Paid Leave of no more than 2 hours per day.

While the Ordinance provides that Paid Leave must begin to accrue at the commencement of employment or on Dec. 31, 2023, the effective date of the Act (whichever is later), employees are not entitled to begin using Paid Leave time until 90 days after the start of their employment or 90 days after the Ordinance’s effective date (March 30, 2024).

Employers may require up to seven days’ advance notice of the need for use of Paid Leave if the need for leave is foreseeable, or as soon as practicable if the need is unforeseeable. However, employers may not require documentation for the use of Paid Leave.

Employers need not pay employees for unused Paid Leave provided under the Ordinance upon separation from employment. However, if Paid Leave is credited to an employee’s pre-existing paid time off or vacation time bank, any unused paid leave time must continue to be paid to an employee upon the employee’s separation.

Like the PLAWA, the Ordinance states that an employer who provides a paid leave policy that offers an employee the option, at the employee’s discretion, to take up to 40 hours of paid leave for any reason annually is not required to modify its preexisting policy.

Under the Cook County Commission on Human Rights' Interpretative and Procedural Rules Governing the Cook County Paid Leave Ordinance (PLO Rules), a policy that requires advance notice of "foreseeable" paid leave use is unreasonable if the policy: (1) is not in writing; (2) has not been communicated to the employee before the employee's failure to provide notice; (3) would require the employee to give notice when the employee is unconscious or otherwise incapacitated; (4) requires an employee to provide notice more than seven days before the absence; or (5) limits how an employee can provide the required notice such that compliance is so unreasonably difficult that paid leave cannot, as a practical matter, be used.

An employer may also establish a reasonable written policy requiring notification for unforeseeable absences as soon as practicable. Under the procedural rules, a policy requiring notification for unforeseeable paid leave use is unreasonable if the policy: (1) is not in writing; (2) requires notice when the employee is unconscious or otherwise incapacitated; (3) disallows a third-person other than the employee to provide the required notice on behalf of the employee; (4) requires an employee to provide notice before the day of the absence; or (5) excludes notification by phone, email, or text messaging. Interpretative and Procedural Rules Governing the Cook County Paid Leave Ordinance § 500.300(E).

Under the PLO Rules, an employer may deny an employee's leave request under certain limited circumstances. See Interpretative and Procedural Rules Governing the Cook County Paid Leave Ordinance § 500.400.

Employers cannot require employees who are suspended or otherwise placed on leave for disciplinary reasons to use Paid Leave. However, employers' paid leave policy may allow employees who are suspended or otherwise placed on leave for disciplinary reasons to elect to use Paid Leave. The employee may elect to use Paid Leave for some or all the disciplinary leave.

The Ordinance does not affect the validity or change the terms of a valid CBA in effect on Jan. 1, 2024. After Jan. 1, 2024, a bona fide CBA may waive the requirements of the Ordinance only if the waiver is set forth explicitly in the CBA in clear and unambiguous terms.

The Ordinance requires employers to make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balances for each employee for at least three years. Employers that provide paid leave on an accrual basis must provide notice of the amount of paid leave accrued or used by an employee at the employee's request. For employees who are paid various rates of pay under multiple job functions or job codes, the employer must calculate those employees' paid leave by choosing (1) the average of the employee's various hourly rates or (2) the greater of the minimum wage or the employee's lowest rate. Wages earned while using paid leave must be paid no later than the next regular payroll period beginning after the paid leave was used by the employee.

Employers must post a Paid Leave Workplace Poster that will be provided by the Commission in a conspicuous place at each facility in the County. If an employer's workforce has a significant portion of non-English speakers, the employer must post a notice in the appropriate language, which will be provided by the Commission. This notice must also be provided to employees at the commencement of their employment. Effective Oct. 24, 2024, Employers must also maintain a written policy advising each employee of their leave benefits and rights. The written policy must include a summary of the paid leave Ordinance, a description of the benefits the employer offers, coverage, the rate of accrual, permissible uses, prohibited employer practices, contact information for the Commission, and an explanation of how employees can file a complaint with the Commission.

Employers must provide remote workers a copy of the County-issued Workplace Poster, which notifies employees of their rights, through their normal method of communicating. This may include email, an online portal, or a company intranet.

Public school districts and park districts became covered under the Ordinance effective Jan. 1, 2025.

Chicago Paid Leave and Paid Sick and Safe Leave Ordinance

Beginning July 1, 2024, this Ordinance replaces Chicago's Paid Sick Leave Ordinance and requires employers in the City of Chicago to provide eligible employees up to 40 hours of Paid Sick Leave *and* up to 40 hours of Paid Leave that can be used for any reason in each 12-month period of their employment.

The Ordinance defines an "employer" as a person who gainfully employs at least one employee. "Covered employees" are those who work at least 80 hours for an employer in any 120-day period while physically present within the geographic boundaries of the City of Chicago, no matter where the employer is located. Once this threshold is reached, "the Employee will remain a Covered Employee for the remainder of the time that the Employee works for the Employer."

The Ordinance does not affect CBAs in effect on July 1, 2024. After July 1, 2024, a bona fide CBA may waive the requirements of the Ordinance only if the waiver is set forth explicitly in the CBA in clear and unambiguous terms. The Ordinance does not apply to employees working in the construction industry who are covered by a bona fide CBA.

The Ordinance provides that covered employees must accrue one hour of Paid Leave for any reason *and* one hour of Paid Sick Leave for every 35 hours worked. Overtime exempt employees are assumed to work 40 hours in each work week for purposes of accrual, unless the employee's normal work week is less than 40 hours, in which case such paid time off accrues based on that normal work week. If an employer provides Paid Leave and Paid Sick Leave using an accrual method, employees must be allowed to carry over up to 16 hours of Paid Leave for any reason and 80 hours of Paid Sick Leave from one 12-month period to the next.

The Ordinance also provides that employers may frontload 40 hours of Paid Sick Leave and 40 hours of Paid Leave on the first day of employment or the first day of the 12-month benefit period in lieu of accruals. If Paid Leave is frontloaded, no carryover is required by the Ordinance. However, even if Paid Sick Leave is frontloaded, the employer must still permit carryover of up to 80 hours of Paid Sick Leave into the next 12-month period.

Employers are required to allow employees to use accrued Paid Sick Leave 30 days after the start of their employment and are required to allow employees to use accrued Paid Leave for any reason 90 days after the start of employment. Under the Ordinance, an employer also may set a minimum increment requirement of four hours of Paid Leave for any reason per day, and two hours of Paid Sick Leave per day (unless the employee's workday is less than the minimum increments in which case the minimum increment of time shall not exceed employee's regular scheduled workday).

The Ordinance requires employers with at least 51 covered employees to pay out all unused, accrued Paid Leave for any reason as part of the employee's final compensation upon separation from employment, or whenever an employee ceases to meet the definition of "covered employee" as a result of transfer outside the geographic boundaries of Chicago.

"Small Employers" with up to 50 covered employees need not pay out any accrued but unused Paid Leave upon separation. Additionally, employers of any size are not required to pay out unused, accrued Paid Sick Leave upon separation or transfer out of Chicago, no matter how many employees they have.

The Ordinance also provides that employees may request payout of their unused, accrued Paid Leave after not receiving a work assignment for 60 days.

Under the Ordinance, an employer may establish reasonable policies for the use of Paid Leave for any reason that:

- 1) Require an employee to give reasonable notice, which may not exceed seven days before using such Paid Leave; and
- 2) Require an employee to obtain reasonable preapproval from the employer before using Paid Leave for the purpose of maintaining continuity of employer operations, subject to rules that will be promulgated by the City of Chicago's Department of Business Affairs and Consumer Protection (BACP) Office of Labor Standards (OLS).

If an employee's need for Paid Sick Leave is reasonably foreseeable, an employer may require up to seven days' notice before leave is taken. If the need for Paid Sick Leave is not reasonably foreseeable, an employer may require an employee to give notice as soon as is practicable on the day the employee intends to take Paid Sick Leave.

Reasons for using Paid Sick Leave that are "reasonably foreseeable" include, but are not limited to, prescheduled appointments with health care providers for the employee or for a family

member, and court dates in domestic violence cases. When an employee is absent for more than three consecutive workdays, the employer may require certification that the use of Paid Sick Leave was authorized under the Ordinance.

If an employer chooses to deny a Paid Leave request, it must immediately provide the employee with the denial in writing and reference pre-established policy rationale for the denial.

The Ordinance requires employers to post a notice advising covered employees of their right to paid time off in a conspicuous place at each facility where any covered employee works in Chicago. If at least 5% of the employees speak a different language, the employer must also post the Notice in that language. Employers are also required to provide a notice advising covered employees of their right to paid time off with the first paycheck issued, and annually with a paycheck issued within 30 days of July 1. And each time wages are paid, employers are required to provide covered employees with written notification stating an updated amount of Paid Leave for any reason and Paid Sick Leave available for use, along with the accrual rates of the Paid Leave for any reason and Paid Sick Leave provided to the employee. Employers may provide this information on each pay stub or by developing an online system where covered employees can access the information. The Ordinance also requires employers to provide employees with written notice of the employer's paid time off policy at the commencement of employment and within five days before any change to the policy. An employer's policy may be part of a manual, handbook, or separate document, but must be written and reasonable. If an employer plans to change the notification policy, it must provide at least 5 days' advance written notice to employees. If an employer plans to make a change to its paid time off policies that will affect an employee's right to final compensation, the employer must provide at least 14 days' written notice to that employee.

Use of Paid Leave and Paid Sick Leave hours are generally compensated at the same rate that the employee regularly earns during hours worked; however, special rules apply to commissioned employees, employees engaged in occupations in which gratuities have customarily constituted part of the remuneration, and employees who have experienced a pay reduction during the previous 90-day period.

The Ordinance also requires employers to retain records for at least five years, or for the duration of any claim, civil action, or investigation pending.

The Ordinance is enforced by the City of Chicago's BACP OLS. For any violation of the Ordinance except a public notice violation, fines will range from \$1,000 to \$3,000 for each offense. For public notice violations, the first offense will result in a \$500 fine and any subsequent offense will result in a \$1,000 fine. The Ordinance provides that each day that a violation continues constitutes a separate and distinct offense to which a separate fine will apply. The Ordinance also provides for a private right of action. In a civil action for violation of the Ordinance, an employee may recover damages equal to three times the full amount of any

leave denied or lost because of the violation, the interest on that amount calculated at the prevailing rate, and costs and reasonable attorney's fees. For the Paid Sick Leave provisions of the Ordinance, the right to a private cause of action is effective Dec. 31, 2023. For the Paid Leave for any reason provisions of the Ordinance, the right to a private cause of action is effective Jan. 1, 2025.

Leave as a Religious Accommodation Under Chicago Human Rights Ordinance

This Ordinance requires employers to make all reasonable efforts to accommodate the religious beliefs, observances, and practices of employees or prospective employees. Reasonable efforts to accommodate include allowing employees:

1. To take a day of paid leave or vacation;
2. To be excused from work without pay and without discipline;
3. To take the day off with pay to practice the employee's religious beliefs, and to make up the lost work time at a time and date consistent with the operational need of the employer's business.

Any employee who elects such deferred work must be compensated at the employee's regular rate of pay, regardless of the time and date at which the work is made up. The employer may require employees planning to exercise option (iii) to provide the employer with notice of the employee's intention to do so no less than five days prior to the date of absence. Chi. Mun. Code § 6-10-050.

Family Neonatal Intensive Care Leave Act

Effective June 1, 2026, this Act requires employers with at least 16 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, and up to 20 days for those with at least 51 employees, or for the duration of time the child is in the NICU, whichever is less. Employers with 15 or fewer employees are exempt. Leave may be taken continuously or intermittently, and employers may require that leave be taken in minimum increments of 2 hours.

Employees entitled to leave under the federal FMLA must first exhaust their FMLA leave before using NICU leave. Employers may request reasonable verification of the child's NICU stay but cannot demand confidential medical information. Employers may not require employees using NICU leave to provide a replacement worker and may not retaliate against employees who exercise their rights under the Act, oppose practices in violation of the Act, or support the exercise of rights of another under the Act. Employers must maintain employees' health insurance benefits during the period of NICU leave and must reinstate employees to their same or a substantially equivalent position. Employees may choose to substitute other available paid or unpaid leave for unpaid NICU leave, but employers cannot require them to do so.

Employees may file an administrative complaint or civil action for violations of the Act. Employers may be subject to penalties up to \$5,000 per affected employee. See Public Act 104-0259.

II. Pay, Benefits, & Deductions

Illinois Wage Payment and Collection Act

The IWPCA and applicable Illinois Administrative Code establish when, where, and how often wages must be paid and prohibit deductions from wages or final compensation without the employee's consent. See 820 ILCS 115/1 *et seq.*

See subsections immediately below and Section X regarding recordkeeping requirements.

Bonus Payments on Termination

An employee has a right to an earned bonus when there is an “unequivocal promise by the employer and the employee has performed the requirement set forth in the bonus agreement between the parties and all of the required conditions for receiving the bonus set forth in the bonus agreement have been met.” Unless one of the conditions for the bonus is that the employee be on the payroll at the time of the bonus payout, the bonus is due and owing to the employee at the time of separation. See 56 Ill. Adm. Code 300.500(a).

A former employee is entitled to a proportionate share of a bonus earned by length of service, regardless of any provision in a contract or agreement concerning payment of the bonus upon employment on a particular date, when the employment relationship was terminated by mutual consent or by employer through no fault of the former employee. See 56 Ill. Adm. Code 300.500(b).

Under the Illinois Administrative Code, employees have no right to make a demand for gratuitous bonuses, which are defined as bonuses that do not obligate the employee to do or forego something in return for the same. See 56 Ill. Adm. Code 300.500(c).

As noted above, the Illinois Administrative Code suggests that conditioning a bonus on an employee being on the payroll at the time of the bonus payout is a lawful and enforceable condition (except where the bonus is earned by length of service). However, Illinois courts have historically found such clauses to be unenforceable in a broader set of cases. Generally, bonuses that are formulaic in nature have been regarded by courts as being earned *pro rata* and due upon separation, regardless of any clause in the bonus plan to the contrary. If the bonus is discretionary in nature, then a court will be more likely to enforce a clause limiting bonus payments to those still employed on the date of payment. See *Camillo v. Wal-Mart*, 582 N.E.2d 729 (Ill. Ct. App. 1991). Employers should thus be aware that Illinois courts may have a more expansive and employee-friendly interpretation of Illinois law on this point than is reflected by IDOL's regulations.

Cash Advances and Deductions Generally

Any written agreement between employer and employee allowing deductions from wages or final compensation must be freely given at the time the deduction is made. See 820 ILCS 115/9. In the case of cash advances, the agreement may be made either at the time of the deduction or at the time of the advance. See 56 Ill. Adm. Code 300.720(a).

The Illinois Administrative Code permits written agreements authorizing ongoing deductions from an employee's paycheck. When a deduction is to continue over a period, and the written agreement provides for that period, provides for the same amount of deduction each period, and allows for voluntary withdrawal for the deduction, the agreement will be considered freely given at the time the deduction is made. See 56 Ill. Adm. Code 300.720(b).

Deductions for Damages or Shortages

An employer may not deduct damage to property, or cash or inventory shortages, unless the employee freely gives written consent at the time the deduction is made. See 56 Ill. Adm. Code 300.730 and 300.820.

Deductions for Uniforms

An employer may not deduct the cost of purchasing or cleaning uniforms required by the employer from an employee's wages or final compensation, unless the employee's express written consent is given freely at the time the deduction is made. See 56 Ill. Adm. Code 300.840.

Disputes Over Wages, Generally

In the case of a dispute over wages, the employer must pay, within the time set by the IWPCA, all wages not in dispute. The employee's acceptance of a disputed paycheck is not a release of claims, and any release required by the employer as a condition of payment is a violation of the IWPCA and is considered void. See 820 ILCS 115/9.

Under the IWPCA, employers are liable for unpaid wages (including, but not limited to, unpaid final compensation, which is a term of art under the Act), and damages of 5% of the amount of any such underpayments for each month such underpayments remain unpaid. See 820 ILCS 115/14. As of Aug. 1, 2025, these damages will continue to accrue during the pendency of any claim adjudicated through the IDOL, until the date the DOL's final order and decision becomes a debt due and owed to the State. Employers violating the IWPCA may also be subject to criminal charges.

Disputes Over Wages in the Construction Industry

"Primary contractors" engaged in the construction or repair of a structure assume liability for a subcontractor's unpaid wages, provided that the unpaid individual's performance of labor is included in the subject of the contract between the Primary contractor and property owner. The IWPCA defines "Primary contractor" as the entity in a direct contractual relationship with the property owner and defines "Subcontractor" as any entity who furnishes goods or services in

connection with the project and is either in a contractual relationship with the Primary contractor or another Subcontractor. Liability, however, does not extend to Subcontractors who solely provide or transport goods. See 820 ILCS 115/13.5 (b). Before commencing a civil action against the Primary contractor, the unpaid individual must provide written notice detailing the nature and basis of the claim. If the parties cannot resolve the dispute after 10 days (or an agreed-upon extension of this timeline), then the individual can proceed with a civil action. See 820 ILCS 115/13.5(h).

Earned Commissions on Termination

A separated employee has a right to an earned commission when the conditions regarding entitlement to the commission have been satisfied, though, due to the employee's separation from employment, the sale or other transaction was consummated by the principal personally or through another agent. See 56 Ill. Adm. Code 300.510(a). When the employer and employee agree the employee is to be paid a commission for a sale, and the sale is subsequently voided, the employer may deduct from the employee's wages or final compensation the amount of the commission previously paid on that particular sale. See Ill. Adm. Code 300.510(b).

Earned Vacation and PTO

Whenever a policy provides paid vacation earned by the length of service, vacation time is earned *pro rata* as the employee renders service to the employer and accrued, but unused vacation must be paid out upon separation. See 56 Ill. Adm. Code 300.520(a). Paid time off (PTO) that can be used for any purpose is treated the same as vacation time to be paid at termination to the extent accrued and unused. Presumably, this principle also applies to similar benefits by different names, such as "personal days," "floating holidays," and the like. Sick time contingent upon illness is not paid out at termination because the employee does not have an absolute right to take the time off. See 56 Ill. Adm. Code 300.520(f)(3). Employers cannot effectuate a forfeiture of earned vacation by a written employment policy or practice of the employer. See 56 Ill. Adm. Code 300.520(h).

The amount of vacation to be paid out upon separation may depend on whether the vacation policy is an "earn-in-arrears" policy, rather than a "future-oriented" policy. Employers may unwittingly underpay vacation upon separation if they have an "earn-in-arrears" policy. For example, assume the policy grants employees 10 days of vacation at the end of each calendar year. An employee is hired on January 1 and resigns on July 1 of the same year. Depending on the language of the policy, the employer may owe the employee a payout of five days' vacation, even though the employee had not received any vacation to use yet. The employee worked halfway toward earning 10 days at the end of the year and thus may be owed five days upon mid-year separation. See *People of the State of Ill. v. Gen. Elec. Co.*, 806 N.E.2d 1143 (Ill. Ct. App. 2004).

Expense Reimbursement

The IWPCA imposes an affirmative duty to reimburse employees for all “necessary expenditures ... incurred by the employee within the employee’s scope of employment and directly related to services performed for the employer.” It defines “necessary expenditures” to mean “all reasonable expenditures ... required of the employee in the discharge of employment duties and that inure to the primary benefit of the employer.” The IDOL published amended regulations that provide a five-factor test used to determine whether the employee’s expenditure was made to the primary benefit of the employer: (1) whether the employee has an expectation of reimbursement; (2) whether the expense is required or necessary to perform the employee’s job duties; (3) whether the employer is receiving a value that it would otherwise need to pay for; (4) how long the employer is receiving the benefit; and (5) whether the expense is required of the job. The regulations specify that no single factor is dispositive, but that the analysis should focus on the extent to which the expense benefits the employer and its business. See 56 Ill. Admin. Code 300.540(a).

In general, an employee need not be reimbursed if the employee fails to comply with their employer’s written expense-reimbursement policy. However, an employer’s policy may not require employees to submit expenses less than 30 days after incurring them. An expense reimbursement policy may not require a receipt or other supporting documents to substantiate the expense incurred. If an employee has lost or cannot otherwise produce a receipt or other documentation, the employer must accept the employee’s own “signed statement” in lieu of a receipt. Finally, an employer may deny reimbursement if the employee’s purchase exceeds the guidelines set by the employer’s expense reimbursement policy, though the policy may not provide for *de minimis* reimbursement or no reimbursement at all. An employer may not deny reimbursement if the employer already “authorized” or “required” the expenditure, even if the reimbursement would otherwise violate or exceed the employer’s policy. See 820 ILCS 115/9.5.

The IDOL’s regulations also require employers to maintain the following records for three years: (1) all policies about reimbursement; (2) all employee requests for reimbursement; (3) documentation showing approval or denial of reimbursement; and (4) documentation showing actual reimbursement and supporting documents. See 56 Ill. Admin. Code 300.540(c).

Final Pay and Expenses – Timing

Final payment of wages is to be given at the time of separation, if possible, but no later than the next regularly scheduled payday. See 820 ILCS 115/5.

The Illinois Administrative Code provides that “expenses incurred related to services performed for the employer” should be included in the final compensation paid to a separated employee. See 56 Ill. Adm. Code 300.540.

Gratuities

The IWPCA provides that gratuities to employees are considered property of the employees, and employers cannot keep gratuities. Failure to pay gratuities owed to an employee more than 13 days after the end of the pay period in which gratuities were earned constitutes a violation of the IWPCA. This does not prohibit an employer from withholding a proportionate amount of any credit card processing fees from gratuities paid by credit card, so long as “the amount withheld does not exceed the proportion of the amount of the tip to the amount of the overall bill, regardless of whether the overall bill was paid using a credit card.” See 820 ILCS 115/4.1.

Pay Stubs

Effective Jan. 1, 2024, the IWPCA was amended to define “pay stub” as an itemized statement or statements reflecting an employee’s hours worked, rate of pay, overtime pay and overtime hours worked, gross wages earned, deductions made from the employee’s wages, and the total of wages and deductions year to date and to require employers to provide a “pay stub” to each employee for each pay period. Before this amendment, employers were required to provide an “itemized statement of deductions.” Under the pay stub amendment, employers are required to maintain copies of their employees’ pay stubs for no less than three years after the date of payment. Current and former employees may request copies of their paystubs up to two times per year; however, employers may require a written request and former employees must have separated within one year. Pay stubs must be provided to the requesting employee within 21 calendar days of the request. Additionally, if an employer furnishes electronic paystubs in a manner that the former employee cannot access for at least one full year after separation, the employer must offer to provide the departing employee with copies of paystubs dating back one year from separation. The offer to provide paystubs must be made to the departing employee by the end of the departing employee’s final pay period, and the employer must keep a written record of the date the offer was made to the departing employee and if and how the departing employee responded. Violations of this paystub provision are subject to a civil penalty of up to \$500 per violation. See 820 ILCS 115/2, 115/10, 115/14.

Severance Payments

An employee is entitled to be paid severance upon separation from employment “pursuant to an agreement between the parties or an established practice of the employer.” Therefore, if an employee can show the employer has “an established practice” of paying severance to separated employees, the employee may have a claim for severance under Illinois law. See 56 Ill. Adm. Code 300.530.

Use It or Lose It Vacation Policies

An employer may maintain a policy requiring an employee to use vacation time by a certain date or lose the vacation, provided: (1) the employer can prove the employee was on notice of the policy; and (2) the employee is given a reasonable opportunity to use the vacation time. See 56 Ill. Adm. Code 300.520(e).

Use of Payroll Cards

The IWPCA also includes a section regarding payroll cards. Illinois employers may not require an employee to accept a payroll card as payment of wages, unless the employer obtains the employee's voluntary written or electronic consent to receive wages by payroll card. Consent will not be considered voluntary if the employee is led to believe that it is a condition of employment. See 56 Ill. Adm. Code 300.600. Employers who provide payroll cards to their employees must supply written disclosures providing the terms and conditions associated with the payroll cards, in addition to an itemized list of applicable fees. The law provides that payroll cards may not include certain features, and employees have a right to switch to another method of payment that they prefer. The employer must comply with such a request to switch to another method of payment within two pay periods. The employer must give notice to employees within 30 days of the termination of the employer-employee relationship that the terms and conditions of the account may change if the employee chooses to continue a relationship with the payroll card issuer. See 820 ILCS 115/14.5.

Vacation at Hire

An employer may maintain a policy that no vacation is earned during a limited period at the commencement of employment. The employer must demonstrate the policy is not a subterfuge to avoid payment of vacation earned by length of service and, in fact, no vacation is implicitly earned or accrued during that period. See 56 Ill. Adm. Code 300.520(f)(1).

Wage Theft Enforcement Act

Employees may pursue wage claims in court directly, either as an individual or in class actions, without filing a complaint with the IDOL. Effective July 9, 2021, employees who prevail on a wage claim may recover attorneys' fees and costs, as well as damages at a rate of 5% of the amount of any unpaid wages for each month that the wages remain unpaid. See 820 ILCS 115/14.

Equal Pay Act

This Act prohibits all employers from paying unequal wages to men and women for doing the same or substantially similar work, requiring equal skill, effort, and responsibility, under similar working conditions for the same employer in the same county, except if the wage difference is based on a seniority system, a merit system, a system measuring earnings by quantity or quality of production, or factors other than gender. Legitimate factors that can account for a pay differential must not be based on sex or another protected characteristic and must be job-related and consistent with a business necessity. Similarly, the Act prohibits employers from paying wages to African American employees at a rate less than non-African American employees for doing the same or substantially similar work, requiring equal skill, effort, and responsibility, under similar working conditions for the same employer in the same county, except if the wage difference is based on a seniority system, a merit system, a system measuring earnings by quantity or quality of production, or any factor other than race or

something that would constitute unlawful discrimination under the IHRA. (Reporting requirements under the Illinois Equal Pay Act are discussed below.)

As a result of amendments to the Equal Pay Act that became effective on Sept. 29, 2019, employers and employment agencies can no longer ask about a job applicant's past wage and compensation history or use such information to screen job candidates. The prohibition on inquiring about past compensation does not apply if the applicant's salary history is public or if the applicant is a current employee applying for another job within the same company. An employer does not violate the amended Equal Pay Act if the applicant volunteers their compensation history, although the employer cannot then use that information in making a hiring decision or determining the applicant's compensation. The Act does not prohibit an employer from asking the applicant for their desired rate of pay.

The penalties under the Act are as follows: (1) for employers with at least four employees, for a first offense, a fine not to exceed \$2,500; for a second offense, a fine not to exceed \$3,000; and for a third or subsequent offense, a fine not to exceed \$5,000; (2) for employers with fewer than four employees, for a first offense, a fine not to exceed \$500; for a second offense, a fine not to exceed \$2,500; and for a third or subsequent offense, a fine not to exceed \$5,000. In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the employer charged and the gravity of the violation will be considered. The penalty may be recovered in a civil action brought by the director of the IDOL in any circuit court. The amendments to the Equal Pay Act also provide for injunctive relief. See 820 ILCS 112/1 *et seq.*

Effective Jan. 1, 2025, the Act mandates pay transparency in job postings for most Illinois employers. It will be unlawful for an employer with at least 15 employees to fail to include the pay scale and benefits for a specific job in a job posting in Illinois. This disclosure requirement will apply to remote positions, including positions not based in Illinois if the employee reports to a supervisor, office, or other work site in Illinois. Employers can satisfy this requirement by including a hyperlink to a publicly viewable webpage that includes the relevant *pay scale and benefits*.

"Pay scale and benefits" is defined broadly as the "wage or salary, or the wage or salary range, and a general description of the benefits and other compensation, including, but not limited to, bonuses, stock options, or other incentives the employer reasonably expects in good faith to offer for the position."

If an employer makes an external job posting for a position that current employees may also apply for as a promotion, the employer must announce that opportunity to current employees no later than 14 calendar days after the external job posting is made.

An employee, former employee, or any person that claims to be aggrieved under this new provision may file a complaint with the IDOL. All complaints must be filed within one year from

the date of the relevant violation. If the Department determines that a violation has occurred, it may assess fines of up to \$500 for a first offense, \$2,500 for a second offense, and \$10,000 for a third or subsequent offense. Before fines are levied, employers will be given a short notice and cure period for first (14 days) and second (seven days) offenses. However, employers will incur automatic penalties without a cure period for five years following a third offense (which will restart if, during that period, an employer receives a subsequent notice of violation from the Department). Employers will be required to make and preserve records that document the pay scale and benefits for each position, as well as the job posting for each position.

See Section X regarding recordkeeping and reporting requirements under the Illinois Equal Pay Act.

Freelance Worker Protection Act

The Act, effective July 1, 2024, requires entities contracting with “freelance workers” to provide written contracts and timely compensation and authorizes administrative and civil actions for violations.

A “freelance worker” is a natural person who is hired or retained as an independent contractor by any non-governmental person or entity to provide products or services in Illinois, or for an entity located in Illinois, where the amount paid is at least \$500 (in a single contract or in the aggregate of all contracts within a 120-day period). However, individuals engaged by construction contractors or subcontractors, as defined by the Illinois Employee Classification Act, and “employees,” as defined by the IWPCA are expressly excluded from the Act’s protections.

The Act requires the “freelance worker” and the “contracting entity” to enter a written contract that includes, at a minimum, the following:

- The name and contact information of both parties (including the hiring party’s mailing address);
- An itemized list of all products and services provided by the freelance worker, including the value of the products and services and the rate and method of compensation for such products and services;
- The date on which payment is due (which must be no later than 30 days after the products or services are provided); and
- If the hiring party requires a list of products and services rendered to timely compensate the freelance worker, the date by which the freelance worker must submit the list.

The IDOL is required to make available model contracts for use by the general public at no cost.

The hiring party must provide a copy of the written contract to the freelance worker and retain the contract for at least two years. It also must produce the contract to the IDOL upon request.

Once the freelance worker begins performing the contracted services, the Act expressly prohibits a hiring party from conditioning timely payment on the freelance worker's acceptance of less compensation than contracted.

The Act further prohibits a hiring party from taking any action to penalize a freelance worker for exercising rights under the Act or any action that is likely to deter the worker from exercising such rights. Such action includes any threats, intimidation, discipline, harassment, discrimination, or retaliation.

Under the Act, a freelance worker may file an administrative complaint with the IDOL or a civil action within two years of the date the final compensation was due. Freelance workers may sue hiring parties on behalf of themselves and others similarly situated without first exhausting administrative remedies. Upon receipt of a complaint, the Department must investigate. A hiring party's failure to timely respond to the Department will create a rebuttable presumption of liability in any subsequently filed civil action.

The penalties and damages available depend on the type of violation. For a claim based on a failure to timely pay, the freelance worker is entitled to double the amount of the underpayment, along with the recovery of attorney's fees and costs. Violation of the statutory requirement to enter into and provide the freelance worker a written contract will result in a statutory damage award of the greater of \$500 or the value of the underlying contract. Finally, violations of the discrimination prohibitions will result in recovery of the amount of the underlying contract for each violation, along with costs and attorney's fees.

The Illinois attorney general may initiate or intervene in a civil action and may request the court to impose a civil penalty not exceeding \$5,000 for each violation, or \$10,000 for each repeat violation within a five-year period, as well as obtain monetary damages to the state, restitution, and equitable relief, including any permanent or preliminary injunction and temporary restraining order. See 820 ILCS 193/1 *et seq.*

Minimum Wage Law (IMWL)

Effective Jan. 1, 2025, the minimum wage in Illinois is \$15.00 per hour. All employers with at least four employees, who are not members of that employer's immediate family, must pay the minimum wage. Workers under 18 may be paid less than the adult minimum wage, at rates provided for in the IMWL. Credit for tips may not exceed 40% of the applicable minimum wage. Employers may apply for licenses to pay sub-minimum wages to learners and certain workers with physical and mental limitations.

An employer must pay an employee at a rate not less than one-and-one-half times the employee's regular rate of pay for any hours worked over 40 hours in a workweek. Like federal law, several different types of employees are exempt from this overtime requirement. However, the exemptions under Illinois law are different than under federal law, and in some cases, employees who are exempt from federal overtime requirements will be non-exempt and thus

entitled to overtime pay under Illinois law. Any employee who is a member of a bargaining unit recognized by the Illinois Labor Relations Board and whose union has contractually agreed to an alternate shift schedule (as allowed by Section 7(b) of the Fair Labor Standards Act of 1938 (FLSA)) is exempt from the overtime compensation provisions.

Small employers with employees who were previously making less than the new minimum wage are eligible for a tax credit. Employers with up to 50 full-time employees who worked at least 90 consecutive days in the prior tax reporting period may count as a tax credit a percentage of the difference between what its low-wage employees were previously making and what those employees are required to make under the Illinois law. Beginning in 2020, an employer may credit 25% of that difference, reduced by 4% each year until 2027, when the credit ends. Employers will not be able to claim a tax credit if their total wages for employees earning less than \$55,000 per year decreased when compared to the same period in the previous year.

An employee paid less than the wage to which they are entitled may recover treble damages in a civil suit, and the employer may be subject to a \$1,500 penalty if found to have acted recklessly. For each month that any underpayments remain unpaid, the employer is liable for an additional 5% of the underpaid amount. See 820 ILCS 105/1 *et seq.*

If the facts establish that a joint employment relationship exists between at least two employers in relation to an employee, then all of the employee's work for any of the employers during the workweek is considered as one employment for purposes of the Illinois law, and the employers will be jointly and severally liable for any violations (if no joint employment relationship is established, then the employee is working separate jobs). Regulations promulgated by the IDOL list five factors, none of which is dispositive, to determine whether a joint relationship exists between employing entities: (1) the employee's work is to the benefit of the joint employer; (2) the work performed by the employee is an integral part of the alleged joint employer's business or businesses; (3) the alleged joint employer has direct or indirect control or influence over the employee's terms or conditions of employment, including the employee's schedule and the quality of the employee's work; (4) the alleged joint employer owns or leases the premises where the work is performed or provides tools or materials used by employees to perform the work; or (5) the alleged joint employer has direct or indirect control over the joint employer's or employers' operations through contractual obligations, shared joint management, direct or indirect ownership interest, or economic dependence. 56 Ill. Admin. Code 210.115(b)(1)-(5).

IMWL regulations clarify that Domestic Workers must be compensated at the overtime rate for all hours worked in excess of 40 in a workweek, regardless of the nature of the services provided. See 56 Ill. Admin. Code Tit. 210.125(d). The overtime base rates must be calculated by including all credits taken by the employer for lodging and meals in a workweek and any deductions taken by the employer. Hours worked may exclude *bona fide* meal breaks, rest periods, and sleep periods; however, employers of domestic workers must maintain pay and time records under Section 210.700, and they must indicate each *bona fide* meal break, rest

period, and sleep period taken during the workweek. An employer may take a credit from a Domestic Worker's wages for meals and lodges provided five conditions are met: the employee voluntarily chooses to take the lodging and meals; the lodging is private, safe, and sanitary; the employer maintains accurate records demonstrating the costs incurred and any deductions from wages, including overtime wages; the credit for lodging is the lesser of the fair market value of the accommodations provided or seven and one-half times the statutory minimum hourly wage for each week lodging is furnished; and the employer takes a credit based on the reasonable cost of the meals and resulting credit for the meals is the lesser of \$2 for breakfast, \$3 for lunch, and \$3 for dinner or the actual cost.

Finally, the IMWL requires employers to make and maintain certain records of their employees, including exempt employees and their hours worked each day, and make the records available for inspection. Under the law, "each day of such failure to keep the records required . . . constitutes a separate offense," and any "employer who fails to keep payroll records as required by this law shall be liable to the Department [of Labor] for a penalty of \$100 per impacted employee." Failure to adhere to the recordkeeping requirements of the law also subjects an employer to a Class B misdemeanor. The IDOL has issued separate regulations regarding an employer's duty to make and maintain records: "Regardless of an employee's status as either an exempt administrative employee, executive or professional, every employer shall make and maintain, for a period of not less than three years, the following true and accurate records for each employee: the name and address, the hours worked each day in each work week, the rate of pay, copies of all notices provided to the employee as required by subsection (d), the amount paid each pay period and all deductions made from wages or final compensation." 56 Ill. Adm. Code 300.630(a).

As of Jan. 1, 2024, covered employers with "employees who do not regularly report to a physical workplace" (e.g., employees who work remotely or travel for work) are required to distribute the notice required by the IMWL either by email or "conspicuous posting on the employer's website or intranet site, if such site is regularly used by the employer to communicate work-related information to employees." See 820 ILCS 105/9.

Chicago Minimum Wage Ordinance

As of July 1, 2025, employers with at least four employees must pay each Covered Employee at least \$16.60 per hour of work performed. The tipped minimum wage for employers with at least four employees is \$12.62 per hour. The Ordinance defines "Covered Employee" as an individual who, in any particular two-week period, performs at least two hours of work for an Employer while physically present within the geographic boundaries of the City of Chicago.

Uncompensated commuting time, however, does not constitute work while physically present within the geographic boundaries of the City. Although the minimum wage requirements do not apply to Employers with fewer than four employees, all domestic workers are considered

Covered Employees, including Domestic Workers employed by employers with fewer than four Employees.

On July 1, 2022, and on every July 1st thereafter, the Chicago minimum wage will increase in relation to increases in the Consumer Price Index (CPI). Increases will be capped at 2.5% per year and will not occur in years when the Illinois Department of Employment Security (IDES) reports that the unemployment rate in Chicago is equal to or greater than 8.5%. The Ordinance assumes the Chicago minimum wage will be higher than the state or federal minimum wages, but it provides that if the state or federal minimum wage rates are higher, those rates will be used to compute the Chicago minimum wage. The next adjustment to the Chicago minimum wage will be effective on July 1, 2026.

For employees who customarily receive tips, the Ordinance also provides that employers are “entitled to an allowance for gratuities . . . in an amount not to exceed 40% of the applicable minimum wage rate.” However, an amendment to the Ordinance (passed Oct. 6, 2023) will phase out this subminimum wage or “tip credit” over five years as follows:

- Employers may take a tip credit up to 32% of the applicable minimum wage rate until July 1, 2025;
- 24% on and after July 1, 2025;
- 16% on and after July 1, 2026;
- 8% on and after July 1, 2027, until and including June 30, 2028, after which the tip credit will be eliminated.

Employers taking a tip credit are subject to several reporting requirements.

Effective Jan. 1, 2022, all employers of Domestic Workers must provide a written contract to the Domestic Worker, setting forth the wage and the work schedule agreed upon between the employer and the Domestic Worker. The employer must provide the written contract to the Domestic Worker in the Domestic Worker’s primary language, upon that Domestic Worker’s request. Violations of this provision can be punishable by a fine of \$500 per offense. “Domestic Worker” means a person whose primary duties include housekeeping; house cleaning; home management; nanny services, including childcare and child monitoring; caregiving, personal care or home health services for elderly persons or persons with illnesses, injuries, or disabilities who require assistance in caring for themselves; laundering; cooking; companion services; chauffeuring; and other household services to members of households or their guests in or about a private home or residence, or any other location where the domestic work is performed. See Chi. Mun. Code § 6-105-010 *et seq.*

Cook County Minimum Wage Ordinance

Effective July 1, 2021, and every July 1st thereafter, Cook County’s minimum wage is based on the highest rate among the federal minimum wage, Illinois State minimum wage, or the County’s calculation using the CPI. The Minimum Wage Ordinance applies only to unincorporated Cook

County and in home-rule units of government that have not opted out of the Ordinance. Pursuant to the Minimum Wage Ordinance and rules, the County's minimum wage calculation may not be used when the unemployment rate in Cook County is 8.5% or greater. Effective on July 1, 2025, the Cook County minimum wage was \$15.00. The next adjustment to the Cook County minimum wage will be effective on July 1, 2026.

The Ordinance also increases the Cook County minimum wage for tipped employees. On July 1 of each year, the Cook County tipped employee minimum wage will increase using the same CPI-based formula used to determine the Cook County minimum wage starting in July 2021. The Cook County tipped employee minimum wage increased to \$9.00 on July 1, 2025.

The Ordinance also provides that the Cook County minimum wage is subject to the overtime compensation provisions of the IMWL.

The Ordinance applies to employers who employ at least one covered employee and maintain a business facility within the boundaries of Cook County or are subject to the County's licensing rules. Covered employees are employees who work at least two hours in a two-week period. Compensated travel time in Cook County is included, but non-compensated commuting time is not included.

The Ordinance exempts from the Cook County minimum wage most of the employees who are exempt under Section 4(a)(2) of the IMWL, except for the categories of employees described in Section (a)(2)(A) (*i.e.*, certain salespersons or mechanics primarily engaged in the selling or servicing of automobiles, trucks, or farm implements, if employed by a nonmanufacturing establishment) and Section (a)(2)(B) (*i.e.*, certain salespersons primarily engaged in selling trailers, boats, or aircraft, if employed by a nonmanufacturing establishment) of the IMWL. The Ordinance also exempts subsidized temporary youth employment programs, subsidized transitional employment programs, and governmental agencies other than Cook County.

The Ordinance prohibits retaliation against employees who exercise their rights under the Ordinance, creates a private right of action for violations of the Ordinance, and permits successful private litigants to recover treble damages and attorney's fees. The director may impose fines of \$500-\$1,000 per violation of the Ordinance. Each day that a violation continues is considered a separate offense. The Ordinance also modifies provisions of the Cook County Code that authorize denial of licenses, contracts with the County, and applications for property tax incentives to persons or entities who violate the IWPCA, the IMWL, and other laws that regulate the payment of wages. See Cook County Ordinance ch. 42, § 11 *et seq.*

Prevailing Wage Act

This Act requires public bodies and contractors and subcontractors employed by or on behalf of any public body to pay laborers, workers, and mechanics employed on "public works" projects (including construction and demolition of public works), no less than the general prevailing rate

of wages (consisting of hourly cash wages plus fringe benefits) for work of similar character in the locality where the work is performed. See 820 ILCS 130/.01 *et seq.*

“Public works” projects include any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented, as well as actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the job site. See 820 ILCS 130/.01 *et seq.*

As of Jan. 1, 2024, the definition of “public works” includes the removal, hauling, and transportation of biosolids, lime sludge, and lime residue from a water treatment plant or facility and the disposal of biosolids, lime sludge, and lime residue removed from a water treatment plant or facility at a landfill. See Public Act 103-327. “Public works” also includes power washing projects in which steam or pressurized water, with or without added abrasives or chemicals, is used to remove paint or other coatings, oils or grease, corrosion, or debris from a surface or to prepare a surface for a coating. See P820 ILCS 130/.01 *et seq.*

Effective Aug. 14, 2025, the definition of “public works” also includes federal construction projects administered or controlled by a public body, provided the prevailing wage rate meets or exceeds the federal rate set by the U.S. secretary of labor for the same locality and type of construction. See Public Act 104-0160. Effective Jan. 1, 2024, any worker, laborer, or mechanic performing construction work on a prevailing wage project can file a private cause of action against the employer for the difference between what was paid to them and the prevailing rates required to be paid for work performed on the project. See 820 ILCS 130/11.

The Act also requires contractors and subcontractors to keep records for five years with respect to the performance of prevailing wage work. See 820 ILCS 130/5.

Wage Garnishment Act

An employer served with a wage deduction summons must respond to the summons by answering the wage deduction interrogatories and withholding the appropriate amount from the employee’s non-exempt wages until a withholding order is entered. A certain number of wages is considered exempt under Illinois law (45 times the federal minimum wage or the Illinois minimum wage, whichever is higher). If an employee’s net pay exceeds the exempt amount, wages may be deducted by the lesser of: (1) 15% of the employee’s gross wages, or (2) the amount which exceeds 45 times the federal minimum wage or the Illinois minimum wage. Pension and retirement benefits may be claimed as exempt from wage deduction under Illinois law. An employer must withhold on a child support garnishment order or notice before withholding any other garnishment. If an employer willfully fails to withhold or pay over income pursuant to a properly served order/notice, the judgment creditor may obtain a judgment against the employer for the total amount of the employee’s debt to the creditor. See 735 ILCS 5/12-801 *et seq.*

Wage Assignment Act

Under Illinois law, a wage assignment on wages earned or to be earned is valid if it is: (1) made in a written instrument that is signed by the employee in person, bears the date of its execution, the social security number of the employee, the name of the employer, the amount of money loaned, the interest rate given, and the date when payments are due; (2) given to secure an existing debt of the employee; (3) an exact copy is given to the employee at the time the assignment is executed; (4) the words “Wage Assignment” are printed or written in boldface letters of not less than $\frac{1}{4}$ inch in height at the head of the wage assignment and also one inch above or below the line where the employee signs the assignment; and (5) is written as a separate document and not a part of any other document. A court order is not required. The employee must be at least 40 days behind on their loan before a wage assignment can go to their employer. The creditor must mail both the employee and the employer a notice saying they will start to garnish wages in 20 days if the employee does not become current on their loan. The amount that can be taken by a wage assignment is the lesser of 15% of the employee’s gross pay or the amount of the employee’s net pay over 45 times the federal minimum wage or the Illinois minimum wage, whichever is greater. An employee may revoke a wage assignment at any time by submitting written notice of their revocation. See 740 ILCS 170/.01 *et seq.*

Income Withholding for Support Act

This Act outlines the requirements for a valid child support income withholding notice under Illinois law, including a clear direction to the employer to withhold a specific dollar amount for current support obligations (including child support or maintenance of a spouse). Income subject to withholding under this Act includes any form of periodic payment to an individual, regardless of source, including, but not limited to: wages, salary, commission, compensation as an independent contractor, workers’ compensation, disability, annuity, pension, retirement benefits, vacation pay, bonuses, profit-sharing payments, severance pay, and interest. However, the Act specifically exempts federal, state, and local taxes, Social Security and other retirement and disability contributions, union dues, amounts exempted by the federal Consumer Credit Protection Act, public assistance payments, and unemployment insurance benefits from income subject to withholding. Any employer served with a valid income withholding notice must deduct and pay over income beginning no later than the next payment of income that occurs 14 days after the date the income withholding notice was sent to the employer. The employer must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid to the employee. If the employer knowingly fails to withhold the amount designated in the income withholding notice or to timely pay the amount withheld to the State Disbursement Unit, and the party seeking to enforce the order provides notice of the failure to withhold, the employer must pay a penalty of \$100 for each day the amount designated in the income withholding notice is not paid to the State Disbursement Unit after the seven business days have expired. For the first violation, the employer’s liability may be capped at \$10,000. Otherwise, the daily penalty accrues \$100 per day for each violation until paid. An

employer's failure to timely pay amounts designated as income withholding to the State Disbursement Unit on more than one occasion creates a presumption that the employer knowingly failed to pay over the required amounts, and the penalty may be collected in a civil action. If an employer willfully fails to withhold or pay over income pursuant to a properly served income withholding notice or otherwise fails to comply with the Act after receiving two reminders from the Department of Healthcare and Family Services, the Department may impose a fine upon the employer not to exceed \$1,000 per payroll period. Every employer with more than 250 employees must use electronic funds transfer to pay all amounts withheld under this Act. See 750 ILCS 28/1 *et seq.*

Illinois Secure Choice Savings Program

The Program requires employers to automatically withhold, as a default contribution, 3% – 6% of an employee's compensation, up to the annual maximum allowed for IRA contributions each year as provided by the IRS, unless the employee elects a different amount or opts out of the Program, and to remit those contributions to the Secure Choice Program.

The program launched in 2019 with a phased implementation based on employer size. Effective Jan. 1, 2023, employers meeting the following criteria are required to enroll Illinois employees in the Program:

- At least five employees;
- Have been in business for at least two years; and
- Do not offer Illinois employees a qualified savings plan under Internal Revenue Code sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p), or 457(b).

Workers who have been enrolled in the program for at least six months will have their contribution rates automatically increased by 1% on Jan. 1 of every year, with contribution rates capping at 10%. Employees can opt out of these automatic increases at any time.

Beginning in 2025, employers also have the option of designating an open enrollment period to employees who previously opted out of the Program. Employers also retain the option at all times to set up a qualified retirement plan. See 820 ILCS 80/1 *et seq.*

Penalties for noncompliance are \$250 per employee for the first calendar year the employer is noncompliant; or \$500 per employee for each subsequent calendar year the employer is noncompliant.

Transportation Benefits Program Act

Effective Jan. 1, 2024, certain employers located within designated Illinois counties and townships must provide covered employees a "pre-tax commuter benefit" allowing them to use pre-tax dollars for the purchase of a public transit pass through payroll deductions.

To qualify for the benefit, an employee must average at least 35 hours of work per week. For newly hired employees, the benefit begins on the first full pay period after 120 days of employment.

The Act applies to employers with at least 50 covered employees in a geographic area specified below at an address located within one mile of a fixed route transit service (e.g., the Chicago Transit Authority or Regional Transportation Authority) in any of these locations:

- All of the City of Chicago, as well as most of its suburbs, including those in Cook County.
- The following townships: Warren Township in Lake County; Grant Township in Lake County; Frankfort Township in Will County; Wheatland Township in Will County; Addison Township; Bloomingdale Township; York Township; Milton Township; Winfield Township; Downers Grove Township; Lisle Township; Naperville Township; Dundee Township; Elgin Township; St. Charles Township; Geneva Township; Batavia Township; Aurora Township; Zion Township; Benton Township; Waukegan Township; Avon Township; Libertyville Township; Shields Township; Vernon Township; West Deerfield Township; Deerfield Township; McHenry Township; Nunda Township; Algonquin Township; DuPage Township; Homer Township; Lockport Township; Plainfield Township; New Lenox Township; Joliet Township; and Troy Township.

See 820 ILCS 63/1 *et seq.*

Effective Jan. 1, 2026, the Act expands eligibility for pre-tax commuter benefits to all covered employees, not just “full-time” employees. However, the Act excludes construction workers covered by a CBA from receiving such benefits. See Public Act 104-0272.

Consumer Coverage Disclosure Act

This Act applies to employers that provide group health insurance coverage. The Act requires a written list of the covered benefits be included in the group health insurance coverage in a format that easily compares the covered benefits with the essential health insurance benefits required of individual health insurance coverage regulated by the State of Illinois. Employers must provide this information to all employees eligible for the coverage upon hire, annually, and upon request. The information can be provided by email to employees or on a website that an employee is able to regularly access. The Act also applies to employers whose group health insurance plan is not regulated by the State of Illinois. See 820 ILCS 46/1 *et seq.*

For more information regarding the essential health benefits regulated by Illinois and information regarding an employer’s disclosure requirements, see the IDOL website at <https://labor.illinois.gov/laws-rules/fls/consumer-coverage-disclosure-act.html>.

Chicago Wage Theft Ordinance

This Ordinance prohibits wage theft (including the non-timely payment of a worker, the non-payment of any wages required for work performed, and not granting or properly paying required paid time off, whether legislatively or contractually required, and contractually required

benefits to the worker) and requires timely payment of wages as required by the IWPCA. Under the Ordinance, a worker may file a complaint of wage theft with the IDOL or the City of Chicago's BACP OLS but not both (unless the case is referred to OLS by the IDOL). Employers may be liable for damages of either (i) 2% of the amount of any such underpayment for each month following the date of payment during which such underpayments remain unpaid or (ii) the amount specific by the IWPCA, whichever is greater. See 820 ILCS 115/14(a); Chi. Mun. Code § 6-100-050.

III. Personnel Records and Job References

Job Reference Immunity

An employer is immune from civil liability for job references given to a prospective employer believed to be "in good faith." See 745 ILCS 46/10 to 46/20.

Personnel Records Review Act

This Act provides Illinois employees and those whose employment terminated within the past year, with the right to review and request copies of all or part of their personnel records, with certain exceptions. The records are to be produced within seven working days. The date may be extended for another seven days if the employer can reasonably show the deadline cannot be met. "Personnel records" is broadly defined to include items outside a traditional "personnel file." Effective Jan. 1, 2025, the Act was amended to prohibit employers from gathering or keeping records of an employee's associations, including political activities and non-employment activities, absent special circumstances.

Failure to comply with a records request under the Act may result in the employer being barred from using the records in connection with a legal claim. The Act also prohibits an employer from disclosing disciplinary records to a party who is not part of the employer's organization or a union representing the employee without written notice to the employee whose records are being disclosed.

Effective Jan. 1, 2022, individuals aggrieved by a disclosure of a disciplinary report in violation of the Act may file a complaint with the IDOL. If efforts to resolve the aggrieved individual's complaint concerning such a violation have failed and the IDOL has not commenced an action, then the individual can commence an action in the circuit court.

Effective Jan. 1, 2024, employers must provide requesting employees copies of their personnel records by email or mail, regardless of whether the employee can prove that they are unable to inspect the records in person. Employers may charge requesting employees a fee for making copies of the personnel records up to the actual cost of the copies.

Effective Jan. 1, 2025, employees are entitled to inspect all agreements between the employer and employee that are legally binding on the employee, all employee handbooks for which the employee acknowledged receipt, and any written policies that the employer contends the

employee was subject to. Employers must grant at least two requests for inspection to an employee per year. The Act now excludes from inspection an employer's trade secrets, client lists, sales projections, and financial data.

An employer may charge a fee for providing a copy of the requested record; however, the fee is limited to the actual cost of duplicating the requested records and may not include labor costs, the purchasing or renting of machines, equipment, or software used in duplicating records, or similar expenses.

Additionally, beginning Jan. 1, 2025, where the IDOL has failed to resolve a complaint within 180 days of its filing, or the IDOL certifies it is unlikely to be able to resolve a complaint within 180 calendar days, an employee may bring an action in circuit court without further delay. See 820 ILCS 40/1 *et seq.*

IV. Pornography Detection

Child Pornography Law

Under the Abused and Neglected Child Reporting Act, Illinois, electronic information and technology workers or their employers are required to report immediately any child pornography discovered on electronic and information technology equipment. The report should be made to the local law enforcement agency or to the Cyber Tipline at the National Center for Missing & Exploited Children. Workers for telecommunications carriers and commercial mobile radio services specifically are exempt from the law. See 325 ILCS 5/4.5.

V. Privacy

AIDS Confidentiality Act

This Act provides that no person may order an HIV test without first receiving the documented informed consent of the subject of the test or the subject's legally authorized representative. The Act also requires confidentiality concerning the identity of any person upon whom a test is performed or the results of the test. See 410 ILCS 305/1 *et seq.*

Biometric Information Privacy Act

The Illinois Biometric Information Privacy Act (BIPA) regulates the "collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information." Biometric identifiers and information protected by the Act include retina or iris scans, fingerprints, voiceprints, or scans of hand or face geometry. They do not include writing samples, written signatures, photographs, human biological samples, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color.

The BIPA sets forth a comprehensive set of rules for companies that collect or use biometric data, and requires private entities to: (1) obtain a written release (which may be electronically signed) from individuals from whom biometric information is collected prior to collecting such data; (2) inform subjects that biometric data is being collected, along with the specific purpose

and length of time for which the biometric data is being collected and used; (3) store, transmit, and protect from disclosure such information in a manner that is the same as or more protective than the manner in which the company stores, transmits, and protects other confidential and sensitive information; and (4) refrain from profiting off a person's biometric information. The BIPA also mandates a limited right of disclosure of any biometric information that is collected or maintained by companies.

The BIPA permits a private right of action for individuals who are harmed by violations of the Act. Prevailing parties may recover liquidated damages of \$1,000 or actual damages for each negligent violation of the Act, whichever is greater. Damages for intentional or reckless violations of the Act are \$5,000 for each violation or actual damage, whichever is greater. Prevailing parties are also entitled to recover reasonable attorneys' fees and costs and are entitled to appropriate injunctive relief.

In a 2024 amendment to the BIPA, the Illinois legislature clarified that a private entity that more than once collects or discloses the same biometric identifier or biometric information from the same person by the same method of collection in violation of the Act has committed a single violation for which an aggrieved person is entitled to, at most, one recovery. See 740 ILCS 14/1 *et seq.*

Criminal Identification Act

An employer may not inquire into or use arrest information or criminal history record that is sealed, impounded, or expunged. See 775 ILCS 5/2-103. An employer's employment application must affirmatively state that the applicant is not obligated to disclose sealed or expunged records of conviction or arrest. See 20 ILCS 2630/12.

Expungement of Juvenile Law Enforcement and Court Records

An expunged juvenile record may not be considered in employment matters, certification, licensure, or registration. Applications for employment in Illinois must contain specific language that states that the applicant is not obligated to disclose expunged juvenile records of adjudication or arrest, and employers may not ask in any way if the applicant has had a juvenile record expunged. An employer will be deemed to have disseminated an expunged record in violation of Illinois law if the potential employer — even inadvertently — obtains information about the expunged record from an employment application that does not contain specific language stating that the applicant is not obligated to disclose juvenile records of adjudication or arrest. See 705 ILCS 405/5-915.

Personal Information Protection [Data Breach] Act

Under this Act, any entity that uses or maintains Illinois consumer personal information must promptly notify the Illinois resident when their personal information has been compromised due to a breach in the organization's security. "Personal information" is an individual's first name or first initial and last name combined with any one or more of the following data elements when

either the name or the data elements are not encrypted or redacted: (1) Social Security number, (2) driver's license number or state identification card number, or (3) financial or credit/ debit card account number combined with any required security code, access code, or password that would permit access to an individual's financial account. This Act contains specific provisions for the disposal of materials containing personal information. See 815 ILCS 530/1 *et seq.* In addition, any data collector required to issue the notices required by this statute to more than 500 Illinois residents as a result of a single breach also must notify the Illinois attorney general of the breach.

Eavesdropping Act

Conversations may not be intercepted or recorded over the telephone or by use of other eavesdropping devices without the consent of all parties to the conversation. Monitoring of telephone conversations by businesses is permitted under certain conditions for activities such as marketing and quality control. This Act has been hotly contested in Illinois with respect to the recording of police officers. See 720 ILCS 5/14-2 *et seq.*

Employee Credit Privacy Act

This Act prohibits covered employers from inquiring about an applicant or employee's credit history or obtaining a copy of their credit report. However, employers may inquire about an employee or applicant's credit history for a position in which a credit history is a "bona fide occupational qualification." These limited circumstances include positions that involve: (1) bonding or security mandated by state or federal law; (2) unsupervised access to \$2,500 in cash or equitable assets; (3) signatory power over business assets of more than \$100; (4) management and control of the business; or (5) access to personal, financial, or confidential information, trade secrets, or state, or national security information. See 820 ILCS 70/1. Recent case law suggests that courts will take a narrow view of the exceptions.

Genetic Information Privacy Act

This Act (GIPA) prohibits employers from seeking or using genetic information for personnel-related reasons. It is similar to the federal Genetic Information Nondiscrimination Act (GINA), except that GIPA covers employers with as few as one employee. GIPA contains a provision that prohibits employers from penalizing an employee who chooses to not disclose their genetic information or chooses to not participate in a program that requires disclosure of such information. GIPA also gives an employee the right to sue without first requiring them to file an administrative charge with any governmental agency. See 410 ILCS 513/1 *et seq.*

Right to Privacy in the Workplace Act

The Act mandates that the use of lawful products off work premises during non-working hours may not be the basis of an employer's decision to discharge, refuse to hire, or otherwise disadvantage an individual with respect to compensation, terms, conditions, or privileges of employment. "Lawful products" includes marijuana, although an amendment to the Act provides that the protections provided by the Act will be subject to Section 10-50 of the Cannabis

Regulation and Tax Act (see discussion below), which explicitly permits employers to maintain reasonable and nondiscriminatory pre- and post-hiring drug screenings for marijuana. This section of the Act does not apply to a non-profit organization that, as one of its primary purposes or objectives, discourages the use of one or more lawful products by the general public. The Act also forbids an employer from inquiring of a prospective employee whether they have filed a workers' compensation claim.

The Act prohibits an employer from forcing an employee or applicant to provide a username and password to gain access to that employee's or applicant's personal online account, forcing an employee or applicant to access a personal online account in the employer's presence, forcing an employee to invite the employer to join a group affiliated with the employee's or applicant's personal online account, or forcing an employee or applicant to join an online account established by the employer or add the employer to an employee's or applicant's list of contacts enabling the employer to access the employee's or applicant's personal online account. The Act similarly prohibits an employer from taking adverse action against an employee (e.g., discipline or discharge) or failing to hire an applicant for refusing to provide the employer with access to a personal online account.

The Act was amended, effective Jan. 1, 2025, to address employer use of Employment Eligibility Verification Systems. Prior to choosing to voluntarily enroll in any Electronic Employment Verification System, including the E-Verify program and the Basic Pilot program, employers are urged to consult the IDOL's website for current information on the accuracy of E-Verify and to review and understand an employer's legal responsibilities relating to the use of the voluntary E-Verify program.

Additionally, under a Jan. 1, 2025, amendment, employers must: (1) display E-Verify notices supplied by the federal and Illinois state governments; (2) require all employees who use the system to participate in required computer-based training; and (3) safeguard the information in the system and prevent unauthorized access. Further, employers must prevent employees from circumventing the training requirement and are prohibited from misusing E-Verify in any way, including using the system for pre-screening or screening current employees. Under the Act, employers must also file an attestation that they have received all the training materials, will complete E-Verify training, and will retain all certifications of training completion for possible inspection upon initial enrollment in E-Verify or within 30 days of the effective date of the amendment (i.e., by Jan. 31, 2025).

The Act also prohibits employers from imposing work verification or re-verification requirements greater than those required by federal law. Additionally, the Act now requires specific notice posting requirements and specific timing on notice to employees about tentative non-confirmation notices or upcoming I-9 inspections. IDOL will be developing a template posting that employers may use to comply with the Act's requirement to provide written notice of inspections. See 820 ILCS 55/1 *et seq.*

Effective Dec. 12, 2025, the Act also imposes new restrictions on how employers respond to notifications from federal agencies (e.g., the SSA or IRS) or third parties (e.g., an insurance carrier) not responsible for enforcing immigration laws (collectively, “non-immigration entity”) regarding discrepancies in an employee’s identifying documents such as the employee’s individual taxpayer identification number. If the employer receives such a notification from a non-immigration entity, the employer cannot take any adverse action against the employee solely because of the notification and must timely provide the employee (and the employee’s authorized representative) with written notice of the discrepancy within the time provided by the Act. Notice of the discrepancy should be provided not more than five business days after receipt or determination that the employee must respond, unless federal law or a CBA sets a different deadline. In such a notice to an employee, an employer must provide: (i) an explanation of which identification documents “do not appear to match”; (ii) the time period within which the employee has to contest the disputed information if such a period is required by federal law; and (iii) any action that the employer is requiring the employee to take. The employee is entitled to have a representative of their choosing at any meeting, discussion, or proceedings with the employer. See 820 ILCS 55/14.

The Act was further amended effective Dec. 12, 2025, authorizing the IDOL and attorney general to enforce the Act. IDOL investigators are entitled to “visit and inspect, at all reasonable times, any places covered by the Act,” which includes employer records or any activities related to the Act. Investigators may file a complaint against an employer, which will prompt a hearing in accordance with the Illinois Administrative Procedure Act. After the hearing, if supported by evidence, the IDOL may issue a cease and desist to the employer, issue a civil penalty, or “take affirmative or other action as deemed reasonable to eliminate the effect of the violation.” See 820 ILCS 55/15.

Beginning Dec. 12, 2025, interested parties have a right of action against employers who they reasonably believe violate the Act. “Interested parties” are defined as “a not-for-profit corporation . . . or labor organization . . . that monitors or is attentive to compliance with worker safety and privacy laws, wage and hour requirements, or other statutory requirements.” The interested party must serve its complaint upon the State, who then may elect or decline to intervene and proceed with the action within 60 days of being served. See 820 ILCS 55/16.

The Dec. 12, 2025, amendment also allows lawsuits from private parties. Under the Act, a person aggrieved by an employer may file suit in the circuit court of Illinois without regard to exhaustion of any alternative administrative remedies. Possible penalties include civil penalties for each violation, reinstatement into the employee’s former position, back pay with interest, reasonable attorney’s fees, and any other damages sustained as a result of the violation. See 820 ILCS 55/18.

The amended Act also provides that any party to any proceeding described in the Act may apply for and obtain judicial review of an order of the Department entered pursuant to this Act in accordance with the Administrative Review Law. See 820 ILCS 55/19.

The amended Act also provides safe harbor exceptions. No penalties will be imposed for violations of the Act if the employer or prospective employer (1) acts in good faith reliance on guidance issued by the IDOL or federal Department of Homeland Security, or (2) makes a *bona fide* administrative error that does not affect an employee or prospective employee's employment or pay. See 820 ILCS 55/25; Public Act 104-0455 (amendments effective Dec. 12, 2025).

Social Security Number Privacy Law

The Consumer Fraud and Deceptive Practices Act prohibits an employer from publicly disclosing an employee's social security number, printing the number on an employee card, requiring the employee to transmit the number over the internet, requiring an employee to use the number to access an internet site, print the number on any materials mailed to the employee unless required by law, or encode the number in a card or document. See 815 ILCS 505/2RR, and 505/7.

Job Opportunities for Qualified Applicants Act (“Ban the Box Act”)

The Job Opportunities for Qualified Applicants Act prohibits most Illinois employers from considering or inquiring into a job applicant's criminal record or history until after the individual has been determined qualified for the position and notified of an impending interview or, if the applicant will not be interviewed, until after a conditional offer of employment is made. The Act does not preclude an employer from notifying applicants in writing of specific offenses that will disqualify an applicant from employment in a particular position due to federal or state law or the employer's policy. The Act does not apply in the following situations: (1) if the employer is required to exclude applicants with certain criminal convictions under state or federal law; (2) if a standard fidelity bond or an equivalent bond is required and a conviction of certain criminal offenses would disqualify the applicant from obtaining such a bond, the employer may ask whether the applicant has ever been convicted of those offenses prior to determining whether the individual is qualified for the position; and (3) if the employer hires individuals licensed under the Emergency Medical Services (EMS) Systems Act. See 820 ILCS 75/1 *et seq.*

Restriction on Use of Criminal History Under Chicago Human Rights Ordinance

The City of Chicago Human Rights Ordinance (CHRO) expands the protection of the Illinois Ban the Box Act to Chicago employers, even those with fewer than 15 employees. Under the CHRO, it is permissible to conduct criminal background checks before making hiring decisions, but such inquiries may not be made until after the applicant has been deemed qualified for the position and selected for an interview. For positions that do not require an interview, criminal background checks may only be conducted after an applicant has been given a conditional offer of employment. Moreover, under the CHRO, an employer must inform applicants of the basis for a

rejection if that decision is based in whole or in part on the applicant's criminal history. Like the Ban the Box Act, however, CHRO's restrictions on use of criminal history do not apply in some cases (e.g., when state or federal law requires exclusion of applicants with certain criminal convictions).

As of April 24, 2023, the Ordinance has been amended to provide additional restrictions on the use of criminal history in employment decisions. Under the Ordinance, an employer may base an adverse employment action on an individual's criminal history only if: (1) there is a "substantial relationship" between the individual's criminal offense(s) and the job sought or held; or (2) based on the individual's criminal offense(s), the employer believes that the individual poses an unreasonable risk to the property or safety of the company's workforce, customers, or members of the public. In making this determination, the employer must perform an "individualized assessment" considering these factors:

- The length of time since the conviction;
- The number of convictions that appear on the conviction record;
- The nature and severity of the conviction and its relationship to the safety and security of others;
- The facts or circumstances surrounding the conviction;
- The age of the employee at the time of the conviction; and
- Evidence of rehabilitation efforts.

Additionally, the April 24, 2023, amendment requires that employers provide a "pre-adverse action notice" and "final adverse action notice" to any individual subject to an adverse employment decision on the basis of criminal history whether the criminal history information comes from a background report, the candidate, or both. The Ordinance also requires employers to: (1) include the employer's specific reasoning for the disqualification from employment within both the pre-adverse action notice and final adverse action notice; (2) disclose any existing procedure the employer has for the applicant or employee to appeal the decision; and (3) state within their final adverse action notice that the individual has the right to file a charge within the Chicago Commission on Human Relations.

As amended, the Ordinance also prohibits employers from inquiring about or using arrest records when making employment decisions. Arrest records are defined as "(1) an arrest not leading to a conviction; (2) a juvenile record; or (3) criminal history record information ordered, expunged, sealed, or impounded under Section 5.2 of the Criminal Identification Act." However, the Ordinance does not prohibit employers from using sealed felony conviction information obtained from the Illinois State Police under the provisions of Section 3 of the Criminal Identification Act or under other state or federal laws or regulations that require criminal background checks in evaluating the qualifications and character of an employee or a prospective employee. Employers may also obtain and rely on "other information which indicates that a person actually engaged in the conduct for which the individual was arrested."

Violations of the Ordinance can result in fines up to \$1,000 for each violation, including the first violation and license discipline. See Chi. Mun. Code. § 2-10-054.

Restriction on Use of Credit and Criminal History/Conviction Record Under Cook County Human Rights Ordinance

The CCHRO provides that employers may not consider credit or criminal history in making employment decisions. The Ordinance prohibits employers from using an employee's or job applicant's credit history to discriminate with respect to any "term, condition, or privilege of employment," including hiring, recruiting, disciplining, setting compensation, and terminating employment. Unless an exception applies, employers are prohibited from inquiring about credit histories or obtaining credit reports on applicants or employees. The Ordinance applies to employers that have their principal place of business in Cook County or *do business in Cook County*. However, certain types of governmental organizations and private entities are exempt from the requirements of the Ordinance, including certain financial entities, such as banks; insurance or surety businesses authorized under Illinois law; and debt collectors recognized under federal or state law or county ordinance. Like the Illinois Ban the Box Act and CHRO, the Cook County ordinance allows credit history to be considered when it is a *bona fide* occupational requirement, including whether the employee's or applicant's credit history is required by or exempt under other law.

The Ordinance also prohibits employers from inquiring about, considering, or requiring disclosure of a criminal record or criminal history when considering an application for employment until the employee has been determined qualified for the position and notified that they have been selected for an interview or until after the employer has made a conditional offer of employment. Certain employers and positions are exempt from this requirement, including employers subject to the Job Opportunities for Qualified Applicants Act, 820 ILCS 75/1 *et seq.*; positions where a satisfactory criminal background is an "established bona fide occupational requirement" of the position; positions for which federal or state law requires employers to exclude employees with certain convictions; positions for which a standard fidelity bond or its equivalent is required and an employee's conviction would disqualify them from obtaining the bond; positions requiring licensure under the Emergency Medical Services Systems Act, 210 ILCS 50/1 *et seq.*; or law enforcement positions which require a criminal background investigation. See Cook County Ordinance ch. 42, § 35 *et seq.*

VI. Artificial Intelligence

Artificial Intelligence Video Interview Act

Under the Act, employers that record interviews and use artificial intelligence (AI) software to analyze applicants' videos must notify applicants beforehand by providing information on how the software works and what specific features it analyzes. The applicants must then consent to use of the software. To provide further protection for applicants, employers may share videos only with individuals whose expertise or technology is necessary to evaluate the applicant, and

videos must be deleted within 30 days after an applicant's request for destruction. See 820 ILCS 42/1 *et seq.*

Limiting Use of Predictive Analytics Under the Illinois Human Rights Act

Effective Jan. 1, 2026, the IHRA will limit the use of AI (including generative AI) in employment decisions, including recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment (together, Hiring Decisions), where use of AI has the effect of subjecting employees to discrimination on the basis of protected classes. Employers using AI must also disclose to employees when they are using AI in their Hiring Decisions. See 775 ILCS 5/2-102(L) (Eff. 1-1-26).

Digital Voice and Likeness Protection Act

This Act seeks to safeguard individuals from the unauthorized use of their “digital replicas.”

A “digital replica” is defined as a newly created, electronic representation of the voice, image, or likeness of an actual individual created using a computer, algorithm, software, tool, artificial intelligence, or other technology that is fixed in a sound recording or audiovisual work in which that individual did not actually perform or appear and which a reasonable person would believe is that particular individual's voice, image, or likeness being imitated.

Effective Aug. 10, 2024, any provision in an agreement between an individual and any other person for the performance of personal or professional services is unenforceable and against public policy if: (1) the agreement allows the creation and use of a digital replica of the individual's voice or likeness in place of work the individual would otherwise have performed in person; (2) the agreement does not include a reasonably specific description of the intended uses of the digital replica; and (3) the individual was not either (i) represented by counsel in negotiating the agreement that governs the use of the digital replica or (ii) represented by a labor union where the terms of the applicable CBA cover the use of the digital replicas. See 815 ILCS 550/1 *et seq.*

Effective Jan. 1, 2026, any provision in an agreement between an individual and any other person for the performance of personal or professional services are unenforceable only as they relate to a new performance, fixed on or after Jan. 1, 2026, by a digital replica of an individual if the provision meets conditions (1)-(3) listed above. Furthermore, failure to include a reasonably specific description of the intended uses of a digital replica will not render a provision in a contract unenforceable when the uses of the digital replica are consistent with the terms of the contract for the performance of personal or professional services and the fundamental character of the photography or soundtrack as recorded or performed. See Public Act 104-0282.

VII. Procedures for Complaint Filings Under the IHRA

Venue Options

The IHRA provides a complainant these venue options:

- If the IDHR does not complete its process by the 365-day time limit, the complainant may file a complaint either with the Illinois Human Rights Commission (IHRC), or the Circuit Court in the county in which the alleged discrimination occurred, with or without a jury demand;
- If a charge is dismissed or a respondent defaulted because it failed to appear at a fact-finding conference and could not show good cause, the decision is appealable only to the IHRC, not the IDHR's Chief Legal Counsel;
- If a charge is dismissed for lack of substantial evidence, the complainant may file a complaint with the IHRC (within 30 days of the dismissal) or in Circuit Court (within 90 days) – there is no option for review by the Chief Legal Counsel;
- If the IDHR finds substantial evidence, the complainant has two options: either request (within 14 days) that the IDHR file a complaint with the IHRC (which the IDHR must then do within 90 days), or file a complaint in Circuit Court (within 90 days);
- If the IDHR finds substantial evidence, conciliation is at the IDHR's option; and
- If the IDHR orders conciliation, the deadlines for filing a complaint with the IHRC or Circuit Court are not tolled.

Notice and Response to Charge

The IDHR has discretion to require the respondent to file a response to the allegations contained in a charge of discrimination. If the IDHR decides to request a response, the respondent must file it within 60 days and serve a copy on the complainant or the complainant's representative; if the IDHR does not request a response, the respondent can still elect to voluntarily file a response within 60 days of receipt of notice of the charge, provided the respondent serves a copy on the complainant.

Any allegation contained in the charge that is not denied by the respondent within 60 days of the IDHR's request for a response may be deemed admitted unless the respondent states it is without sufficient information to form a belief with respect to the allegation. The IDHR may also issue a notice of default directed to any respondent that fails to file a required response to a charge within 60 days of receipt of the IDHR's request, unless the respondent can demonstrate good cause as to why such notice should not issue.

Investigations

The IDHR must investigate sufficiently to determine whether the allegations in a charge of discrimination are supported by substantial evidence. The IDHR need not first notify the respondent before investigating. The IDHR does not make credibility determinations in its

investigations. Employees may opt out of the IDHR's investigative process and can instead immediately request a notice of the right to sue. See 775 ILCS 5/1 *et seq.*

Temporary and Expedited Relief

Effective Jan. 1, 2024, the IDHR or complainant may petition the circuit court for temporary relief or a TRO pending final adjudication. The IDHR or complainant may also petition the circuit court for expedited proceedings. The circuit court itself may also order expedited proceedings if it finds the complainant is likely to die before the termination of the proceedings. See 775 ILCS 5/7A-104. If a court order for expedited proceedings is issued, the processing of the complainant's charge by the IDHR or IHRC takes precedence over all matters, except older matters of the same character.

IDHR Right to Intervene in Complaints Pending at the IHRC or in Court

Effective Jan. 1, 2024, the IDHR may petition the IHRC to intervene as a party in any action filed at the IHRC. The IDHR may intervene if: (1) the IHRC determines that the IDHR has an interest different from one or more of the parties; (2) the expertise of the IDHR makes it better suited to articulate a particular point of view; or (3) the representation of the IDHR's interest by existing parties is or may be inadequate and the IDHR will or may be bound by an order or judgment in the action. See 775 ILCS 5/8A-102(B-5).

Additionally, if the IDHR certifies that the case is of general public importance, the attorney general may seek to intervene on behalf of the IDHR in a civil action filed by a complainant in state or federal court. See 775 ILCS 5/10-102(D); 775 ILCS 5/10-105.

A complainant filing an action with the IHRC or in court must notify the IDHR by serving of a copy of any complaint filed on the IDHR's chief legal counsel within 21 days from the date the complaint is filed.

VIII. Protected Classifications & Prohibited Conduct

Chicago Bodily Autonomy for All Ordinance

Effective Feb. 1, 2023, the Chicago Bodily Autonomy for All Ordinance (as amended) prohibits employers (except certain exempt religious organizations) from: (1) discriminating or retaliating against an applicant or worker for their or their family members' decisions about reproductive or gender-affirming care; (2) accessing information about those decisions without the applicant's or worker's informed consent, which must be voluntary and in writing; and (3) requiring an applicant or worker to waive their or their family members' right to make their own decision about reproductive or gender-affirming care. See Chi. Mun. Code §§ 6-120-010, 6-120-015; see *also* Chi. Mun. Code § 6-10-080.

Chicago Human Rights Ordinance

The protected classifications under the CHRO are race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military

discharge status, source of income, and credit or criminal history (including arrest record). See Chi. Mun. Code § 2-160-010.

Effective July 1, 2022, the CHRO imposes strict measures that all employers must take to prevent sexual harassment in the workplace. An employee is defined as an individual who is engaged to work within the geographical boundaries of the City of Chicago for or under the direction and control of another for monetary or other valuable consideration. Employers include any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons that provide employment for one or more employees in the current or preceding calendar year. See Chi. Mun. Code § 6-10-020.

Under the new requirements, employers must provide employees (in the employee's primary language) within the first calendar week of employment a policy that includes:

- The definition of sexual harassment, as that term is defined in Section 6-10-020: “any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual’s employment position.”
- A statement that sexual harassment is illegal in Chicago.
- A requirement that employees participate in the following training annually:
 - A minimum of one hour of sexual harassment prevention training for all employees;
 - At least two hours of sexual harassment prevention training for anyone who supervises or manages employees; and
 - One hour of bystander training for all employees.
- Examples of sexual harassment.
- Details on how an employee can report an allegation of sexual harassment.
- Information about legal services, including governmental agencies, that are available to employees who may be victims of sexual harassment.
- A statement that retaliation for reporting sexual harassment is illegal in Chicago.

Employers must ensure that their employees participate in the mandatory annual trainings for the required number of hours and may use the model sexual harassment prevention training program prepared by the IDHR, or they may establish their own training that equals or exceeds the minimum requirements of the IHRA.

In addition to the training obligations, Employers must display, in at least one location where employees commonly gather, posters designed by the Chicago Commission on Human Relations regarding sexual harassment prohibitions. At least one of the posters must be in English and another in Spanish. Employers must also retain written records of the policies and trainings given to each employee, as well as other records necessary to show compliance with the ordinance. These records must be retained for a period of at least five years or for the duration of any pending litigation. An employer who fails to maintain a written policy compliant with the requirements above, comply with the sexual harassment prevention training, or display the required posters will be subject to a fine ranging between \$500 and \$1,000 per day.

This Ordinance also restricts an employer's use of criminal history in employment decisions. See discussion in Section V, Privacy, above.

Cook County Human Rights Ordinance

The protected classifications under this CCHRO are race (and traits associated with race), color, sex, age, religion, disability, national origin, ethnicity, ancestry, sexual orientation, marital status, parental status, pregnancy status, bodily autonomy, military discharge status, source of income, gender identity, criminal record or criminal history, and housing status. See Cook County Ordinance ch. 42, § 1 *et seq.* This Ordinance also restricts an employer's use of credit history and criminal history/criminal record in employment decisions. See discussion in Section V, Privacy, above.

Health Care Right of Conscience Act

The Health Care Right of Conscience Act (HCRCA), enacted in 1977, prohibits discrimination against healthcare workers with objections to participating in certain medical procedures that offend their conscientious or religious beliefs. The HCRCA was amended, effective June 1, 2022, to clarify that the HCRCA does not prohibit employers from taking any measures or imposing any requirements that involve provision of services by a physician or health care personnel intended to prevent contraction or transmission of COVID-19 or any pathogens that result in COVID-19 or any of its subsequent iterations. See 745 ILCS 70/1 *et seq.*

Domestic Workers' Bill of Rights Act

The Domestic Workers' Bill of Rights Act (DWBRA) amends a number of Illinois statutes to give domestic workers greater legal protection. The DWBRA: (1) expanded the protections of the IHRA to domestic servants in private homes; (2) removed the domestic service exclusion in the IMWL and replaced it with an explicit inclusion of "domestic workers" (as defined by the DWBRA); (3) removed the domestic service exception in the Wages of Women and Minors Act; and (4) explicitly included in the ODRISA any person employed as a "domestic worker" (as defined by the DWBRA). The definitions of "domestic workers" and "domestic work" include housekeeping, housecleaning, home management, nanny services, caregiving, laundering, cooking, companion service, chauffeuring, and other household services. See 820 ILCS 182/1 *et seq.*

Illinois Human Rights Act

The IHRA prohibits discrimination with respect to employment, financial credit, public accommodations, housing, and sexual harassment, as well as sexual harassment in education.

As of Jan. 1, 2025, complainants have two years after the date of any alleged violation of the Act (extended from 300 days) to file a charge of discrimination with the State of Illinois.

The protected classifications under the IHRA's employment article currently include race, color, religion, sex, pregnancy, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation (including gender identity), arrest, unfavorable discharge from military service, work authorization status, citizenship status, conviction record, family responsibilities, and reproductive health decisions.

Effective March 23, 2021, the IHRA extended protections to individuals with criminal conviction records by prohibiting employers from using a conviction record as a basis to discharge, discipline, deny employment or deny promotion, unless the employer can show: (1) the conviction is substantially related to the individual's job; or (2) employing the individual despite the conviction would pose an unreasonable safety risk to any person or property. Employers are required to consider a number of mitigating factors when making a determination of the existence of either a substantial relationship between the criminal offense and employment. Before taking adverse action, an employer must (1) notify the employee or applicant of the preliminary determination and allow the employee to explain the circumstances of the conviction and whether the conviction should be considered in the decision to discharge; (2) provide a second written notice informing the individual of any final adverse decision. This second written notice must contain a statement informing the individual that they may file a charge of discrimination with the IDHR.

Effective Aug. 2, 2021, the IHRA added "work authorization status" as a protected class. "Work authorization status" is defined as the status of being a person born outside of the United States, and not a U.S. citizen, who is authorized by the federal government to work in the United States.

Effective Jan. 1, 2022, the IHRA provided that discrimination based on a "physical or mental disability" includes discrimination against an individual because of the individual's association with a person with a disability.

Effective Jan. 1, 2023, the CROWN Act expanded the definition of race to include traits "associated with race," such as hair texture or hairstyles — e.g., braids, locks, and twists.

Effective Jan. 1, 2025, the Act adds protections for "family responsibilities" and "reproductive health decisions." The IHRA defines "family responsibilities" as "an employee's actual or perceived provision of personal care to a family member." The IHRA defines "reproductive health decisions" as "a person's decisions regarding the person'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.”

Effective Jan. 1, 2026, the IHRA also prohibits employers from using AI in a discriminatory manner, including using zip codes as a proxy for protected classes. See Section VI for additional discussion of AI.

The IHRA defines “employer,” in part, as any “person employing one or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding [an] alleged violation” of the IHRA. The definition of “employee” under the IHRA includes unpaid interns for purposes of protections against sexual harassment.

The definition of “employee” under the IHRA includes unpaid interns for purposes of protections against sexual harassment.

The IHRA defines “pregnancy” as “pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.” It requires employers to provide reasonable accommodations to employees (and job applicants) for any medical or common condition related to pregnancy or childbirth and makes it unlawful to fail to hire or otherwise retaliate against an employee or applicant for requesting such accommodations. The law provides a non-exhaustive list of examples of reasonable accommodations, including more frequent or longer bathroom breaks, breaks for increased water intake, breaks for periodic rest, private non-bathroom space for expressing breast milk and breastfeeding, seating accommodations, light duty, assistance with manual labor, temporary transfer to a less strenuous or non-hazardous position, acquisition or modification of equipment, job restructuring, part-time or modified work schedule, appropriate adjustment or modifications of examinations or training materials, assignment to a vacant position, or providing leave.

The IHRA explicitly prohibits employers from imposing conditions of employment that would require an employee or job applicant to “violate or forgo a sincerely held practice of his or her religion,” including clothing or facial hair requirements, unless the employer demonstrates it is unable to reasonably accommodate the individual’s sincerely held practice without creating an undue hardship on the employer’s business. However, an employer is not prohibited from enacting a dress code or grooming policy that may include restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation. Under the IHRA, the only basis for not providing the requested accommodation is if the employer can show the accommodation would impose an undue hardship on the “ordinary operation of the business.” “Undue hardship” is an action that is “prohibitively expensive or disruptive.” Like the Americans with Disabilities Act (ADA), the IHRA requires that both the employer and the employee engage in a “timely, good faith, and meaningful exchange to determine effective reasonable accommodations.” The law prohibits employers from requiring an employee or applicant to accept accommodation they did

not request or from requiring an applicant or employee to accept the employer's preferred accommodation.

The law also requires employers to post notice of employees' rights under the IHRA in a conspicuous location where notices to employees are customarily posted, including posters related to job discrimination, sexual harassment, and pregnancy rights. The law further requires employers to include in any employee handbook information concerning employees' rights under the IHRA, including information regarding how to file a charge of discrimination.

Under the IHRA, harassment includes unwelcome conduct based on actual or perceived membership in a protected class, where the conduct "has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment." The term "working environment" is not limited to the physical location where the employee works. Further, the IHRA permits non-employees in the workplace (such as contractors and consultants) to bring harassment claims. Non-employees include individuals who are "directly performing services for the employer pursuant to a contract with that employer." An employer will be liable for harassment by non-managerial and non-supervisory employees only if the employer is aware of the conduct and fails to take reasonable corrective measures.

The IHRA also requires the IDHR to produce a model training program for the prevention of sexual harassment. The model program is available online to employers and the public <https://dhr.illinois.gov/training/state-of-illinois-sexual-harassment-prevention-training-model.html>

Every employer with employees working in Illinois must use the model program or establish a program that "equals or exceeds" the statutory standards for the IDHR's program. At a minimum, those standards require an explanation of sexual harassment, examples of unlawful conduct, a summary of relevant federal and state statutes, and a summary of employer responsibilities. Employers must provide this training to all employees at least once a year. The training requirements do not apply to state employers that are subject to the sexual harassment training requirements in the State Officials and Employees Ethics Act. Further, the IHRA requires bars and restaurants to distribute a written sexual harassment policy to employees within the first week of their employment. The policy must include specific substantive information detailed in the IHRA, and it must be available in English and Spanish. IHRA directs the IDHR to create a supplemental model training program for sexual harassment prevention tailored to the restaurant and bar industry. Restaurants and bars must use this supplemental IDHR program or create their own supplement that "equals or exceeds" the required standards.

An employer that does not comply with the training requirements regarding sexual harassment is subject to civil penalties, depending on the employer's size and history of offenses. Employers with fewer than four employees may face penalties of up to \$500 for a first offense, up to \$1,000 for a second offense, and up to \$3,000 for subsequent offenses. For employers

with at least four employees, the maximum penalties increase to \$1,000, \$3,000, and \$5,000, respectively.

The IHRA has been interpreted by the Supreme Court of Illinois to impose “strict liability” on an employer for unlawful sexual harassment committed by supervisory and managerial employees, even if the employer was unaware of the conduct. Effective Jan. 1, 2025, the legislature clarified that employers are responsible for harassment and sexual harassment by the employer’s non-managerial and nonsupervisory employees, nonemployees, and third parties only if the employer becomes aware of the harassment and fails to take corrective action.

Effective Jan. 1, 2026, the Act makes fact-finding conferences for charges of discrimination discretionary rather than mandatory. Parties may still request a fact-finding conference if they make a joint, written request for a conference within 90 days of the charge being filed and the request is submitted before the Department issues its report. The request must include the party’s written agreement to grant an extension of 120 days to the time period if requested by the Department to issue its report.

Effective Jan. 1, 2026, the Act also provides new civil penalties “to vindicate the public interest.” Penalties range from up to \$16,000 for first-time violations, up to \$42,000 for two or more violations within five years, and up to \$70,000 for two or more violations within seven years. As with existing penalties under the law, the penalties may be issued, upon recommendation by a hearing officer and by the IHRC or a three-member panel thereof. See Public Act 104-0425.

Illinois Service Member Employment and Reemployment Rights Act

The Illinois Service Member Employment and Reemployment Rights Act (ISERRA) consolidates and strengthens various Illinois laws to protect Illinois service members. ISERRA provides the same protections as its federal counterpart, the Uniformed Services Employment and Reemployment Rights Act (USERRA), including the right to reinstatement following military service, the continuation of employee benefits, and protection against discrimination for covered service members. ISERRA protects all members of the Armed Forces of the United States, whether active duty or reserve, including the National Guard when performing state duty; all members of the Military Auxiliary Radio System, the United States Coast Guard Reserve, Civil Air Patrol, and the Merchant Marines when performing official duties in support of an emergency; and members who are released from military duty with follow-on care by the Department of Defense. Importantly, ISERRA mandates that during the performance review process, employers must credit a service member on military leave with the average of their performance rating received over the previous three years, but in no case can the average rating be less than the last rating the employee received during the rating period immediately preceding the leave. Effective Aug. 15, 2025, the Act also prohibits employers from requiring service members to use vacation, annual, or similar leave during a period of active service.

ISERRA provides additional benefits to public employees. Specifically, ISERRA mandates that public employers provide full salary continuation for annual training service and orders in lieu of

annual training for up to a combined total of 30 days per calendar year. ISERRA also provides public employees with differential compensation for up to 60 work days in a calendar year when their daily rate of compensation for active military service is less than the employee's civilian daily rate of compensation. The Act provides a formula for calculating differential compensation using the number of employee work days. Effective Aug. 15, 2025, "work days" for purposes of calculating differential compensation is defined as shifts worked (up to 24 continuous hours, even if extending into the next calendar day), rather than calendar days worked.

Finally, ISERRA requires employers to post a notice of employees' rights and benefits under the ISERRA. ISERRA provides a private right of action for covered employees and allows enforcement by the Illinois attorney general. The Act allows prevailing plaintiffs to recover attorneys' fees and up to \$50,000 in punitive damages. See 330 ILCS 61/1 *et seq.*

Volunteer Emergency Worker Job Protection Act

The Act provides that no employer may terminate an employee who is a volunteer emergency worker because the employee is absent from or late to work in order to respond to an emergency before the time the employee is to report to their place of employment. The Act also prohibits an employer from disciplining an employee who responds to an emergency text or phone call that requests the employee's volunteer emergency services, even when the text or call comes during work hours. An employer, however, may maintain a written workplace policy that governs the use of cell phones, which prevails over the requirements of the Act. An employer may also reduce an employee's pay for the time they are unable to work while responding to an emergency. Finally, employers have the right to request that employees provide a written statement from the supervisor with the entity with which the employee volunteers stating the employee responded to an emergency and indicating the time and date of the emergency. See 50 ILCS 748/1 *et seq.*

IX. Public Agency Records

Freedom of Information Act

Under this Act, records in possession of public agencies such as the IDHR may be accessed upon written request. However, if a request for records is made regarding an ongoing investigative proceeding, and the request may interfere with the investigation, the records may be obtained after conclusion of the investigation. Various other exemptions also apply. See 5 ILCS 140/1 *et seq.* For FOIA requests to the IDHR see *also* 2 Ill. Adm. Code 926.210, 926.250.

X. Public Contractors

Affirmative Action

Under the IHRA all companies, regardless of number of employees, entering a contract of any size with any state agency are governed by the anti-discrimination and affirmative action provisions of this Act. All such companies must: (1) refrain from discrimination as defined by the Act; (2) undertake affirmative action efforts (but not necessarily develop a written affirmative

action plan) to eliminate underutilization of minorities and females, and (3) have a sexual harassment policy containing elements listed in the Act. All companies with at least 15 employees who bid on a public contract in Illinois must file a Form PC-1 with the IDHR before bidding and obtain an Eligibility Number. See 775 ILCS 5/2-105, *et seq.*

Drug-Free Workplace Requirements

Recipients of state grants and contracts are required to certify they will provide a drug-free workplace. See 20 ILCS 580/1, *et seq.*

XI. Reporting and Recordkeeping Requirements

Equal Pay Act

The Illinois Equal Pay Act provides that employers must preserve records documenting the name, address, and wages paid to each employee for a period of not less than five years or longer if the employer is the subject of an investigation by the IDOL. See 820 ILCS 112/20.

Businesses with at least 100 employees that are required to file an Annual Employer Information Report with the Equal Employment Opportunity Commission (EEOC) must obtain an equal pay registration certificate certifying compliance with the Act from the IDOL. To obtain the certificate, businesses must pay a \$150 filing fee and submit a certification to the Department of Labor stating (i) compliance with the equal pay principles set forth in Title VII of the Civil Rights Act, the Equal Pay Act of 1963, the IHRA, the Equal Wage Act, and the Equal Pay Act of 2003; (ii) the average compensation for its female and minority employees is not consistently below the average compensation for its male and non-minority workers within each EEO-1 category, taking into account length of service, job requirements, experience, skill, effort, responsibility, working conditions, education, training, job location, CBAs, and other mitigating factors; (iii) that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex; (iv) that wage and benefit disparities are corrected when identified; (v) how wages and benefits are evaluated; (vi) the approach the business takes in determining what level of wages and benefits to pay its employees.

Companies required to file an EEO-1 report also must submit a “wage records” list of all employees in the past calendar year, categorized by gender and race/ethnicity with corresponding wages paid to each employee over that period, the employee’s start date with the business, and “any other information the Department [of Labor] deems necessary to determine if pay equity exists.” Any business that is authorized to transact business in the State of Illinois on or before March 23, 2021, must submit an enrollment form notifying the Department that the business is subject to Section 11 of the Act. A business that becomes authorized to transact business in the State of Illinois on or after March 24, 2021, must submit an enrollment form notifying the Department that the business is subject to Section 11 of the Act by Jan. 1 of the calendar year immediately following the year in which the business becomes authorized to conduct business in the State of Illinois. The enrollment form must include designated contact information for the business. The Department will then assign every business a date by which

the business must submit an application and a list of the information that the business must provide with its application. The filing date will be randomly assigned by the Department. Each business will receive at least 120 calendar days' notice of the filing date. Any business subject to the foregoing requirements, that was authorized to transact business in Illinois on or before March 23, 2021, will be required to submit an application before March 23, 2024, and must recertify every two years thereafter. Any business subject to the foregoing requirements that was not authorized to transact business in Illinois until after March 23, 2021, will be required to submit an application within three years of commencing business operations, but not before Jan. 1, 2024, and must recertify every two years thereafter. Failure to submit an application and obtain required certifications may result in a fine of \$10,000. See 820 ILCS 112/11.

As of Jan. 1, 2024, covered employers with “employees who do not regularly report to a physical workplace” (e.g., employees who work remotely or travel for work) will be required to distribute the notice required by the Equal Pay Act by email or “conspicuous posting on the employer’s website or intranet site, if such site is regularly used by the employer to communicate work-related information to employees.” See 820 ILCS 105/9. See *also* Section II regarding pay transparency requirements under the Illinois Equal Pay Act.

Reporting Federal EEO-1 Data to the State for Publication

Beginning Jan. 1, 2023, certain Illinois employers will be required to provide reports similar to federal EEO-1 reports to the Illinois secretary of state. The requirement applies to all corporations in Illinois that are required to file annual reports under the Illinois Business Corporation Act and are required to file an EEO-1 report with the federal EEOC. Failure to file a timely report will be treated as a failure to file an annual report. The Illinois secretary of state will publish the filed EEO-1-like report on its website so that the public will be able to see the basic demographics of each corporation providing data.

Reporting Certain Workplace Terminations

See section entitled “Illinois Worker Adjustment and Retraining Notification Act” for mandated reporting to government officials relating to termination of at least 25 employees.

Reporting Certain Adverse Discrimination Rulings

Beginning Oct. 31, 2020, employers have been required to make annual disclosures to the IDHR of information about adverse judgments or administrative rulings against them in the prior year. The annual filing deadline is July 1 of each year.

The disclosures must include the number of adverse judgments or administrative rulings, whether an employee obtained equitable relief and a breakdown of the judgments and rulings by unlawful employment practice. If the IDHR is investigating a charge filed under the IHRA, it may request similar information about an employer’s settlements in the preceding five years that involved allegations of sexual harassment or unlawful discrimination occurring in the workplace or involving an employee or corporate executive. See 775 ILCS 5/2-108.

An “adverse judgment or administrative ruling” is defined as any final and non-appealable judgment or administrative ruling entered in favor of an Illinois employee and against the employer where there is a finding of sexual harassment or unlawful discrimination brought under the IHRA, Title VII of the Civil Rights Act of 1964, or any other federal, state, or local law prohibiting sexual harassment or unlawful discrimination.

The IDHR has posted materials and an “FAQ for Employers” on its website explaining this obligation. It has also provided a form (Form IDHR 2-108) to be completed when making the annual disclosures.

The IDHR will compile the reported information about adverse judgments and administrative rulings for publication in an annual report, but it will aggregate individual data to avoid exposing personal information. Employer disclosures are exempt from the Freedom of Information Act. Employers who do not comply with these disclosure requirements could face civil penalties. See 775 ILCS 5/2-108.

Day and Temporary Labor Services Act

See Section XIV, Day and Temporary Labor Services Act for requirements relating to reporting the employment of day and temporary laborers.

IWPCA Wage and Vacation Records

Regardless of an employee’s status as either an exempt administrative employee, executive or professional, every employer must keep at least three years’ accurate records of the name and address of each employee; the hours worked each day in each work week by each employee; the rate of pay; the amount paid each pay period to each employee; and all deductions made from wages or final compensation. An employer that provides paid vacation to its employees must maintain records for not less than three years of the number of vacation days earned for each year and the dates on which such vacation days were taken and paid. See 56 Ill. Adm. Code 300.630. See *also* Section II, Pay Stubs.

Important Note on Statute of Limitations

The statute of limitations in Illinois for oral contracts is five years, and for written contracts, 10 years. See 735 ILCS 5/13-205 and 13/206. The statute of limitations on an IWPCA claim is 10 years. See 735 ILCS 5/13-206.

New Hire Reporting Under the Unemployment Insurance Act

Employers in Illinois must file a report with the Department of Employment Security (IDES) providing the following information for each newly hired employee: the employee’s name, address, and social security number, the date work was first performed by the employee, and the employer’s name, address, and Federal Employer Identification Number. The report must be filed no later than 20 days after the employee is hired or, if submitting the report electronically, by two monthly transmissions. An employer that knowingly fails to comply with these reporting requirements will be subject to a civil penalty of \$15 for each individual it fails to report. An

employer will be deemed to have knowingly failed if it has been notified by IDES that it has failed to report an individual and it fails to supply the required information within 21 days. Employers must also report independent contractor arrangements to the IDES. As of Jan. 1, 2026, if an employer willfully refuses or fails to file the required reports, a court is authorized to enjoin the employer from “operating business as an employer” in Illinois. The employer must first receive 30 days’ written notice from the director, and a subsequent motion must be submitted by the director. See Public Act 104-0285.

XII. Rest Periods

One Day Rest in Seven Act (ODRISA)

Following amendments to ODRISA, effective Jan. 1, 2023, this Act requires employers to give employees at least 24 consecutive hours of rest in every consecutive seven-day period in addition to the regular period of rest allowed at the close of each week. There are various exceptions to this rule, including exceptions for exempt employees, employees needed to work under emergency conditions, employees in agriculture or coal mining, and employees for whom work hours and rest periods are established by a CBA. Under this Act, employers may also ask IDOL for relaxation of this requirement. If IDOL grants a relaxation, it requires a statement from the employer demonstrating that all employees who will be working seven days in a row are in fact volunteers.

A “domestic worker” (as defined by the DWBRA) must also receive at least 24 consecutive hours of rest in every consecutive seven-day period unless the worker volunteers and is compensated at the overtime rate for all hours worked on the day of rest. Moreover, the day of rest, should coincide with a domestic worker’s traditional day of religious worship. See 820 ILCS 140/2 and 8, and 56 Ill. Adm. Code 220.200 - 220.700.

Employers covered by ODRISA must place posters prepared by the IDOL and available on its website that contain information regarding the requirements of the act. Employers with remote workers must provide notice by email or on a website regularly used by the employer to communicate work-related information. See 820 ILCS 140/8.5 (b).

Violations of ODRISA constitute a civil offense. Employers with at least 25 employees will be subject to a \$500 fine (\$250 for employers with fewer than 25 employees) payable to the IDOL and damages of up to \$500 (\$250 for employers with fewer than 25 employees) payable to the employee or employees affected. Each violation of the act will be considered an individual infraction; that is, every seven-day consecutive period an employee does not receive at least 24 consecutive hours of rest or each day an employee is not provided with a meal break (discussed below) will constitute individual violations. See 820 ILCS 140/7(a)-(d).

Effective March 21, 2025, employers are prohibited from retaliating against employees who have exercised their rights under ODRISA, made ODRISA complaints to their employer or the IDOL, instituted or are about to institute a proceeding under ODRISA, or testified or are about to

testify in any investigation or proceeding under the Act. Employees who believe their employers have violated ODRISA's anti-retaliation provisions may file a claim with the IDOL and recover all legal and equitable relief as may be appropriate. The IDOL may also assess penalties and fees and seek to recover such penalties and fees in a civil action. See Public Act 103-1082.

Meal Break

Under ODRISA, employees who work at least seven-and-a-half continuous hours must be "permit[ted]" at least a 20-minute meal break beginning no later than five hours after the start of work. An employee who works in excess of seven and a half consecutive hours is entitled to an additional 20-minute meal break, which does not include reasonable bathroom use, for every additional four and a half continuous hours worked. See 820 ILCS 140/3. This requirement applies to virtually all employees, including exempt employees; the only exceptions are employees who monitor people with developmental disabilities and employees whose meal periods are fixed by a CBA.

The IDOL takes the informal position that compliance with the law requires that all employees take a break every day, not just that the break be made available to the employee at the employee's option. Although this interpretation seems inconsistent with the statute's language that the employer must "permit" the break, no court appears to have ruled on the IDOL's position or otherwise interpreted the meaning of "permit" in the statute.

Further, the IMWL and the federal FLSA require that for a meal break to be unpaid and not count toward hours worked in determining whether overtime compensation is due, the unpaid meal break must generally be at least 30 minutes. Although Illinois law mandates a 20-minute meal break for most employees, it does not state whether the break must be paid or unpaid. Accordingly, employers should be guided by the requirements of the IMWL and the FLSA in determining whether any meal break period should be paid or unpaid.

Chicago Fair Workweek Ordinance

The Chicago Ordinance requires large employers in seven specified industries to provide workers notice of their work schedules at least 10 days before the first day of the schedule and to compensate workers for certain schedule changes thereafter. Beginning July 1, 2022, covered employers are required to provide workers notice of their work schedules at least 14 days before the first day of the schedule.

Employers are covered under the Ordinance if they: (1) employ more than 100 employees globally (or 250 employees globally, in the case of not-for-profit corporations); (2) have at least 50 covered employees; and (3) are primarily engaged in a covered industry. The covered industries include: (1) building services, meaning the care and maintenance of property, including, but not limited to, janitorial services, building maintenance services, and security services; (2) healthcare; (3) hotels; (4) manufacturing; (5) restaurants licensed to serve food in the City of Chicago that also have at least 30 locations globally and at least 250 employees in

the aggregate (restaurants with up to three locations in the City that are owned by one employer and operating under a sole franchise are not covered); (6) retail, meaning sale to end users of tangible products that are primarily for personal, household, or family purposes; and (7) warehouse services.

Covered employees include employees and temporary employees who have been on assignment to the employer for 420 hours, and who: (1) spend the majority of their time at work while physically present in the City of Chicago; (2) perform the majority of their work in a covered industry for that employer; and (3) earn less than or equal to \$62,561.90 per year as a salaried employee or less than or equal to \$32.60 per hour as an hourly employee from that employer. These salary requirements increase every year and are tied to the minimum wage. The City of Chicago publishes updates effective every July 1.

Among many other provisions, the Ordinance: (1) requires employers to offer additional shifts of work to its own employees or long-term, temporary employees, if they are qualified to do the work, before offering the work to temporary or seasonal workers; (2) creates a “right to rest” and allows employees to decline to work scheduled hours that begin less than 10 hours after their last shift ended; (3) requires payment of “predictability pay” if employees accept shifts that begin less than 10 hours after their last shift ended; and (4) sets a procedure for employees to request a flexible schedule and requires employers to respond in writing. See Chi. Mun. Code § 6-110-010 *et seq.*

The Ordinance does not affect collective bargaining arrangements in place by July 1, 2020. Additionally, the Ordinance’s requirements may be expressly waived in a CBA.

Employees may file a complaint with the City of Chicago’s BACP OLS for alleged violations of the Ordinance. In response to the COVID-19 pandemic, the city amended the Ordinance to provide that private lawsuits under the Ordinance may not be initiated and that claims under the Ordinance do not accrue, until on or after Jan. 1, 2021.

Evanston Fair Workweek Ordinance

The Ordinance requires large employers within six specified industries to provide workers a 14-day notice of schedule changes and compensate them with “predictability pay” if any changes occur fewer than 14 days before the first scheduled shift. The Ordinance is effective Jan. 1, 2024.

The Ordinance: (1) requires employers to give advance notice of work schedules; (2) requires payment of predictability pay if an employer changes a work schedule fewer than 14 calendar days before the first shift of a workweek begins; (3) creates a “right to rest” and allows employees to decline to work scheduled hours that begin fewer than 11 hours after their last shift ended; (4) requires employers to provide new employees with a good faith estimate of the employee’s work schedule for the first 90 days of employment; and (5) requires employers to

offer additional shifts of work to its own employees or long-term, temporary employees, if they are qualified to do the work, before offering the work to temporary or seasonal workers.

Employers are covered if they (1) directly or indirectly (including through the services of a temporary services or staffing agency) employ or exercise control over 100 or more employees; and (2) are primarily engaged in a covered industry. Franchisees with fewer than 100 employees but are associated with a franchisor or a network of franchises with more than 30 locations globally are also covered.

The Ordinance defines “covered employees” as a person who performs at least two hours of work during a period of seven consecutive days within the geographic boundaries of the City of Evanston and qualifies for minimum wage under the IMWL. “Covered industry” means: (1) hospitality; (2) retail; (3) warehouse service; (4) manufacturing; (5) building services; and (6) food service and restaurants (food service businesses with at least 30 locations and 200 employees globally and licensed to serve food in Evanston; not including food service businesses with fewer than four locations in Evanston that are owned by one employer and operating under a sole franchise).

Employers must keep for at least three years, or for the duration of any claim, civil action, or investigation, a record of each covered employee’s name, hours worked, pay rate, and records necessary to demonstrate compliance with the Ordinance. This includes good faith estimates of work schedules, initial posted schedules, all subsequent changes to initial schedules, consent to work hours by employees, documentation of offers to existing employees to work additional hours, and responses to such offers. Upon an employee’s reasonable request, an employer must provide the employee a copy of such records relating to employee.

A covered employee has the right to decline work schedule hours that start less than 11 hours after the end of their previous day’s shift. Employees who give their written consent to work a shift that begins less than 11 hours after their previous shift ended are entitled to 1.5 times the employee’s regular rate of pay for that shift.

Any covered employee may initiate a civil action in court within two years of the alleged conduct resulting in a violation. If the employee prevails, the employee may recover an award for any damages sustained, including predictability pay, costs, and attorneys’ fees. Employers that violate the Ordinance are subject to a fine of \$300 to \$500 for each violation. Each day a violation occurs is deemed a separate and distinct violation to which a separate fine will apply. The fine increases by \$50 for each subsequent violation. Employers that discriminate in any manner or retaliate against employees for exercising their rights under the Ordinance are subject to a \$1,000 fine for each occurrence. See Evanston, Ill. Ordinance ch. 34, § 1 *et seq.*

XIII. Restrictive Covenants, Trade Secrets, & Confidentiality

Illinois Freedom to Work Act

Effective Jan. 1, 2022, the Act was expanded to impose several new requirements on non-compete and non-solicitation agreements that further limit the circumstances in which restrictive covenants can be enforced against Illinois employees.

The Act prohibits private sector employers in Illinois from entering a non-compete agreement after Jan. 1, 2022, that restricts any employee whose earnings do not exceed \$75,000 per year from performing: (1) any work for another employer for a specified period; (2) any work in a specified geographic area; or (3) work for another employer that is like the employee's work for the employer included as a party to the agreement. The Act further prohibits private sector employers in Illinois from entering a non-compete agreement after Jan. 1, 2022, with respect to an employee whose earnings do not exceed \$75,000 per year if the agreement imposes adverse financial consequences on the employee if the employee engages in competitive activities after the termination of the employee's employment. The earnings threshold for this requirement rises over a 15-year window, moving to \$80,000 per year in 2027, \$85,000 in 2032, and \$90,000 in 2037. See 820 ILCS 90/1 *et seq.*

Additionally, the Act also prohibits private sector employers in Illinois from entering into a non-solicitation agreement after Jan. 1, 2022, that restricts any employee whose earnings do not exceed \$45,000 per year from: (1) soliciting for employment the employer's employees; or (2) soliciting, for the purpose of selling products or services of any kind to, or from interfering with the employer's relationships with, the employer's clients, prospective clients, vendors, prospective vendors, suppliers, prospective suppliers, or other business relationships. The earnings threshold for this requirement rises over a 15-year window, moving to \$47,500 per year in 2027, \$50,000 in 2032, and \$52,500 in 2037. See 820 ILCS 90/1 *et seq.*

The Act defines "earnings" broadly to include compensation, including earned salary, earned bonuses, earned commissions, or any other form of taxable compensation, reflected or that is expected to be reflected as wages, tips, and other compensation on the employee's IRS Form W-2 plus any elective deferrals not reflected as wages, tips, and other compensation on the employee's IRS Form W-2, such as employee contributions to a 401(k) plan, a 403(b) plan, a flexible spending account, or a health savings account, or commuter benefit-related deductions. See 820 ILCS 90/1 *et seq.*

The Act also contains a COVID-19 provision, barring any employer from entering into, or enforcing, a non-competition or non-solicitation agreement with any employee who an employer terminates, furloughs, or lays off as the result of business circumstances or governmental orders related to the COVID-19 pandemic or under circumstances that are similar to the COVID-19 pandemic, unless enforcement of the covenant not to compete includes compensation equivalent to the employee's base salary at the time of termination for the period of enforcement

minus compensation earned through subsequent employment during the period of enforcement. See 820 ILCS 90/10.

Among many other provisions, the Act codifies existing Illinois case law on the enforceability of non-competition and non-solicitation agreements. The Act provides that such agreements are illegal and void unless (1) the employee receives adequate consideration, (2) the covenant is ancillary to a valid employment relationship, (3) the covenant is no greater than is required for the protection of a legitimate business interest of the employer, (4) the covenant does not impose undue hardship on the employee, and (5) the covenant is not injurious to the public. The Act defines “adequate consideration” to mean: (1) the employee worked for the employer for at least two years after the employee signed an agreement containing a covenant not to compete or a covenant not to solicit; or (2) the employer otherwise provided consideration adequate to support an agreement to not compete or to not solicit, which consideration can consist of a period of employment plus additional professional or financial benefits or merely professional or financial benefits adequate by themselves. See 820 ILCS 90/1 *et seq.*

Further, the Act provides that a non-competition or non-solicitation agreement is illegal and void unless (1) the employer advises the employee in writing to consult an attorney before entering into the covenant, and (2) the employer provides the employee with a copy of the covenant at least 14 calendar days before the commencement of the employee’s employment or the employer provides the employee with at least 14 calendar days to review the covenant. See 820 ILCS 90/1 *et seq.*

Covenants not to compete and covenants not to solicit entered into after Jan. 1, 2025, are not enforceable with respect to licensed mental health professionals working with veterans or first responders if the enforcement of the covenant not to compete or covenant not to solicit is likely to result in an increase in cost or difficulty for any veteran or first responder seeking mental health services. See 820 ILCS 90/1 *et seq.*; Public Act 102-358.

Effective Jan. 1, 2025, covenants not to compete are void for non-managerial employees employed in the construction trade, regardless of whether an individual is covered by a CBA, unless they perform “management, engineering or architectural, design, or sales functions for the employer or who are shareholders, partners, or owners in any capacity of the employer.” See 820 ILCS 90/1 *et seq.*; Public Act 103-921.

Broadcast Industry

Broadcast industry employers (television, radio, and cable stations) may not require employees or prospective employees (except management and sales employees) to execute post-employment non-compete agreements. See 820 ILCS 17/1 *et seq.*

Nurse Agencies

Effective July 1, 2022, the Nurse Agency Licensing Act provides expanded protections for employees of Nurse Agencies — such as banning covenants not to compete — and includes

significant disclosure requirements related to compensation. Nurse Agencies cannot enter into Covenants Not to Compete with nurses or certified nurse aides. Any such agreement entered into on or after July 1, 2022 (the amendments' effective date) is null and void. In addition, Nurse Agencies may not, in any contract with any employee or Health Care Facility, require the payment of liquidated damages, conversion fees, employment fees, buy-out fees, placement fees, or other compensation if the employee is hired as a permanent employee of a Health Care Facility. 225 ILCS 510/14(g). A Covenant Not to Compete is defined as any agreement between a Nurse Agency and an employee that restricts the employee from performing any work: for another employer for a specified period of time, any work in a specified geographic area, or any work for another employer that is similar to the work the employee performs for the employer that is a party to the agreement.

However, from July 1, 2022, to Dec. 31, 2027, a Nurse Agency may enter into a covenant not to compete with a nurse or a certified nurse aide concurrent with the term of initial employment, assignment, or referral to a health care facility if the nurse or nurse aide will be employed on a long-term basis (more than 24 months). Moreover, a contract on a long-term basis between any nurse, certified nurse aide, or health care facility and a nurse agency may also provide for the payment of actual damages, conversion fees, employment fees, buy-out fees, placement fees, or other reasonable expenses resulting from a violation of the contract that occurred during the initial employment, assignment, or referral term. See 225 ILCS 510/14.

In addition to barring non-compete agreements, the law also imposes strict reporting and compliance obligations. Contracts between Nurse Agencies and Health Care Facilities must fully disclose all charges and compensation, including a schedule of all hourly bill rates per employee category, which lists hourly pay rate, shift differential, weekend differential, hazard pay, charge nurse add-on, overtime, holiday pay, and travel or mileage pay. 225 ILCS 510/14.3 (a)-(b). Contracts must also provide a full description of administrative charges and include a provision that no less than 100% of the hourly rate should be paid to the contract nurse. A violation of these requirements entitles the employee to liquidated damages of \$1,500 or actual damages and reasonable attorneys' fees.

A Nurse Agency must submit all contracts assigning or referring nurses or certified nurse aids between the Nurse Agency and a Health Care Facility to the IDOL within five business days of their effective date. Copies of all invoices to Health Care Facilities personnel must be maintained and produced upon request. When applying for license renewal, the application must include an attestation detailing the number of contracted shifts, the number of shifts missed, number of shifts fulfilled for the three quarters preceding the application date.

Each quarter, Nurse Agencies must submit comprehensive reports to the IDOL classified by county and provider type. The report must include a list of the average amount charged to the Health Care Facilities for each employee category, a list of the average amount paid by the agency to the employees in each employee category, and a list of the average amount of labor-

related costs by the agency, including payroll taxes, insurances, and credentialing as well as testing.

The law defines Nurse Agency as any individual, firm, corporation, partnership, or other legal entity that employs, assigns, or refers nurses or certified nurse aides to a Health Care Facility for a fee. The definition excludes services provided by home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act or a licensed or certified individual who provides their own services as a regular employee of a Health Care Facility, nor does it apply to a Health Care Facility's organizing, non-salaried employees to provide services only in that facility. 225 ILCS 510/3. Health Care Facility is defined as in Section 3 of the Illinois Health Facilities Planning Act, but also includes facilities subject to regulation under the Assisted Living and Shared Housing Act or the Illinois Public Aid Code.

Trade Secrets Act

Generally, this Act protects the rights of employers to maintain trade secrets and provides relief for the acquisition and use by others of trade secrets by improper means. The Act provides broader protection than the Uniform Trade Secrets Act in that it defines a trade secret to include drawings, financial data, and lists of actual or potential customers and clients. See 765 ILCS 1065/1 *et seq.*

Employee Patent Act

Under this Act, an employer may not require an employee to assign or offer to assign their rights in an invention to the employer when the employee developed the invention entirely on the employee's own time and when the employer's equipment, supplies, facilities, or trade secret information were not used. This does not apply, however, if the invention results from any work performed for the employer, or if the invention relates to the employer's business or research and development. See 765 ILCS 1060/1 *et seq.*

Workplace Transparency Act

The Act prohibits employers from contractually restricting a prospective, current, or former employee's ability to report allegations of criminal conduct or "unlawful employment practices" (as defined in the Act) for investigation by authorities. As of Jan. 1, 2026, unlawful employment practices is defined to include not only harassment, discrimination, and retaliation, but also any unlawful practice that is actionable under Article 2 of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, or any other State or federal rule or law governing employment, including those that are enforced by the IDHR, IDOL, ILRB, EEOC, USDOL, OSHA, or the NLRB. See Public Act 104-0320. Also effective Jan. 1, 2026, employers may not restrict employees in any document from engaging in concerted activity to address work-related issues. *Id.*

The Act also prohibits any unilateral condition of employment that prevents a current or prospective employee from reporting unlawful employment practices or from engaging in protected concerted activity to address work-related issues.

Further, the Act bars any unilateral requirement that a current or prospective employee waive, arbitrate, “or otherwise diminish” existing or future claims, rights, or benefits related to unlawful employment practices, including provisions that purport to shorten the applicable statute of limitation, apply non-Illinois law to an Illinois employee’s claim, or require a venue outside of Illinois to adjudicate an Illinois employee’s claim. Additionally, any unilateral agreement that has the purpose or effect of preventing an employee from making truthful statements or disclosures about unlawful employment practices or engaging in protected concerted activities to address work-related issues is void as against public policy.

However, provisions that would be otherwise void as an impermissible unilateral agreement under the Act may be allowed if the employer and employee mutually agree to it in writing and it reflects “actual, knowing, and bargained-for consideration” from both parties. The agreement also must acknowledge the current or prospective employee’s right to: (1) report a good-faith belief of an unlawful employment practice or criminal conduct to the appropriate governmental authorities; (2) participate in any proceeding related to unlawful employment practices (whether brought by a governmental entity or any other person); (3) make truthful statements or disclosures as required by law, regulation, or legal process; (4) seek or receive legal advice; and (5) engage in concerted activity to address work-related issues. If the employer does not comply with these requirements, the Act establishes a rebuttable presumption that the condition is unilateral and void as against public policy.

As to confidentiality provisions in settlement and termination agreements, the Act permits promises of confidentiality related to alleged unlawful employment practices (other than future or prospective concerted activity related to workplace conditions) if certain requirements are met: (1) the agreement must state that the employee prefers confidentiality and the provision’s inclusion in the agreement is mutually beneficial (this cannot be a unilateral requirement); (2) the employer must provide the employee written notification of the right to have an attorney or representative review the agreement; (3) there must be valid, bargained-for consideration exchanged that is separate from the consideration that is provided in exchange for a release of claims; (4) the agreement cannot include a waiver of claims that accrue after execution of the agreement; (5) the employee must have 21 calendar days to consider and execute the agreement, although the employee may sign the agreement before the end of the review period; and (6) the employee must have seven calendar days following execution of the agreement to revoke assent. The agreement is not effective until the revocation period expires, but the Act allows the employee to waive the right to revoke. The Act’s restrictions on settlement agreements apply to agreements with prospective, current, and former employees. Under the

Act, failure to follow these requirements voids the confidentiality provision as against public policy.

Notwithstanding the above restrictions, the Act still permits employers to include waivers and releases for claims that accrued before execution of the agreement. Moreover, employers may require confidentiality from: (1) employees who receive or investigate complaints from others or have access to confidential personnel information; (2) employees or third-party participants in investigations who must maintain confidentiality; (3) employees or third-party recipients of attorney work product or attorney-client privileged communications; (4) individuals who are legally subject to a recognized privilege; and (5) third parties engaged by the employer for investigations of unlawful employment practices. See 820 ILCS 96/1-1 *et seq.*

XIV. Safety & Health

Smoke-Free Illinois Act

This Act requires that public places and places of employment be completely smoke-free inside and within 15 feet from entrances, exits, windows that open, and ventilation intakes. See 410 ILCS 82/1 *et seq.*

Chicago Clean Indoor Air Ordinance

The Ordinance prohibits smoking in virtually all enclosed public places and enclosed places of employment, including, but not limited to, bars, restaurants, shopping malls, recreational facilities, concert halls, auditoriums, convention facilities, government buildings and vehicles, public transportation facilities, coin laundries, meeting rooms, private clubs, public restrooms, lobbies, reception areas, hallways and other common-use areas in public buildings, apartment buildings, and condominium buildings. The Ordinance also prohibits smoking within 15 feet of the entrance of these establishments. See Chi. Mun. Code §7-32.

Chicago “Hands Off Pants On” [Panic Button] Ordinance

The Ordinance requires Chicago hotels to equip all employees who work alone in guest rooms or restrooms with a “panic button” or other notification device to alert and summon hotel security or management for help if the employee reasonably believes that an ongoing crime, sexual harassment, sexual assault, or other emergency is occurring to the employee or in the employee’s presence.

The Ordinance also requires that all Chicago hotels develop, maintain, and comply with a written anti-sexual harassment policy designed to protect employees against sexual assault and sexual harassment by hotel guests. The policy must: (1) encourage employees to immediately report instances of alleged sexual assault and sexual harassment by guests; (2) describe the procedures that the employee and the hotel will follow in response to such reports; (3) instruct employees to stop working and immediately leave the area of the perceived danger until hotel security or the police arrive to provide assistance; (4) offer temporary work assignments to the complaining employee during the offending guest’s stay at the hotel; (5) provide employees with

paid time off to file any appropriate police reports or testify as a witness in any legal proceedings arising from the incident; (6) inform employees that the IHRA, Title VII of the Civil Rights Act of 1964, and the CHRO provide additional protections against sexual harassment in the workplace; and (7) inform employees that they will not be retaliated against for reasonably using a panic button or notification device.

Finally, the Ordinance contains an anti-retaliation provision that prohibits hotels from retaliating against employees who reasonably use the panic button or notification device, or who disclose, report, or testify about any violations of the Ordinance.

Hotels found to have committed two or more violations of the Ordinance in any 12-month period are subject to having their license suspended or revoked by the City of Chicago. Hotels may also face daily fines between \$250 and \$500 for each violation of the Ordinance. See Chi. Mun. Code § 4-6-180.

Illinois Concealed Carry Act

Illinois allows its citizens to carry a concealed firearm. The law provides that the owner of private real property of any type may prohibit the carrying of concealed firearms on the property under their control. All prohibited areas must post signage advising that carrying a concealed firearm on the property is prohibited. However, even if an employer prohibits firearms in its buildings, a firearm may be possessed in a parking area and stored in a locked vehicle out of plain view or in a locked container out of plain view. A holder of a concealed carry permit may also carry an unloaded firearm in the immediate area surrounding the vehicle to store or retrieve it from the trunk. See 430 ILCS 66/1 *et seq.*

Occupational Health & Safety Act

This Act applies to public employers in Illinois, state and municipal, and is similar to the federal Occupational Safety and Health Act. The Act seeks to eradicate hazards that cause or are likely to cause death or serious physical harm to public employees. See 820 ILCS 219/1 *et seq.*

Cannabis Regulation and Tax Act

The Act legalized marijuana for recreational purposes. Illinois residents at least 21 years old may possess up to 30 grams of marijuana flower and five grams of marijuana concentrate. There is no cause of action against an employer for: (1) actions taken pursuant to an employer's reasonable workplace drug policy, including, but not limited to, subjecting an employee or applicant to reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment, or withdrawal of a job offer due to a failure of a drug test; (2) actions based on the employer's good-faith belief that an employee was impaired, used, or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies; and (3) injury, loss, or liability to a third party if the employer neither knew nor had reason to know that the employee was impaired. "On-call" is defined to mean when the employee is scheduled with

at least 24 hours' notice by the employer to be on standby or otherwise responsible for performing work.

As it relates to employers who wish to discipline employees who appear to be impaired by marijuana at work, an employer may consider an employee to be impaired or under the influence of cannabis if the employer has a good-faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position. These symptoms include impairment of the employee's speech, physical dexterity, agility, coordination, or demeanor; irrational or unusual behavior; negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. If an employer elects to discipline any employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination. The Act does not define "reasonable opportunity," so it is unclear exactly what employers must offer to employees when there is reasonable suspicion of impairment at work.

Moreover, although the Act makes clear that employers may continue conducting reasonable and nondiscriminatory pre- and post-hiring and random drug tests for marijuana, the Act does not define "reasonable" or provide any further clarification on the interplay between the Act and the Right to Privacy in the Workplace Act (see discussion above). It also makes clear that employers may continue conducting reasonable and nondiscriminatory pre- and post-hiring and random drug tests for marijuana. However, it does not define "reasonable" or provide any further clarification on the interplay between the Act and the Right to Privacy in the Workplace Act. Still, the Act appears to control as to the protections provided in the Right to Privacy in the Workplace Act.

The Act provides several exceptions; it does not apply to employers who are regulated by the U.S. Department of Transportation's drug and alcohol testing regulations and does not affect an employer's ability to comply with federal or state laws or cause it to lose a federal or state contract or funding. The Act also does not enhance or diminish protections afforded by Illinois' medical marijuana laws. See 410 ILCS 705/1-1 *et seq.*

Compassionate Use of Medical Cannabis Program Act

This law allows physicians to recommend the therapeutic use of medical marijuana to patients under their care for at least one of dozens of qualifying medical conditions. However, nothing in the Act prohibits employers from: (1) adopting reasonable regulations concerning the consumption, storage, or timekeeping requirements related to the use of medical cannabis; (2) enforcing a policy concerning drug testing, or zero-tolerance or drug-free workplace policies, provided it is applied in a nondiscriminatory manner; (3) disciplining a registered qualifying

patient for violating a workplace drug policy; or (4) disciplining an employee for failing a drug test if failing to do so would put the employer in violation of federal law or cause it to lose a federal contract or funding. See 410 ILCS 130/1 *et seq.*

Health Care Violence Prevention Act

Under the Act, healthcare providers in Illinois must post a notice providing that verbal aggression will not be tolerated, and that physical assault will be reported to law enforcement. Illinois healthcare providers must also implement a workplace violence prevention program that complies with Occupational Safety and Health Administration guidelines for preventing workplace violence for healthcare and social service workers. Additionally, the Act requires healthcare providers to offer immediate post-incident services to healthcare workers directly involved with incidents of violence, prohibits management from discouraging a worker from contacting law enforcement or filing a police report, and expands whistleblower protections to employees who act with the intent to implement or enforce compliance with the Act. See 210 ILCS 160/1 *et seq.*

Health Care Worker Background Check Act

This Act prohibits covered health care employers (including, but not limited to, hospitals, long-term care facilities, and nurse agencies) from employing, in certain positions, individuals who have been found to have a disqualifying criminal conviction as defined under the Act unless the Illinois Department of Public Health (IDPH) has granted a waiver.

Under this Act, health care employers are also required to conduct fingerprint-based criminal background checks following conditional offers of employment and annually thereafter on any individuals hired, employed, or retained (on a paid or volunteer basis) in covered health-related positions providing direct care or who have access to long-term care residents or the living quarters or financial, medical, or personal records of long-term care residents. See 225 ILCS 46/1 *et seq.*

Gender Violence Act

This Act creates a civil cause of action for any person subjected to “gender-related violence,” which is defined as a form of sex discrimination and includes acts of physical aggression, physical intrusions or invasions of a sexual nature, and threats of gender violence. As of Jan. 1, 2024, Illinois employers may be subject to liability for gender-related violence committed in the workplace by an employee or agent of the employer when the violence arises out of and in the course of employment with the employer. See 740 ILCS 82/1 *et seq.*

Medical Examination of Employees Act

The Act prohibits an employer from requiring an employee to pay the cost of a medical examination or the cost of furnishing examination records if the employer requires an examination as a condition of employment. See 820 ILCS 235/0.01 *et seq.*

Hotel and Casino Employee Safety Act

Effective March 1, 2021, the Hotel and Casino Employee Safety Act (HCESA) sets forth protections for employees working in the hotel and casino industries.

Under the HCESA, an “employee” includes full-time employees, part-time employees, and employees of subcontractors. The HCESA requires hotels and casinos to provide employees assigned to work alone in a guest room, restroom, or casino floor with a “safety or notification device,” often called a “panic button,” that would allow the employee to summon help in a perceived emergency, including sexual harassment and sexual assault. Hotels and casinos must provide signaling devices at no cost to qualifying employees.

The HCESA also requires hotels and casinos to develop and abide by a written anti-sexual harassment policy that includes reporting procedures, immediate steps to take in response to perceived harassment, the opportunity for temporary work reassignments, and the availability of paid time off to contact authorities and participate in later legal proceedings. The policy must inform the employee of protections under the IHRA, Title VII of the Civil Rights Act of 1964, and the HCESA’s anti-retaliation provision. Hotels and casinos must distribute copies of the policy to employees in English and Spanish and post both versions in conspicuous workplace locations. The HCESA also requires hotels and casinos to provide the policy in other languages spoken by a predominant portion of its workforce. Moreover, the HCESA protects hotel and casino employees from retaliation for reasonably using the signaling device; using the opportunities in anti-harassment policies; and disclosing, reporting, or testifying about a violation of the HCESA.

Employees and their representatives may sue in state court to seek any remedy available at law or equity, including injunctive or other equitable relief. However, before an employee representative may sue, the employee representative must notify the employer, in writing, of the alleged violation and give the employer 15 calendar days to correct the violation.

While economic damages cannot exceed \$350 per violation, each day that a violation continues constitutes a separation violation. Additionally, prevailing employees and their representatives are entitled to attorneys’ fees and costs. See 820 ILCS 325/5-1 *et seq.*

Lodging Services Human Trafficking Recognition Training Act

The Act provides that lodging establishments, hotels, restaurants, and truck stops must provide employees who have recurring interactions with the public with training in the recognition of human trafficking and protocols for reporting observed human trafficking to the appropriate authority. These employees must complete this training within six months after starting work in a role with recurring interactions with the public, then receive additional training every two years thereafter. This training must be at least 20 minutes. Specific curriculum requirements for the training are discussed in detail in the Act. See 820 ILCS 95/1 *et seq.* Effective Oct. 1, 2026, the Act also provides that “a unit of local government regulating an employer, or a law enforcement agency with jurisdiction over an employer” may “monitor and enforce compliance with this Act.”

Before taking action against an employer, the government entity enforcing the Act must provide the employer a 30-day notice to allow the employer to cure its non-compliance. If the employer does not cure its non-compliance, then the attorney general or State's attorney may bring a civil action against the employer. Moreover, an employer that violates this Act may be fined not more than \$1,500 for each offense. Finally, henceforth, the Act will simply be referred to as the "Human Trafficking Recognition Training Act."

Warehouse Tornado Preparedness Act

Effective Aug. 15, 2025, this Act requires warehouse operators to develop tornado safety plans within 120 days of the effective date or within seven days of becoming operational. Plans must be specific to each facility and updated annually. This Act also mandates that warehouses maintain designated emergency supplies in their tornado shelters. Under the law, "warehouse" is defined as a building in which warehouse workers perform their duties and goods are stored in industries defined by any of the following North American Industry Classification System (NAICS) codes: 493 (for Warehousing and Storage); 423 (for Merchant Wholesalers, Durable Goods); 424 (for Merchant Wholesalers, Nondurable Goods); 454110 (for Electronic Shopping and Mail-Order Houses); or 492110 (for Couriers and Express Delivery Services).

XV. Temporary Workers

Day and Temporary Labor Services Act

The Day and Temporary Labor Services Act (DTLSA) provides various protections for day or temporary laborers who conduct work at a third-party client pursuant to a contract or understanding between a day and temporary labor service agency and the third-party client. The Act imposes many additional obligations on Illinois day and temporary labor service agencies, including that such agencies: (1) attempt to place a temporary worker into a permanent position with a third-party client when the client informs the agency that it intends to hire a permanent employee for a similar position at the same work location where the temporary worker is assigned to work; (2) provide their laborers with itemized wage statements at the time of payment of wages; (3) notify their laborers, in writing at the time of dispatch, of the name and nature of the work to be performed, the wages offered, the address of the destination, the terms of transportation, and whether a meal or equipment are provided by the temporary labor service agency or the third-party client, and the cost of the meal and equipment, if any; (4) provide transportation from the worksite back to the point of hire at the end of each workday if transportation is given to the worksite (unless the laborer requests otherwise); (5) not charge its workers to transport them to or from their designated worksites; and (6) not charge any laborer for the expense of conducting any consumer report, criminal background check, or drug test.

The Act also imposes several recordkeeping requirements on temporary labor service agencies whenever they send a worker on an assignment, including keeping the following records: (1) certain information regarding each third-party client; (2) certain information regarding the worker, including name, address, race, gender, hours worked, and pay; (3) copies of all

contracts and invoices with third-party clients; (4) deductions to be made from each worker's compensation for transportation, food, equipment, withheld income tax, withheld social security payments, and every other deduction; and (5) verification of the actual cost of any equipment or meal charged to a day or temporary laborer. The Act also requires temporary labor service agencies to annually register with the Department of Labor and submit a report containing the foregoing information.

The Act has been amended several times, including by the Temp Worker Fairness and Safety Act (TWFSFA), which imposed expansive new duties on temporary labor service agencies and employers who rely on temporary and day laborers.

The Act includes an "Equal Pay for Equal Work" provision, requiring that a day or temporary laborer assigned to work at a third-party client for more than 720 hours of work in a 12-month period be paid either the same rate of pay as the lowest paid directly hired employee of the client with the same level of seniority and performing comparative work or the median wages of workers in a similar job classification based on statistics from the Bureau of Labor Statistics. Such employees (working 720 hours of work in a 12-month period for the same third-party client) must also receive "substantially similar benefits to the job classification of employees performing the same or substantially similar work on jobs and performed under similar working conditions." The agency may pay the hourly average cash equivalent of the "actual cost" of benefits, rather than providing benefits required under the Act. The Act also requires employers to notify these workers about the seniority and hourly wage of a comparator or, if applicable, the standard occupational classification used to determine the wage of the temporary worker. It is the temporary staffing agency's responsibility to determine the amount of equal pay that is due to the worker based on information provided by the third-party client and to pay the temporary laborer correctly.

The TWFSFA also grants day and temporary laborers the right to refuse assignment to a third-party client experiencing a strike, lockout, or work stoppage, picketing, bannering, or handbilling because of a labor dispute. The Act defines a labor dispute as "any controversy concerning wages, hours, terms, or conditions of employment." Staffing agencies must provide written notice informing the laborer of the labor dispute and their right to refuse the assignment without prejudice to receiving another assignment. Notice must be given at the time of or before the assignment.

Under the TWFSFA, before a temporary employee is assigned to a worksite, the temporary labor service agency must: (1) ask the third-party client about its safety and health practices and hazards at the worksite; (2) inform the client of existing hazard(s) of which it becomes aware, urge the client to correct the hazard(s), and document these efforts, or remove the temporary worker from the client's worksite if the hazard(s) are not corrected; (3) provide "general awareness safety training" to the temporary laborer for recognized industry hazards the laborer may encounter at the assignment; (4) provide a general description of the general awareness

safety training to the third-party client; (5) provide temporary laborers with the IDOL's hotline to report safety concerns; and (6) inform temporary laborers to whom they can report safety concerns at the workplace.

Third-party clients must: (1) document and inform the temporary labor service agency about anticipated job hazards likely to be encountered by the laborer; (2) review the training provided by the agency; and (3) provide specific training tailored to the particular hazards at the client's worksite. During the assignment, the third-party client must: (1) document and maintain records of worksite-specific training and confirm with the staffing agency that such training was completed within three business days of the training; (2) provide worksite-specific training to the temporary workers and allow the staffing agency to visit the worksite to observe and confirm the client's training and information related to job tasks, safety and health practices, and hazards; and (3) if requiring a temporary employee to switch roles or locations, give the employee updated safety training that addresses any specific hazards of the new role or location. See 820 ILCS 175/1 *et seq.*

As of Jan. 1, 2024, day and temporary labor service agencies that communicate with their laborers by electronic means are required to "provide all required notices by email ... or on a website, regularly used by the employer to communicate work-related information, that all day or temporary laborers are able to regularly access, freely and without interference." These notices must be in "English and any other language generally understood in the locale of the day and temporary labor service agency." See 820 ILCS 112/40.

XVI. Termination Process

Illinois Group Health Insurance Continuation (Mini-COBRA) Law

The Illinois Mini-COBRA law governs employers of any size. It applies to insurance companies and HMOs following the loss of health insurance coverage. Employees and covered dependents must be covered for three continuous months before a qualifying event. Illinois mini-COBRA notice must be presented or mailed within 10 days of reduction of hours or termination of employment or membership. Eligible employees pay the full price of their health insurance, and the cost might be higher than the group rate. Additionally, eligible employees must elect the continuation of coverage benefits and provide payment to the employer within prescribed time frames. See Illinois Insurance Code 215 ILCS 5/367e. (367.2 for spouses; 367.2-5 for dependents.)

Unemployment Compensation Brochure

IDES requires that terminated employees be given an IDES brochure about unemployment compensation benefits: "What Every Worker Should Know About Unemployment Insurance" (Form BEN-39).

Illinois Worker Adjustment and Retraining Notification Act

The Illinois Worker Adjustment and Retraining Notification (WARN) Act and the federal WARN Act require employers who will be laying off workers or closing plants or other facilities to provide those workers and others with 60 days' notice before the loss of employment occurs. The Illinois WARN Act adopts many of the provisions of the federal WARN Act but modifies the federal Act in some respects.

For example, the Illinois WARN Act modifies the definition of a covered employer by lowering the number of full-time employees (or the total of all employees working at least 4,000 hours in the aggregate per week, excluding overtime) from 100 to 75. The Illinois WARN Act also changes the definition of a "mass layoff" by reducing the number of employees impacted by a reduction-in-force from 33% of the full-time employees at a single site of employment and 50 full-time employees to 33% and 25 full-time employees. The Illinois WARN Act, however, does not modify the federal definition of a plant closing, which is the loss of employment for at least 50 employees at a single site of employment during any 30-day period. Moreover, a plant closure is expressly excluded from the definition of "mass layoff." The Act also requires owners of investor-owned electric generating plants and coal mines to provide two years' written notice to plant/mine employees and officials before a mass layoff, relocation, or other employment loss takes effect. The Illinois WARN Act requires, in addition to the notices required by the federal WARN Act, notice to the chief elected official of each county government within which the employment loss, relocation, or mass layoff will occur. An employer receiving state or local economic development incentives for doing or continuing to do business in Illinois also may be required to provide additional notice under Section 15 of the Business Economic Support Act. When an employer is considering a plant closing, relocation, or mass layoff, the employer should analyze the action under both the Illinois WARN Act and the federal WARN Act. See 820 ILCS 65/1 *et seq.*

XVII. Whistleblower and Slapp

Anti-SLAPP Law

The Illinois anti- "Strategic Lawsuit Against Public Participation Law" is addressed in the Illinois Citizen Participation Act. The law provides expedited dismissal of a lawsuit brought to impair a citizen's right to address matters of public concern through petition, speech, association, or to otherwise participate in government. See 735 ILCS 110/1 *et seq.*

Whistleblower Act

Under the prior version of this Act (in effect until Dec. 31, 2024), an employer was prohibited from retaliating against an employee for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule, or regulation; (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information

discloses a violation of a state or federal law, rule, or regulation; or (3) refusing to participate in an activity that would result in a violation of a state or federal law, rule, or regulation. See 740 ILCS 174/1 *et seq.*

The Act was substantially amended effective Jan. 1, 2025, to include additional protections from retaliation for whistleblowers. The Act now prohibits retaliation against employees for good faith internal reports made to a supervisor, principal officer, board member, or supervisor in an organization that has a contractual relationship with the employer who makes the employer aware of the disclosure. Protections of the Act also now extend to threats to disclose (internally to management or externally to a government agency or law enforcement) information related to an activity, policy, or practice of the employer if the employee has a good-faith belief that the activity, policy, or practice (i) violates a State or federal law, rule, or regulation or (ii) poses a substantial and specific danger to employees, public health, or safety are also now protected. An employer also may not retaliate against an employee for refusing to participate in an activity that the employee has a good-faith belief would result in a violation of a state or federal law, rule, or regulation. See 740 ILCS 174/1 *et seq.*

Under the amended Act, prohibited retaliatory action is defined to include adverse employment actions to penalize employees (actions that could dissuade a reasonable worker from engaging in good faith reporting or opposition protected by the Act) or any non-employment action that would dissuade a reasonable worker from disclosing information under the Act, including, for example, taking or threatening to take action that would interfere with an employee's ability to obtain future employment, taking or threatening to take actions prohibited by Section 2-102 of the IHRA, or contacting or threatening to contact U.S. immigration authorities about the immigration status of the employee or members of the employee's household.

Damages and penalties for claims arising or complaints filed on or after Jan. 1, 2025, have also increased. In addition to back pay and reinstatement available under the prior version of the Act, interest on back pay is now fixed at 9% per annum up to 90 days. Injunctive relief, front pay, liquidated damages up to \$10,000, reasonable attorney's fees and costs, and a \$10,000 civil penalty payable to the employee are also available for claims arising or complaints filed on or after Jan. 1, 2025

Effective Jan. 1, 2025, the attorney general is authorized to investigate potential violations or initiate or intervene in a civil action to obtain appropriate relief for violations of the amended Act.

XVIII. Hiring Preference for Veterans

Veterans Preference in Private Employment Act

The Act permits private Illinois employers to voluntarily give hiring preference to honorably discharged veterans of the U.S. Armed Forces and certain members of the Illinois National Guard. The preference given under the Act is not considered a violation of any state or local

law. The Act is permissive and essentially serves as a means of thanking veterans for their service to this country.

Private Illinois employers who choose to adopt a voluntary preference for hiring, promoting, or retaining a veteran over another equally-qualified applicant or employee may do so if: (1) the private employer's veterans' preference employment policy is in writing; (2) the veterans' preference employment policy is publicly posted at the place of employment or on a website; (3) the private employer's job application informs all applicants of the veterans' preference employment policy and where the policy may be obtained; and (4) the private employer applies the veterans' preference employment policy uniformly for all employment decisions regarding the hiring or promotion of veterans or the retention of veterans during a reduction in force. See 330 ILCS 56/1 *et seq.*

XIX. Healthcare Employee Assistance Programs

Employers of establishments licensed under the Assisted Living and Shared Housing Act (210 ILCS 9/77) and the Community Living Facilities Licensing Act (210 ILCS 35/5.10) must provide a form to their licensed health care professionals at the time of employment and during benefit open enrollment periods that informs them of employee assistance programs or other like programs available for their physical and mental well-being. The licensed healthcare professionals have to sign the form, and it must be stored in their personnel files.

Similarly, employers of establishments licensed under the Life Care Facilities Act (210 ILCS 40/10.2), Nursing Home Care Act (210 ILCS 45/3-613), MC/DD Act (210 ILCS 46/3-613), and the ID/DD Community Care Act (210 ILCS 47/6-13) must provide a form to nurses employed at these facilities at the time of employment and during benefit open enrollment periods that informs them of employee assistance programs or other like programs available for their physical and mental well-being. The nurses must sign the form, and it must be stored in their personnel files.

An employer of a health care facility licensed under the Hospital Licensing Act (210 ILCS 85/6.33) must ensure that all hospital employees are informed about employee assistance programs or other like programs available for the employee's physical and mental well-being. Hospital employees must be made aware of these resources at the start of employment and during any benefit open enrollment periods.

XX. Labor Organizing and Disputes

Labor Disputes Act

This Act provides protection for peaceful picketers and striking workers by limiting the circumstances under which an employer affected by picketing activity may obtain a restraining order or injunction. As of Jan. 1, 2024, the Act also limits the amount of monetary damages an employer may recover stemming from a labor dispute. Under the Act, it is a Class A

misdemeanor to place an object in the public way with the intention of interfering with, obstructing, or impeding a picket or other demonstration or protest. The minimum fine for such an act is \$500. See 820 ILCS 5/1 *et seq.*

Human Service Workforce Advancement Agreement

Under this Ordinance, human service organizations that contract with the City of Chicago and have more than 20 employees must agree not to fight efforts by their employees to unionize, as long as their employees agree not to disrupt the company's operations while they organize. See Chicago Ordinance No. 2019-9497.

Worker Freedom of Speech Act*

Effective Jan. 1, 2025, this Act prohibits employers from discharging, disciplining, or otherwise penalizing (or threatening to discharge, discipline, or otherwise penalize) employees for refusing to attend mandatory employer-sponsored meetings where the employer communicates its opinion about religious or political matters. The Act defines "political matters" to include "the decision to join or support any ... labor organization."

"Religious matters" means "matters relating to religious belief, affiliation, and practice and the decision to join or support any religious organization or association. The Act also prohibits employers from incentivizing employees to attend such meetings by providing a positive change in any employment condition based on attendance.

These restrictions are not limited to meetings. The Act also prohibits employers from disciplining employees who refuse to "receive" or "listen to" communications from the employer about political or religious matters.

Employees have a private right of action under the Act. An aggrieved employee may sue within one year of an alleged violation. If the employee prevails, the court may award penalties including injunctive relief, backpay, and attorney's fees. The IDOL is also empowered to inquire into alleged violations. Unions, and other "interested parties," may inform the DOL of potential violations on behalf of employees. If a violation is found, the DOL can assess a civil penalty of \$1,000 for each violation. Each employee who attends a meeting or receives a prohibited communication is considered a separate violation.

Employers are also required to post a notice of rights under this Act no later than Jan. 31, 2025.

**This Act is facing a constitutional challenge and injunctive proceedings in federal court. As of the date of publishing, the Act is in effect and has not been enjoined.*

XXI. Child Labor

Child Labor Law of 2024

Effective Jan. 1, 2025, the “Child Labor Law of 2024” substantially amends and enhances restrictions on the employment of minors in Illinois and expands employer obligations when employing minors.

Age Restrictions

The Act applies to minors under age 16. Under the Act, employers may not employ minors who are 13 or younger. The Act also prohibits minors who are 14 or 15 years of age from working during school hours.

Employer Requirements

To legally employ minors under the Act, Illinois employers must adhere to certain requirements, including:

- Employers must obtain an employment certificate authorizing minors to work for them. Any employer seeking to employ a minor must provide the minor with a notice of intention to employ to be submitted by the minor to his or her school issuing officer with the minor’s application for an employment certificate.
- Employers must maintain records that include the names, dates of birth, notices of intention to employ a minor, and minor employees’ employment certificates on the premises.
- Employers with minor employees must ensure that minors are always supervised on site by an adult 21 years of age or older.
- Minors may not work for more than 5 hours continuously without an interval of at least 30 minutes for a meal period.
- Employers must post a notice summarizing the requirements of the Act in a conspicuous place. If the employer’s employees are remote or travel for work, the notice must also be provided by email or posted conspicuously to the employer’s website or intranet site. The IDOL will provide a notice for posting.
- Employers must retain copies of minors’ employment certificates for 3 years after separation.

Prohibition of Employment of Minors in Certain Hazardous Occupations

The Act prohibits minors from working in certain hazardous occupations to ensure their safety. The Act enumerates prohibited occupations and work, which include, among other things, factory work, employment in a mechanic’s garage, work involving explosives or manufacturing of heavy metals, security positions, construction work, and employment at any establishment which Illinois or federal law prohibits minors from entering or patronizing. See 820 ILCS 206/40 for complete list of prohibited occupations.

Working Hours

Under the Act, minors may not work (1) more than 18 hours per week when school is in session; (2) more than 40 hours per week when school is not in session; (3) more than 8 hours in any single 24-hour period; (4) between the hours of 7:00 p.m. and 7:00 a.m. from Labor Day until June 1 or between the hours of 9:00 p.m. and 7:00 a.m. from June 1 until Labor Day; or (5) more than 3 hours per day or more than 8 total hours per day between work and school when school is in session.

The Act enumerates the following exceptions to these allowable work hours: (1) a minor may work a maximum of 8 hours on each Saturday and Sunday during the school year if the minor does not work outside of school hours more than 6 consecutive days in any one week and the number of hours worked outside of school hours in any week does not exceed 24; (2) a minor working as a live theatrical performer may work until 11:00 p.m. on nights when performances are held; (3) a minor working as a performer in live or pre-recorded broadcast performances and modeling may work until 10:00 p.m.; and (4) park districts, not-for-profit youth clubs, and municipal parks and recreation departments may allow minors to work in a recreational or educational activity beyond allowable work hours in some cases.

Minors in the Entertainment Industry and Theatre

The Act also enhances restrictions and lists employer requirements for minors in live theatrical performances, live or pre-recorded broadcast performances, modeling, and minors featured in vlogs. The Act further requires that trust accounts be created for child performers and minors featured in vlogs with a percentage of the minor's earnings deposited in the account and available only to the minor.

Prohibition Against Retaliation

The Act prohibits retaliation against any person who has exercised a right under the Act, made a complaint under the Act, caused or is about to cause to be instituted any proceeding under the Act, participated in or cooperated with an investigation or proceeding under the Act, or testified or is about to testify in an investigation or proceeding under the Act.

IDOL Investigatory Authority and Penalties for Violations

The IDOL is responsible for enforcing the Act and has the power to conduct investigations and visit and inspect all worksites covered by the Act. IDOL may subpoena the attendance and testimony of witnesses and the production of evidence in any investigation or hearing. The Act includes civil and criminal penalties for employers who violate any provision of the Act.

XXII. Required Posters

Several Illinois laws require employers to post or disclose certain information (or to distribute notices electronically to remote workers). Employers may access copies of certain approved posters at the IDOL website: <https://labor.illinois.gov/employers/posters.html>.

XXIII. Superseded, Repealed, Or Expired Local Ordinances

Chicago Paid Sick Leave Ordinance*

**Superseded by the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance effective July 1, 2024.*

The Ordinance, which was passed in 2017 as an amendment to the Chicago Minimum Wage Ordinance, required employers in the City of Chicago to provide eligible employees up to 40 hours of Paid Sick Leave in each 12-month period of their employment.

An “employer” was defined as a person who gainfully employs at least one employee.

Employees were covered under the Ordinance if they: (1) perform at least two hours of work for an employer while physically present within the geographic boundaries of the City in any two-week period; and (2) work at least 80 hours for an employer in any 120-day period. For purposes of this definition, time spent traveling in the City that is compensated time, including, but not limited to, deliveries, sales calls, and travel related to other business activity taking place within the City, constitutes work while physically present within the geographic boundaries of the City. Covered employees include: (1) an outside salesperson; (2) a member of a religious corporation or organization; (3) a student attending and employed by an accredited Illinois college or university; (4) a motor carrier regulated by the U.S. secretary of transportation or the

State of Illinois; and (5) all domestic workers, including those employed by employers with fewer than four employees. The Ordinance did not apply to employees covered by a CBA in force on July 1, 2017, but CBAs entered after June 30, 2017, needed to expressly waive the requirements of the Ordinance for employees to be exempted from its requirements.

Employees began to accrue Paid Sick Leave on the first calendar day after the start of their employment or July 1, 2017, whichever was later. Employees accrued one hour of Paid Sick Leave for every 40 hours worked. Accrual and usage of Paid Sick Leave was capped at 40 hours for each 12-month period unless an employer sets a higher limit. Employees were permitted to carry over half of their unused Paid Sick Leave (up to a maximum of 20 hours) for the next 12-month period. Additionally, if an employer was subject to FMLA, employees were entitled to carry over additional time to use exclusively for FMLA-eligible purposes. New employees were permitted to begin using accrued Paid Sick Leave no later than the 180th day following the commencement of their employment. Records of Paid Sick Leave usage, rates of pay, hours worked, and wage deductions were required to be kept for at least five years. Those records needed to identify whether an employee is tipped, non-tipped, or performs duties of tipped and non-tipped positions.

Effective Aug. 1, 2021, the Ordinance was amended to provide for additional uses of Paid Sick Leave for eligible employees. Employees who met the requisite requirements were permitted to use Paid Sick Leave for these reasons: the employee was ill, injured, or receiving medical care (including preventive care and treatment for mental issues, behavioral issues, and substance abuse disorders); the employee’s family member was ill, injured, receiving medical care

(including preventive care and treatment for mental issues, behavioral issues, and substance abuse disorders), to obey a quarantine order issued by the mayor, the governor of Illinois, the Chicago Department of Public Health, or a treating healthcare provider; or the employee, or employee's family member, was the victim of domestic violence, a sex offense, The Ordinance defined "family member" broadly to include a child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, the parent of a spouse or domestic partner, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the employee is the equivalent of a family relationship. The definition of "family member" also included step- and foster relationships.

If the need for Paid Sick Leave was foreseeable, employers could require that employees provide seven days of advance notice of their need for leave. If the need for leave was unforeseeable, employees needed to provide as much notice as is practical. Employees could notify employers of the need for leave by phone, email, or text message. Employers could also require employees using Paid Sick Leave for more than three consecutive workdays to provide certification that the use of leave was for a qualifying purpose. However, employers could not require that the certification specify the nature of the medical issue necessitating the need for leave, except as required by law.

Unless a CBA provided otherwise, employers were not required to pay out unused, accrued sick leave upon termination or separation of employment.

As of Aug. 1, 2021, the Ordinance allowed covered employees to bring claims of wage theft against their employers. Wage theft is prohibited by the IWPCA. The Ordinance provided Chicago employees an additional avenue to obtain relief from any employer who fails to timely pay a covered employee.

To avoid liability for wage theft, employers must pay covered employees for: (i) wages due for work performed; (ii) paid time off required by the Ordinance, applicable legislation, or the employee's contract with the employer; and (iii) employee benefits required by contract.

Covered employees could file a wage theft claim with the City of Chicago BACP OLS or in state court, but not both. If an employer was found to have violated the Paid Sick Leave Ordinance, it became liable for the amount of any underpayment and either: (i) 2% of the amount of any underpayments for each month following the date of payment during which the underpayments remain unpaid; or (ii) the amount specified by the IWPCA, if the amount in the IWPCA was greater.

Employers were required to post a notice of employees' rights under the Ordinance along with postings related to the Chicago Minimum Wage. The Ordinance required employers to post a notice prepared by BACP by the employer's usual method of communication for such notices, which could be by paper posting or by email or other internal communication channels. Employers were required to provide a notice with the first paycheck advising covered

employees of their rights (printed on 8.5x11 paper, or, if using direct deposit, by email or other internal communication channels) and were also required to provide the notice annually. Employers needed to post the notices in English and any languages spoken by the employees at the facility who were not proficient in English and in which BACP had provided non-English language notices. Effective Aug. 1, 2021, the notice was also required to advise covered employees of their ability to seek redress for wage theft.

The Ordinance prohibited employers from discriminating against or taking any adverse action against covered employees in retaliation for requesting or using Paid Sick Leave. Additionally, an employee's use of Paid Sick Leave under the Ordinance could not be counted for purposes of determining discipline, discharge, demotion, suspension, or any other adverse activity under an employer's absence-control policy.

In addition, employees were able to file a complaint with the BACP for alleged violations of the Ordinance.

Cook County Earned Sick Leave Ordinance*

This Ordinance mandated that employers in Cook County allow eligible employees to accrue up to 40 hours of Paid Sick Leave in each 12-month period of their employment. The Ordinance applied only to unincorporated Cook County and in home-rule units of government that have not opted out of the Ordinance. Individuals were entitled to benefits under the Ordinance if they: (1) performed at least two hours of work for a covered employer while physically present within the geographic boundaries of the County in any two-week period; and (2) worked at least 80 hours for a covered employer in any 120-day period. Covered employers included individuals and companies with a place of business within the County that gainfully employed at least one covered employee. Government entities and Indian tribes were not covered employers under the Ordinance. Nor did the Ordinance apply to CBAs in effect on July 1, 2017. After that date, the Ordinance could be waived in a bona fide CBA if the waiver was explicit and unambiguous. The Ordinance also did not apply to any covered employee in the construction industry who was covered by a bona fide CBA.

Employees began to accrue Paid Sick Leave on the first calendar day after the start of their employment or July 1, 2017, whichever is later. Employees accrued one hour of Paid Sick Leave for every 40 hours worked. Accrual and usage of Paid Sick Leave was capped at 40 hours for each 12-month period unless an employer set a higher limit. Employees were permitted to carry over half of their unused Paid Sick Leave (up to a maximum of 20 hours) to the next 12-month period. The Ordinance also provided for additional carryover and usage for employers covered by the FMLA that could be used exclusively for FMLA-eligible purposes.

New employees could begin using accrued Paid Sick Leave no later than the 180th day following the commencement of their employment. Employees could also use Paid Sick Leave for their own illness, injuries, or medical care (including preventive care) or for the illness,

injuries, or medical care of certain covered family members. The Ordinance defined “family member” broadly to include a child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, the parent of a spouse or domestic partner, sibling, grandparent, grandchild, or any other individual related by blood or whose close association with the employee is the equivalent of a family relationship. The definition of “family member” also included step- and foster relationships. Further, employees could use Paid Sick Leave if either the employee or a family member was a victim of domestic violence or a sex offense. Finally, employees were entitled to use Paid Sick Leave if their place of business or the childcare facility of their child has been closed by an order of a public official due to a public health emergency.

If the need for Paid Sick Leave was foreseeable, employers could require that employees provide seven days’ advance notice of their need for leave. If the need for leave was unforeseeable, employees needed to provide as much notice as is practical. Employees could notify employers of their need for leave by phone, email, or text message. Employers were permitted to adopt notification policies if they notified employees in writing of such policies and the policy was not unreasonably burdensome. If the leave was covered by the FMLA, notice

**This text of this Ordinance has been amended and replaced by the Cook County Paid Leave Ordinance, effective Dec. 31, 2023.*

was required to be in accordance with the FMLA. Employers could also require employees using Paid Sick Leave for more than three consecutive workdays to provide certification that the use of leave was for a qualifying purpose. However, employers could not require that the certification specify the nature of the medical issue necessitating the need for leave, except as required by law.

In response to the COVID-19 public health emergency, Cook County issued guidance advising that Earned Sick Leave could be used in the following circumstances: (1) the covered employee’s place of business was closed by order of a federal, state, or local government public official (including a school district official) due to what the public official characterizes as a public health emergency; or (2) the covered employee’s child’s school or place of care had been closed by order of a federal, state, or local government public official (including a school district official) due to what the public official characterizes as a public health emergency and the covered employee needed to provide care for their child.

Unless a CBA provided otherwise, employers were not required to pay out unused accrued sick leave upon termination or separation of employment. Employers were required to post notice of employees’ rights in a conspicuous place at each facility where any covered employee worked that was located within the geographic boundaries of the County. Additionally, at the commencement of employment, employers were required to provide each covered employee with written notice advising of their rights to earn sick leave under the Ordinance.

Employers were prohibited from discriminating against or taking any adverse action against covered employees in retaliation for exercising, or attempting in good faith to exercise, any right

under the Ordinance, including disclosing, reporting, or testifying about any violation of the Ordinance or regulations promulgated thereunder, or requesting or using Paid Sick Leave. Additionally, an employee's use of Paid Sick Leave under the Ordinance could not be counted for purposes of determining discipline, discharge, demotion, suspension, or any other adverse activity under an employer's absence-control policy.

Chicago COVID-19 Anti-Retaliation Ordinance*

Effective May 20, 2020, this Ordinance prevented employers from taking adverse action against a Covered Employee for obeying an order regarding COVID-19 issued by the mayor, the governor of Illinois, the Chicago Department of Public Health, or, in certain cases, a treating healthcare provider.

"Covered employers" under the Ordinance were defined as a person who gainfully employs at least one Employee (the same definition provided under the Chicago Paid Sick Leave Ordinance as amended July 1, 2020). Covered employees under the Ordinance were those who work at least two hours in any two-week period in Chicago (Municipal Code of Chicago, § 1-24 contains exceptions).

The Ordinance provided that an employer cannot take adverse action against a covered employee for obeying an order issued by the mayor, the governor of Illinois, the Chicago Department of Public Health, or, in the case of subsections (a)(2), (3), and (4) below, a treating healthcare provider, requiring the covered employee to: (1) stay at home to minimize the transmission of COVID-19; (2) remain at home while experiencing COVID-19 symptoms or sick with COVID-19; (3) obey a quarantine order issued to the covered employee; (4) obey an isolation order issued to the Covered Employee; and (5) obey an order issued by the commissioner of health regarding the duties of hospitals and other congregate facilities. In addition, an employer could not take adverse action against a Covered Employee for caring for an individual subject to subsections (a)(1) through (3) above.

If an employer took adverse action against a covered employee for obeying the directive of the mayor, the governor of Illinois, the Chicago Department of Public Health, or a healthcare provider in violation of subsection (a) that was considered retaliation under Chapter 1-24. The commissioner could act against the employer to cure the violation and institute an action in administrative hearings or a court of law against the employer. It was an affirmative defense that an employer relied on a reasonable interpretation of an order and, upon learning of the violation of this Section, it cured the violation within 30 days.

In a civil action, the covered employee could be provided reinstatement to the same position held before the retaliatory action or to an equivalent position, with damages equal to three times the full amount of wages that would have been owed had the retaliatory action not taken place, as well as any other actual damages directly caused by the retaliatory action, together with costs and such reasonable attorney's fees as a court allows.

The Ordinance provided that the Ordinance “shall be repealed of its own accord, without further action of the City Council, when the Commissioner of Public Health makes a written determination that the threat to public health posed by COVID-19 has diminished to the point that this ordinance can safely be repealed.”

**Although Chicago and Illinois both declared an end to the state of emergency on May 11, 2023, this Ordinance technically remains on the books as the Commissioner has not issued a formal written determination that the threat to public health has diminished to the point that this Ordinance can be repealed.*

Chicago Anti-Retaliation COVID-19 Vaccine Ordinance*

Effective April 21, 2021, the Ordinance prohibited employers in Chicago from requiring workers to receive vaccines only during non-work hours, whether vaccination was voluntarily sought by the worker or required by the employer. In addition, employers could not take adverse action against workers for receiving vaccines during their scheduled work hours. If workers had Paid Sick Leave or paid time off accrued and requested to use that time to obtain a vaccine, employers were required to allow workers to use that time for that purpose.

Employers that required a worker to be vaccinated were required to compensate the worker for the time, up to four hours per dose, paid at the worker’s regular rate of pay if the worker’s vaccination appointment was during the worker’s work hours. Such employers could not require the worker to use paid time off or Paid Sick Leave to cover the work hours missed to receive the vaccine.

The Ordinance also prohibited an employer from taking adverse action against a worker for using time during work hours to obtain a vaccine. The Commissioner of Business Affairs And Consumer Protection or the Director of Labor Standards could initiate action related to alleged violations through an administrative hearing or in court. An employer found in violation of the Ordinance would be subject to a fine of between \$1,000 and \$5,000 per offense. Additionally, the Ordinance gave an aggrieved worker a private right of action to seek reinstatement to the same or equivalent position, damages equal to triple the wages that would have been owed if not for the retaliatory action, any other actual damages directly caused by the retaliatory action, and costs and reasonable attorney’s fees.

The Ordinance provided that the Ordinance “shall be repealed of its own accord, without further action of the City Council, when the Commissioner of Public Health makes a written determination that the threat to public health posed by COVID-19 has diminished to the point that this ordinance can safely be repealed.”

**Although Chicago and Illinois both declared an end to the state of emergency on May 11, 2023, this Ordinance technically remains on the books as the Commissioner has not issued a formal written determination that the threat to public health has diminished to the point that this Ordinance can be repealed.*

City of Chicago Right to Return to Work Ordinance*

This Ordinance was enacted to protect certain qualified hotel employees who were laid off in the wake of the COVID-19 pandemic.

Effective June 25, 2021, former hotel employees were protected by the Ordinance if they: (1) worked with a hotel, motel, or any similar business for at least six months within the 12-month period before they were laid off; (2) performed, in a particular workweek, at least two hours of work for the hotel within the City of Chicago; and (3) were laid off on or after Jan. 31, 2020, for a non-disciplinary reason.

Hotels were required to first offer any open positions, in writing, to laid-off employees who held the same or similar position and then to those who can meet the job requirements with training that would be provided for any new employees. If more than one person was entitled to a position based on these guidelines, the position must be offered based on seniority. The Act provided for fines and a private right of action in state courts for any violations of the Act.

**These protections expired on Dec. 31, 2023.*

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