

ILLINOIS — State Laws by Topic

➤ AGE ◀

The Illinois Human Rights Act prohibits employment discrimination based on age. For purposes of the Act, age is defined to mean the chronological age of a person who is at least 40 years old. In the case of training or apprenticeship programs, age is defined as the chronological age of a person who is at least 18 but not yet 40 years old.

An employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ AIDS ◀

Discrimination: Discriminating against an individual with AIDS or HIV-positive status is expressly prohibited.

Testing: The Illinois AIDS Confidentiality Act requires that documented informed consent be obtained prior to testing an individual for AIDS. Informed consent is defined as a written or verbal agreement by the individual or the individual's legally authorized representative. Exception to consent exists if an individual consents to a physician's treatment and the physician deems it medically necessary for diagnosis and treatment that an AIDS test be performed.

➤ ARRESTS/CONVICTIONS ◀

Arrests: Employers may not inquire into sealed or expunged arrest records.

Convictions: Employers are permitted to collect and use conviction information for the sole purpose of evaluating the character and qualifications of an applicant.

Note: Job applications must contain a statement specifying that applicants do not have to disclose expunged or sealed arrest or conviction records.

Employers that have at least 15 employees can't inquire into whether job applicants have criminal records or criminal histories, or require job applicants to disclose their criminal records or criminal histories until they're notified that they have been selected for a job interview or have been offered a conditional offer of employment. *Exceptions:* Employers required by federal or state law to exclude applicants with certain criminal convictions from employment, employers required to post a standard fidelity bond and applicants' conviction would disqualify them from obtaining a bond, or employers that employ individuals licensed under the Emergency Medical Services Systems Act.

➤ **BREAKS** ◀

A 20-minute meal break must be provided to employees. Meal breaks must be scheduled no later than five hours into a 7.5-hour shift. *Exceptions:* Meal breaks set by union contracts override the law. Employees working with developmentally disabled individuals must be allowed to eat while being on-call. *Minors:* Minors under 16 must be provided with a 30-minute meal break after five hours.

Private employers don't have to provide meal breaks to employees who are employed as licensed EMTs and who are required to remain on call during an entire eight-hour work period. However, employees must be allowed to eat a meal during their eight-hours shifts.

➤ **BREAST-FEEDING** ◀

The Nursing Mothers In The Workplace Act requires an employer to: 1) provide reasonable paid break time each day to an employee who needs to express breast milk for her infant child, and 2) make reasonable efforts to provide a room or other location, in close proximity to the work area, other than a toilet stall, where an employee can express milk in private. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time if doing so would unduly disrupt the employer's operations. Break time may be unpaid if employers experience undue hardship.

In addition, the Right To Breastfeed Act grants a nursing mother the right to breast-feed her child in any location, public or private, where the mother is authorized to be present.

➤ **CHILD LABOR** ◀

Click on the following link for information about Illinois's child labor law:
<https://www2.illinois.gov/idol/laws-rules/fls/pages/child-labor-law.aspx>.

➤ **CHILD SUPPORT** ◀

Employers served with a child support order must begin withholding with the first pay period occurring after 14 days after the order is mailed. Severance pay is considered wages for purposes of child support withholding. Amounts are remitted within seven business days of payday. Notify the custodial parent or state agency promptly if the employee-obligor terminates. Employers with 10 or more employees or that pay \$30,000 or more in state taxes annually must remit electronically. For child support withholding purposes, severance pay is considered income.

Custodial parents who haven't received child support payments must notify employers in writing, via certified mail, return receipt requested. Notices must include the date they believe the payments should have been made and the amount of the payments. Within 14 days of receiving notice, employers must notify parents of the reason for the non-receipt or make the required payment, together with interest payable at 9%. Interest is calculated from the date the payment should have been made.

➤ **COURT ATTENDANCE** ◀

Employers are restricted from discharging employees for taking leave to be a witness if they are acting in response to a subpoena, but not if they are acting as a defendant.

See also violence.

➤ **DISABILITIES** ◀

Individuals with physical and mental disabilities must be free from discrimination. Therefore, employers may not refuse to hire, segregate, deny training opportunities to, or otherwise discriminate against such an individual with respect to compensation or terms, conditions, or privileges of employment.

State laws governing the treatment of individuals with disabilities apply to all employers of one or more employees.

➤ **DRUG TESTING** ◀

Private and public employers in Illinois are permitted to adopt reasonable policies and practices, including testing, to ensure that employees or applicants who are participating in or have successfully completed a drug rehabilitation program are no longer using drugs. Although drug testing is permitted under such circumstances, state law does not encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by applicants or employees, or the making of employment decisions based on the results of drug testing.

Medical marijuana: Patients with certain debilitating medical conditions have access to medical marijuana.

Employers can't penalize an employee solely for his/her status as a registered qualifying patient or a registered designated caregiver. However, employers may adopt reasonable rules concerning the consumption, storage, or time-keeping requirements for qualifying patients/employees related to the use of medical marijuana. Employers may also continue to enforce policies regarding drug testing, zero-tolerance, or a drug free workplace, provided the policies are applied in a non-discriminatory manner. Finally, employers may discipline a qualifying patient/employee for violating a workplace drug policy.

➤ **FAMILIAL/MARITAL STATUS** ◀

The Illinois Human Rights Act prohibits employers from discriminating against employees and applicants based on marital status.

Beginning June 1, 2014, the state recognizes same-sex marriage. Employees in same-sex civil unions who choose not to marry are entitled to the same protections as same-sex couples who marry.

For purposes of state law, an employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ **FAMILY/MEDICAL LEAVE** ◀

Bereavement leave: Employers covered under the federal Family and Medical Leave Act (FMLA) must allow employees who would be eligible for FMLA leave to take up to 10 working days of unpaid leave for bereavement related to the death of their child. If more than one child dies in a 12-month period, employees may take up to six weeks of leave during the 12-month period. Employees may substitute paid leave, if they choose. However, bereavement leave doesn't create a right for employees to take unpaid leave that exceeds unpaid leave under the FMLA.

Employees may take leave to attend the funeral or similar service, make arrangements necessitated by the death of their child or to grieve the death of their child. Employees must provide at least 48 hours' advance notice of their need for leave, unless providing notice isn't reasonable or practicable. Bereavement leave must be completed within 60 days after the date employees receive notification of the death. Employers may require employees to present documentation of the death, including a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution or government agency.

Domestic violence leave: Employers must allow employees who have been subject to domestic or sexual violence, or whose family member has been subject to domestic or sexual violence, to take off work to address issues related to the domestic or sexual violence according to this schedule:

- employers with at least 50 employees must allow a total of 12 workweeks of leave during any 12-month period;
- employers with at least 15 employees must allow a total of eight workweeks of leave during any 12-month period; and
- employers with at least one employee must allow a total of four workweeks of leave during any 12-month period.

Family leave: Employees may use a reasonable amount employer-provided personal sick leave benefits to cover absences due to illness, injury or medical appointments for their children, spouses, siblings, parents, in-laws, grandchildren, grandparents, or stepparents on the same terms that they could take off for their own illnesses, injuries or medical appointments.

For this purpose, personal sick leave benefits include time accrued and available to employees that they may use when they're absent from work due to personal illness, injury or medical appointment. It doesn't include absences from work for which compensation is provided through an employer's plan. This is interpreted to cover short- or long-term disability plans.

Employers may limit employees' family leave (but not employees' leave) to an amount that's not less than the personal sick leave that would be accrued during six months at employees' then current rate of entitlement.

Employers with conforming paid leave policies don't have to offer additional leave.

See also medical donation leave, military leave, and pregnancy.

➤ GENETIC TESTING ◀

The Illinois Genetic Information Privacy Act prohibits both private and public employers from requiring genetic information as a condition of employment, pre-employment, union membership, licensure, or in furtherance of a wellness program. However, genetic testing may be permitted for employers conducting analysis for law enforcement or to ascertain the biological effects of toxic substances in the workplace.

➤ HEALTH CARE CONTINUATION COVERAGE ◀

Continuation coverage requirements generally apply to employers that sponsor group health plans, except self-insured plans. Eligible employees have the right to continue coverage for up to 12 months. **Note:** For policies issued, delivered, amended, or renewed after May 17, 2010, individuals eligible for premium assistance under ARRA are entitled to continuation coverage for as long as the individual is eligible for the premium assistance under ARRA.

Click on the following link <http://insurance.illinois.gov/healthInsurance/continuationRights.pdf> to access information about the state law from the Illinois Department of Financial and Professional Regulation.

➤ JURY DUTY ◀

Employees summoned to jury duty must be granted time off for jury service and may not be discharged, intimidated, or coerced because of absences related to jury duty. Employers are not obligated to pay employees for time off for jury duty. Employers cannot require night shift employees to work if they are serving on a jury during the day.

Employees who have taken jury duty leave must be considered as having been on furlough or leave of absence. Employees must give reasonable notice to employers, including a copy of the summons, within 10 days of the date of the issuance of the summons.

➤ LIFESTYLE DISCRIMINATION ◀

It is unlawful for an employer to refuse to hire, discharge, or otherwise disadvantage any individual with respect to compensation, terms, conditions, or privileges of employment because the individual uses lawful products off company premises during non-working hours. *Exception:* A non-profit organization whose primary purpose is to discourage the use of tobacco products by the general public.

It is not unlawful for an employer to offer, impose, or have in effect a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based upon employees' use of lawful products provided that: 1) the differential employee premium rates reflect a differential cost to the employer, and 2) the employer provides employees with a statement delineating the differential rates used by insurance carriers.

➤ MASS LAYOFF NOTIFICATION ◀

Companies that employ 75 or more workers must provide 60 days' written notice of a mass layoff, relocation, or employment loss to affected employees and their unions, the Illinois Department of Commerce and Economic Opportunity, and the chief elected official of the municipal and county governments where the layoffs or losses occur.

Notification duties apply to any business enterprise that employs:

1. 75 or more workers, excluding part-time employees; or
2. 75 or more workers who, considered as a group, work at least 4,000 hours per week (excluding overtime).

A mass layoff is defined as a reduction-in-force that is not the result of a plant closing, and that results in an employment loss at a single worksite during any 30-day period for at least 33% of the employees and at least 25 full-time employees, or at least 250 full-time employees regardless of the percentage.

An employment loss is defined as employment terminations other than voluntary departures, retirements, or discharges for cause; layoffs that exceed six months; or reductions of 50% or more in work hours during each month of any six-month period.

The notice must contain the same information required for notice under the federal WARN Act.

Notification need not be granted to workers hired only for the duration of a project or undertaking, or if the closing or layoff is a strike or a lockout that is not an attempt to evade the state's WARN Act provisions.

➤ MEDICAL DONATION LEAVE ◀

As amended, the Organ Donor Leave Act entitles full- or part-time public employees, who have been employed for at least six months, up to 30 days of paid leave in any 12-month period to serve as a bone marrow or organ donor.

In addition, employees are entitled to use up to one hour or more to donate or attempt to donate blood every 56 days, and up to two hours or more to donate or attempt to donate blood platelets in accordance with appropriate medical standards established by the American Red Cross or other nationally recognized standards. Leave to donate blood platelets may not be granted more than 24 times in a 12-month period.

Employers are prohibited from requiring employees to use accumulated sick or vacation leave before being eligible for medical donation leave. Employers can require that employees submit medical documentation to support the leave request.

➤ **MILITARY LEAVE** ◀

Employees, except temporary employees, are eligible for military leave privileges.

Note: Employers with between 15 and 50 employees must provide up to 15 days of unpaid leave to an employee performing a civil air patrol mission. Employers with more than 50 employees must provide up to 30 days of unpaid leave. Eligible employees must have been employed for at least 12 months and for at least 1,250 hours of service during the 12-month period immediately preceding the leave of absence.

Reinstatement: Employees must be restored to their former or comparable positions with the same status, seniority, and wage increases that they would have received had they not taken leave. Employees must supply evidence of honorable discharge; apply for reemployment within 90 days after being relieved from service or hospitalization that does not last longer than a year after discharge; and still be qualified to perform the duties of the former position. Restoration can be denied when circumstances have so changed as to make it impossible or unreasonable to do so.

If an employee is no longer qualified to perform the duties of his/her former position because of a service-related disability, but is able to perform the duties of another position, the employer must reinstate the employee to a similar position with equivalent seniority, status, and pay as the former position, unless changed circumstances make it impossible or unreasonable for an employer to do so.

Any person who is reemployed is considered as having been on a leave of absence during military service and is entitled to participate in insurance and other benefits under the employer's rules and practices relating to employees on leave.

After restoration, employees cannot be discharged without cause for one year.

The state also has a regulation relating to the "re"instatement of employees-to-be. Where an applicant has been given a date to begin employment with an employer but is called to active duty before that date, the employer, upon the individual's request, must provide an employment offer letter stating the date work was set to commence, the job title or duties to be performed, the remuneration offered, and it must contain the employer's signature.

Upon honorable discharge or completion of military service, if the individual is still qualified to perform the duties of the position for which he/she had been offered employment, and if he/she makes application with the employer within 90 days after being relieved of service, then he/she must be given preference for employment with the employer. If circumstances have changed as to make it impossible or unreasonable to employ the individual immediately, he/she must remain eligible to begin employment with the employer for a period of up to one year after the date he/she accepted the offer of employment.

Note: Under the Illinois Human Rights Act, employers with 15 or more employees during 20 or more calendar weeks within the calendar or preceding year are prohibited from discriminating against an individual based on military service or unfavorable military discharge.

Family military leave: Under the Family Military Leave Act, employers who employ between 15 and 50 employees must provide up to 15 days of unpaid leave to an employee who is the spouse or parent of a person called to military service lasting longer than 30 days. Employers who employ more than 50 employees must provide up to 30 days of unpaid leave. **Note:** Beginning

January 1, 2011, employers with more than 50 employees must afford the same leave entitlements currently afforded to parents and spouses of military personnel to adult children and grandparents of individuals called to military service.

Employers that employ more than 50 employees shall reduce the number of days of leave provided under this Act by the number of days provided under the federal Family and Medical Leave Act because of any qualifying exigency.

Employees must exhaust all accrued vacation, personal, compensatory, and any other leave (except sick and disability leave) before taking leave under this Act.

An employee must give at least 14 days' notice of family military leave that will consist of more than five consecutive workdays. The employee must consult with his/her employer on when to schedule the leave so it does not unduly disrupt the employer's business. An employee who takes less than five days of leave must give reasonable advance notice.

An employer may require an employee to provide certification from a military authority to verify the employee's eligibility for leave.

➤ **MINIMUM WAGE** ◀

Minimum hourly wage/overtime rate: \$8.25/\$12.38; \$9.25/\$13.88, eff. 1-1-20; \$10/\$15, eff. 1-1-21; \$12/\$18, eff. 1-1-22; \$13/\$19.50, eff. 1-1-23; \$14/\$21, eff. 1-1-24; \$15/\$22.50, eff. 1-1-25.

Basis for overtime: Over 40 hours/week.

Opportunity wage for under 20-year-olds: 50¢ less than the minimum wage. Eff. 1-1-20, employees who are younger than 18 years old and who work more than 650 hours a year must be paid the regular minimum wage; the minimum wage for employees who don't work more than 650 hours increases to \$8. The minimum wage increases to \$8.50, on 1-1-21; \$9.25, eff. 1-1-22; \$10.50, eff. 1-1-23; \$12, eff. 1-1-24; and eff. \$13, on 1-1-25.

Note: The state bases its minimum wage on the federal minimum wage. The state minimum may exceed federal minimum wage by a stated amount or percentage, or be adjusted to reflect cost of living increases.

➤ **NATIONAL ORIGIN** ◀

The Illinois Human Rights Act prohibits employers from discriminating against employees and applicants based on national origin, citizenship status, or ancestry.

For purposes of state law, national origin is defined as the place in which an individual or one of his/her ancestors was born, and citizenship status means the status of being: 1) a born U.S. citizen; 2) a naturalized U.S. citizen; 3) a U.S. national; or 4) an individual born outside of the U.S. and not a U.S. citizen who is not an unauthorized alien and who is protected from discrimination under state provisions. An employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ **NEW-HIRE REPORTING** ◀

Data to be reported: Employee's name, address, SSN; employer's name, address, federal EIN. Employers must report as new hires employees who have been off the payroll for at least 60 consecutive days.

Reporting deadline/form: Within 20 days of hire or rehire; on W-4s.

➤ **OVERTIME** ◀

Basis for overtime: Over 40 hours in a workweek.

➤ **PAY STATEMENTS** ◀

Information required: Itemized deductions.

➤ **PERSONNEL FILES** ◀

Employees may make written requests to view their personnel files, including records used to determine that employee's qualifications for employment, promotion, transfer, additional compensation, discharge, or other disciplinary action. Employers are allowed to charge employees a reasonable copying fee.

The following documents may be withheld: medical records, letters of reference, test documents, staff planning materials, information about a person other than the employee, records subject to a court proceeding, or any records alleging criminal activity.

The state amended its Personnel Record Review Act to provide that an employer who receives a request for records of a disciplinary report, a letter of reprimand, or other disciplinary action in relation to an employee under the Freedom of Information Act may provide notification to the employee in written form or through electronic mail.

➤ **POLYGRAPH TESTING** ◀

No provisions specified in the general employment context.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance — All employers

Workers' Compensation (English & Spanish) — All employers

Minimum Wage — All employers

Minimum Wage Mandatory Notice — All employers

Emergency Care for Choking (English & Spanish) — Recommended for food service establishments

Right to Know — All public employers

Safety & Health — All public employers

Notice to Employers & Employees (VESSA Notice) — All employers with 50 or more employees

Equal Pay (English & Spanish) — All employers

Pay Day Notice — All employers

No Smoking — All employers

Reasonable Accommodations for Pregnant Employees — Employers of 15 or more

Human Trafficking Resource Center Notice — On premise consumption retailer licensees, adult entertainment facilities, primary airports, intercity passenger rail or light rail stations, bus stations, truck stops, emergency rooms within general acute care hospitals, urgent care centers, farm labor contractors, and privately-operated job recruitment centers

➤ PREGNANCY ◀

Coverage: Employers of 15 or more persons within Illinois during 20 or more calendar weeks within the calendar year of, or preceding, the event in question. Religious organizations are excluded.

General rule: Employers that offer leave for other temporary disabilities must also offer such leave for temporary disability caused by pregnancy, miscarriage, abortion, childbirth, or recovery. The terms and conditions of pregnancy-related leave may not be more restrictive — and need not be more generous — than those applied to disability leave for other purposes.

Illness or disability caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery therefrom must be treated as any other temporary disability under an employment-related disability or medical benefits plan. Further, policies and practices regarding matters such as the commencement and duration of leave, the availability of extensions, accrual of seniority and other benefits and privileges of employment, and payment under any wage loss or insurance plan must be applied to pregnancy/childbirth as they are applied to other temporary disabilities.

In addition, employers are prohibited from having a written or unwritten policy or practice that excludes applicants or employees from employment because of pregnancy, unless the individual's pregnancy makes her unable to be trained for or to perform the duties of the position in question. Employers may not terminate an employee because she becomes pregnant.

Reasonable accommodations: Unless there is undue hardship, employers must reasonably accommodate pregnant employees or job applicants. Pregnancy means pregnancy, childbirth, or a related condition. Employers may seek confirmation of the need for an accommodation from employees' physicians to the same extent medical confirmation is sought for employees with other disabilities. Employers may require only the medical justification for the requested accommodation, a description of the reasonable accommodation that is medically advisable, the date the reasonable accommodation became medically advisable, and the probable duration of the reasonable accommodation.

Reasonable accommodations may include chairs or other equipment that will allow pregnant employees to sit, more frequent or longer breaks, periodic rest, assisting employees with manual labor, job restructuring, light-duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for expressing breast milk.

It is unlawful for employers to fail or refuse to treat employees or job applicants who are pregnant as well as they treat other employees or job applicants who are similarly unable to work, to require employees or job applicants to accept an accommodation they choose not to accept, to require employees to take leave if another accommodation can be provided, to take another type of leave when an accommodation would do, or to take adverse action against employees who request an accommodation in terms of their working conditions or privileges of employment.

See Breast-Feeding.

➤ RACE ◀

The Illinois Human Rights Act prohibits employers from discriminating against employees and applicants based on race or color.

For purposes of state law, an employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ REFERENCES ◀

References: An employer is immune from liability for disclosing truthful information, or information that it believes in good faith to be truthful, about a former employee's job performance to a prospective employer at the request of the prospective employer or the former employee. Immunity from liability is lost if the information disclosed was knowingly false or in violation of a civil right of the current/former employee.

Background checks for substitute teachers: Regional school superintendents must keep on file substitute teachers' teaching certificates, criminal history checks, checks from the Statewide Sex Offender database and Statewide Child Murderer and Violent Offender Against Youth database, and copies of their physical examinations and tuberculin skin tests. Superintendents must provide the teachers with signed and sealed certifications that they have completed the registration process. School districts must be presented with this certification, which must be photocopied and kept with the teachers' personnel records.

Social media: Employers are prohibited from requesting or requiring current employees or job candidates to disclose their usernames and passwords for their personal social media accounts; employees may be required to disclose usernames, passwords, and other information for employer-provided accounts. Employers may obtain publicly available information about job candidates.

Employers continue to have the right to create and enforce policies regarding electronic equipment, Internet access, the use of social networking sites, and e-mail. Employers must continue to screen employees or job candidates and to monitor or retain employee communications as

required under the state insurance laws, federal law, or a self-regulatory organization as defined in the Securities Exchange Act of 1934.

➤ RELIGION ◀

The Illinois Human Rights Act prohibits employers from discriminating against employees and applicants based on religion. Employers may not impose as a condition of obtaining or retaining employment, any term or condition that requires an employee to violate or forgo a sincerely held practice of their religion, including wearing any attire, clothing, or facial hair in accordance with the requirements of their religion. Employers, however, may enact dress codes or grooming policies that may include restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation.

For purposes of state law, religion is generally defined to include all aspects of religious observance and practice, as well as belief. An employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ REPORTING PAY ◀

No provision.

➤ SAFETY ◀

Click on www.illinois.gov/idol/Laws-Rules/safety/Pages/default.aspx to access the Illinois Department of Commerce and Economic Opportunity workplace safety home page, which contains information on the state's onsite safety and health consultation program.

➤ SCHOOL VISITATION LEAVE ◀

Employers with 50 or more employees must grant employees up to eight hours of leave during any school year to attend school conferences or classroom activities that cannot be scheduled during non-work hours. No more than four hours may be taken on any given day.

School visitation leave may be taken only after the employee has exhausted all accrued vacation, personal, compensatory, and other leave (except sick and disability leave).

An employee who uses school visitation leave may make up the time taken on a different day or shift as directed by the employer. An employee who takes school visitation leave must not be required to make up the time taken, but if the employee does not make up the time, the employee will not be compensated for the leave. Employees who do make up the time taken for school visitation leave must be paid at the same rate as they are paid for normal working time.

If granting an employee school visitation leave would result in more than 5% of the workforce or of a shift taking school visitation leave at the same time, then leave may be denied.

➤ **SEX DISCRIMINATION** ◀

The Illinois Human Rights Act prohibits employers from discriminating against employees and applicants based on sex.

For purposes of state law, an employer is defined as a person employing 15 or more employees in Illinois during 20 or more calendar weeks within the calendar year preceding the alleged violation.

➤ **SEXUAL HARASSMENT** ◀

It is a civil rights violation, under the Illinois Human Rights Act, for any employer, employee, agent of any employer, employment agency, or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

The Act defines sexual harassment to mean any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
- 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.

State agencies must maintain and carry out a continuing sexual harassment program, which includes the following.

1. Developing a written sexual harassment policy that includes, at a minimum, the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the agency's internal complaint process, including penalties; the legal recourse, investigative, and complaint process available through the state department of labor; directions on how to contact the state department of labor; and protection against retaliation.
2. Posting in a prominent and accessible location and distributing in a manner to assure notice to all agency employees without exception the agency's sexual harassment policy.
3. Providing training on sexual harassment prevention and on the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

The Illinois Human Rights Act prohibits discrimination based on an individual's sexual orientation.

Sexual orientation is defined as an individual's actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. An employer is defined as having 15 or more employees during 20 or more calendar weeks within the calendar year or the year preceding an alleged violation.

➤ **SMOKING** ◀

The Smoke-Free Illinois Act prohibits smoking in public places, including bars and restaurants; places of employment; and governmental vehicles, with limited exceptions. Individuals are prohibited from smoking within 15 feet of entrances to a public place or a place of employment.

Signs containing the words "no smoking" or the international "no smoking" symbol must be conspicuously posted in each public place and place of employment where smoking is prohibited.

See also lifestyle discrimination.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Social Security numbers may not be made available to the general public; printed on any card required to access products or services provided by the employer; transmitted over unsecured Internet connections; or used to access an Internet site unless accompanied by an authentication device (a unique password or personal identification number, for example). In addition, Social Security numbers should not be printed on any materials that are mailed to an individual, with limited exceptions.

Employers that maintain computerized data that includes personal information (e.g., Social Security numbers) must report a security breach "in the most expedient time possible and without unreasonable delay" to anyone whose personal information might have been compromised.

Data security: The scope of personally identifiable information for which a breach notification may be required is expanded to include an individual's first name or first initial and last name, in combination with these data elements, when either the name or the data elements aren't encrypted or redacted, or are encrypted or redacted, but the keys to unencrypt or unredact the data are acquired without authorization, through a security breach:

- Social Security numbers; and
- biometric data (e.g., employees' fingerprints or retina or eye image).

Personally identifiable information also includes user names or email addresses, in combination with passwords or security questions and answers that would permit access to online accounts, when either user names or email addresses or passwords or security questions and answers aren't encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

Victims of security breaches may be notified electronically; victims should be directed to change their user names or passwords or take other steps to protect their identities.

Employers subject to federal laws regarding data protection, including the Gramm-Leach-Bliley Act and HIPAA, are considered to be in compliance with this law.

➤ UNEMPLOYMENT INSURANCE ◀

Click on the following link www.ides.state.il.us/ to access the Illinois Employment Security home page. Click on www.ides.illinois.gov/Pages/Unemployment_Taxes_and_Reporting.aspx to access employer information and requirements.

➤ VACATION PAY UPON TERMINATION ◀

Unless otherwise provided in a collective bargaining agreement, whenever a contract of employment or employment policy provides for paid vacations, and an employee resigns or is terminated without having taken all vacation time earned in accordance with such contract of employment or employment policy, the monetary equivalent of all earned vacation shall be paid to him/her as part of his/her final compensation at his/her final rate of pay. No employment contract or employment policy shall provide for forfeiture of earned vacation upon separation.

➤ VIOLENCE ◀

Domestic violence: The Victims' Economic Security and Safety Act (VESSA) prohibits private employers with 15 or more employees and all state and local government agencies from discriminating against an individual because he/she is a victim of domestic violence or is perceived to be a victim of such abuse. Employers may not take adverse or discriminatory actions against an employee because the workplace is disrupted or threatened by someone whom the employee states has committed or threatened to commit domestic or sexual violence against the employee or his/her family member. The Act requires employers to reasonably accommodate employees who are victims of domestic violence. Reasonable accommodations include transfer, reassignment, or modified schedule; leave; a changed telephone number or seating assignment; installation of a lock; or implementation of a safety procedure in response to actual or threatened domestic or sexual violence.

Employers with 50 or more employees must provide up to 12 weeks of unpaid leave per 12-month period, and employers with between 15 and 49 employees must provide up to eight weeks of unpaid leave per 12-month period, to an employee who is a victim of domestic or sexual violence or has a family or household member who is a victim, in order to:

- seek medical attention for or recover from physical or psychological injuries caused by domestic or sexual violence;
- obtain services from a victim services organization;
- obtain psychological or other counseling;

- participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence or ensure economic security; or
- seek legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

Leave may be taken intermittently or on a reduced-schedule basis. Employers may not require employees to substitute available paid or unpaid leave for VESSA leave. An employee may not lose any employment benefit or seniority accrued prior to the date on which the leave commenced.

An employee must provide his/her employer with at least 48 hours' advance notice, unless doing so is not practicable. When an unscheduled absence occurs, the employer may not take any action against the employee if the employee, within a reasonable period after the absence, provides certification.

Employees must be reinstated to the position held prior to taking leave or a position with equivalent benefits, pay, and other terms and conditions of employment.

Employers with at least five employees may ask a court to issue an order of protection to prohibit further violence or threats of violence by an individual, if an employee has suffered unlawful violence or a credible threat of violence from the individual and the violence has been carried out on the premises or a credible threat of violence can reasonably be construed to be carried out on the premises.

Concealed weapons: Individuals may apply for a license to carry a concealed weapon.

The following employers are excluded from the concealed-weapon law; however, employees may store firearms in their locked cars:

- educational institutions, including public and private elementary and secondary schools, pre-schools and child-care facilities; and public or private community colleges, colleges, or universities;
- public or private hospitals or hospital affiliates, mental health facilities, or nursing homes;
- establishments that serve alcohol or are licensed to permit gambling;
- stadiums; and
- libraries.

Employers not listed above may, nevertheless, prohibit the carrying of firearms on their premises. Employers wishing to do so must post a notice from the Illinois State Police.

➤ VOTING ◀

Employees are entitled to be absent from work for two hours during the time the polls are open to vote. Employees taking time off to vote may not be penalized in any way, so long as a request for time off to vote is made prior to the day of election. Employers may specify the hours during which employees may take time off to vote, except that the employer must permit a

two-hour absence during work hours if an employee's shift begins less than two hours after polls open and ends less than two hours before polls close.

Wages: Employers are prohibited from reducing employees' compensation for time taken off to vote.

➤ WAGE DEDUCTIONS ◀

Deductions by employers from wages or final compensation are prohibited unless such deductions are required by law; to benefit the employee; in response to a valid wage assignment or wage deduction order; or made with the express written consent of the employee.

➤ WAGE GARNISHMENT ◀

The lesser of 15% of an employee's gross weekly pay, or the amount by which disposable weekly pay exceeds 45 times the federal or state minimum wage in effect during the week the garnishment is to occur, may be withheld. Employers may not terminate or otherwise discipline an employee because his/her disposable pay is subject to a creditor garnishment. An employer that ceases to withhold without a lawful excuse that would terminate its withholding obligation will be conditionally liable to the judgment creditor for the amounts not withheld.

➤ WAGE PAYMENT ON TERMINATION ◀

Employee who quits: At once or next payday.

Employee who's fired: At once or next payday.

Noncompete agreements: Employers may not enter into noncompete agreements with terminating low-wage employees, if their earnings don't exceed the greater of the applicable minimum wage (i.e., the greatest of the federal, state or local minimum wage) or \$13 per hour.

➤ WAGE PAYMENTS ◀

Payday requirements: At least twice a month.

Direct deposit: Employers may not require employees to be paid electronically. Employee chooses bank.

Expense reimbursements: Employers must reimburse all of employees' reasonable business expenses or losses, except losses due to normal wear or theft, unless the theft resulted from employees' negligence. Employees must submit supporting documentation and bills within 30 days after incurring an expense; employers may provide additional time for employees to submit their T&E reports. If supporting documentation (e.g., receipts) is nonexistent, missing or lost, employees must submit signed statements regarding their receipts.

Employers aren't required to reimburse employees under the following circumstances:

- employers have established written expense reimbursement policies, but employees fail to comply with those policies;

- employers didn't authorize or require employees to incur expenses, or employers fail to comply with their own written expense reimbursement policies; and
- employers don't adhere to the guidelines they set out in their own written expense reimbursement policies. *Warning:* This applies only the portion of an expense that exceeds those specifications. Employers can't have blanket policies that deny employees reimbursement for any of their out-of-pocket expenses or initiate policies that reimburse employees for only a *de minimis* amount of expenses.

➤ WHISTLEBLOWING ◀

Any employer with one or more employees who knowingly takes adverse employment action or retaliates against an employee who has engaged or engages in the following activities is liable to the state for monetary damages.

- Disclosed information to a government or law enforcement agency, if the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule, or regulation.
- Disclosed information in a court, in an administrative hearing, or before a legislative commission or committee, or disclosed information in another proceeding, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, rule, or regulation.

➤ WORK AUTHORIZATION ◀

The Illinois Right to Privacy in the Workplace Act has been amended to require any employer who enrolls or has enrolled in E-Verify to attest, under penalty of perjury, on a form prescribed by the department of labor that:

- the employer has received the E-Verify training materials from the DHS, and that personnel who will administer the program have completed the program's Computer Based Tutorial (CBT); and
- the employer has posted notice from the DHS indicating that the employer is enrolled in the E-Verify program, the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices, and the anti-discrimination notice issued by the Illinois Department of Human Rights.

In addition:

1. The employer shall display the notices in a prominent place that is clearly visible to prospective employees.
2. All employer representatives performing employment verification queries must complete the CBT.
3. The employer shall become familiar with and comply with the E-Verify manual.

The employer must notify all prospective employees at the time of application that such an employment verification system may be used for immigration enforcement purposes. All

employees who receive a tentative non-confirmation must be provided with a referral letter and contact information for what agency he/she must contact in order to resolve the discrepancy.

In addition, the employer shall use the information it receives from the SSA or the DHS only to confirm the employment eligibility of newly hired employees after completion of Form I-9. The employer must safeguard this information and the means of accessing it, such as passwords and other privacy protections, to ensure that it is not used for any other purpose and, as necessary, to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the employer who need it to perform the employer's responsibilities.

Employers may not request more or different documents than are required under federal law or refuse to honor documents tendered that on their face reasonably appear to be genuine.

Discrimination: It is unlawful for any employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or terms, privileges, or conditions of employment on the basis of citizenship status.

It is also unlawful for an employer participating in E-Verify to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or terms, privileges, or conditions of employment without following the procedures under the E-Verify program.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link www.state.il.us/agency/iic/ to access the Illinois Workers' Compensation Commission home page. To view a handbook on Workers' Compensation in PDF format, click on www.iwcc.il.gov/handbook020106.pdf.

INDIANA — State Laws by Topic

➤ AGE ◀

It is an unfair employment practice, under the Indiana Civil Rights Law, for an employer to dismiss from employment or to refuse to employ or hire any individual based solely on age, so long as the individual has attained the age of 40 and has not yet attained the age of 75.

The Act defines an employer as any person within Indiana who employs one or more individuals.

➤ AIDS ◀

Testing: Informed consent must be obtained before an individual is tested for AIDS.

➤ ARRESTS/CONVICTIONS ◀

No general provision prohibiting an employer's collection and use of arrest or conviction records.

Employer can't ask employees, contract employees, or job applicants whether their criminal records have been sealed or restricted.

Employers cannot suspend, refuse to employ, or otherwise discriminate against employees because their conviction or arrest records have been expunged. In addition, job applications may inquire about previous criminal records, but only in terms that exclude expunged convictions or arrests. *Acceptable:* Have you ever been arrested for or convicted of a crime that has not been expunged by a court?

➤ BREAKS ◀

No provision.

➤ BREAST-FEEDING ◀

Employers with 25 or more employees must provide a private location, other than a toilet stall, where an employee can express breast milk during any period away from the employee's assigned duties. Employers are also required, to the extent possible, to provide a refrigerator or other cold storage device for keeping milk that has been expressed, or to allow the employee to provide her own portable cold storage device for keeping milk that has been expressed until the end of the employee's workday.

In addition, a woman may breast-feed her child anywhere she has the right to be present.

Also, state and political subdivisions of the state must provide reasonable paid break time each day to an employee who needs to express breast milk for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. Such employers are not required to provide break time if doing so would unduly disrupt business operations.