

## New Laws on the Horizon for Illinois Employers in 2017

Every January, employers face an array of new employment laws, rules, and regulations. With a new presidential administration, the enforcement of those laws on the federal level remains unpredictable. However, employers' obligations under new state laws do not carry the same uncertainty.

Changes to state and local employment laws in Illinois mirror a larger trend nationwide. These new laws impact a wide range of labor policies, including social media, sick leave, and non-compete agreements.

Many of the laws that the Illinois General Assembly and Gov. Bruce Rauner have endorsed reflect a broader nationwide trend. From social media to paid sick leave to non-compete enforcement, states (and even local municipalities) tend to be on the leading edge of employment law reform.

Here is a capsule summary of the most notable changes to employment law in 2017, which impact Illinois employers:

- *Illinois Employee Sick Leave Act.* Effective January 1, employers that grant employees with personal sick leave benefits must allow employees to use some of those benefits for certain family members. A policy that prohibits, for instance, an employee from using benefits to care for a sick child is now unlawful. Illinois state law does not require employers to provide certain levels of sick pay, and the new Employee Sick Leave Act does not alter this approach. The Illinois Department of Labor is charged with issuing regulations and enforcing the new law.
- *Illinois Freedom to Work Act.* Gov. Rauner signed into law the Freedom to Work Act, which bans covenants not to compete for low-wage employees. That term covers employees who earn the greater of the prevailing minimum wage or \$13.00 per hour. The law, however, does not contain any investigative mechanism. An original version of the Act would have allowed the

Department of Labor to investigate the use of employee non-competes and to assess penalties for failing to comply with the law.

- *Right to Privacy in the Workplace Act (Amendments)*. The quaint notion of workplace privacy used to mean very little, until the proliferation of social media took hold. Last summer, Gov. Rauner signed HB 4999 into law, which amends the existing Right to Privacy in the Workplace Act. The amendments largely deal with employees' social media accounts and prohibit employers from: (1) coercing employees to provide passwords to, or account information for, personal online accounts; (2) demanding access to those accounts; (3) coercing employees to authenticate their accounts in the employer's presence; (4) requiring employees to invite employers to social networking groups; and (5) demanding employees to join employers' online accounts. The amended law does provide a safe-harbor for an employer which "inadvertently receives" information that would allow it to access an employee's personal online account.

- *Illinois Child Bereavement Leave Act*.

Illinois is one of just two states (Oregon is the other) that require employers to provide unpaid leave to employees who lose a child. The law mirrors the Family and Medical Leave Act, in that it applies only to those Illinois with 50 or more employees. Employees of covered employers can take up to two

weeks of unpaid leave. They may use bereavement leave to attend a child's funeral, to make arrangements necessitated by the death of a child, or simply to "grieve the death of the child." As with other recently enacted employment laws, the Department of Labor is vested with the authority to impose civil penalties against employers that fail to follow the new law and investigate complaints filed by employees.

The General Assembly's frequent changes to employment law demonstrate the need for employers to update regularly their existing employee policies, manuals, and handbooks.

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