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Key New Employment Laws Illinois Employers Need to Know

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The Prairie State's most recent legislative session wrapped up with several significant new employment laws effective in the second half of 2025 and beyond. We summarize the key developments based on effective dates in this alert, which focuses only on newly enacted statewide laws and does not cover employment laws enacted at the municipal level, including in Chicago.

Laws effective between June 1, 2025, and December 31, 2025

Equal Pay Act amendment

An amendment to the Illinois Equal Pay Act (IEPA), which took effect in June 2021, requires covered employers to regularly apply for an "equal pay registration certificate" from the Illinois Department of Labor (IDOL), among other requirements. In 2022, the IDOL published additional guidance on the equal pay registration certificate requirements.

Effective June 30, 2025, HB 2488 expands the scope of employers who are required to obtain an equal pay registration certificate pursuant to the IEPA. With the amendment, the obligation to obtain an equal pay registration certificate includes any private employer who has 100 or more employees in the state of Illinois (regardless of whether such employer is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission).

Any business that becomes subject to the equal pay registration certification requirements must submit its contact information to the IDOL by January 1 of the subsequent year. The IDOL will then assign such employers a date by which they must apply to obtain an equal pay registration certificate. Covered employers will be required to re-certify every two years thereafter.

Employers must ensure that they have received a submission deadline from the IDOL. The IDOL's failure to assign a registration date does not exempt the employer from compliance.

Amendments to the Wage Payment and Collection Act

Effective August 1, 2025, SB 2164 amends the Illinois Wage Payment and Collection Act to expand the IDOL's enforcement powers and increase penalties for wage violations.

Any unpaid wages, penalties, damages, fines, or fees (as determined by a final administrative decision from the IDOL) automatically become debts to the state if not paid within 35 days after judicial review concludes or the time to seek such review expires. This change eliminates the prior requirement that IDOL petition a court to collect amounts due, therefore simplifying the process for IDOL to recover amounts owed. The IDOL may use any legal remedy to collect the debt. For IDOL claims adjudicated through administrative hearings, the 5% monthly and 1% daily penalties accrue until the date the IDOL's decision becomes a state debt.

Nonwaivable administrative fees also increased from $250 – $1,000 to $500 – $1,250 based on the amount owed. Finally, SB 2164 added a new section to the act to address how these changes apply to past and future

wage claims. The amendment clarifies that procedural changes, including changes to the remedies available under the act, are retroactive in nature, such that employers may be liable for increased penalties for past wage violations. On the other hand, substantive changes will apply prospectively only.

Military funeral honors leave

In a first of its kind leave, effective August 1, 2025, SB 220 (renaming the Family Military Leave Act as the Military Leave Act) requires employers with 51+ employees to provide up to 40 hours of paid leave per year (capped at eight hours per month) for employees to serve on a military funeral honors detail. Eligible employees must be trained for the detail and be either: (1) a retired, active, or reserve member of the US armed forces, including the Illinois National Guard; or (2) an authorized provider or registered member of a nonprofit or other authorized provider organization. This leave is paid at the employee's regular rate and may be used without exhausting other available leave.

Workers' Rights and Worker Safety Act

Illinois enacted legislation aimed at ensuring certain long-established worker protections remain intact in Illinois, particularly in response to federal rollback of certain workers' rights. Effective August 14, 2025, SB 1976 enacted the Workers' Rights and Worker Safety Act and the Illinois Safe and Healthy Workplace Act, and amended the Illinois Occupational Safety and Health Act. Together, these laws preserve certain worker protections as they existed on April 28, 2025. The Workers' Rights and Worker Safety Act bars state agencies from adopting rules less protective than federal wage-and-hour requirements in effect on April 28, 2025, and, in the event federal agencies roll back certain wage and hour protections, the act directs state agencies to adopt rules to replace the protections that are rolled back. The Illinois Safe and Healthy Workplace Act authorizes the IDOL to issue occupational safety rules if federal standards are repealed or revoked that are at least as effective in protecting workers' rights as the federal rules that are repealed, revoked or made less stringent.

Work authorization protections

SB 2339 amended the state's Right to Privacy in the Workplace Act to extend work authorization protections to employees. Effective December 12, 2025, if an employer receives a written notification from any federal agency or other "outside vendor" not responsible for enforcement of immigration law (e.g., the Social Security Administration or the Internal Revenue Service) of a "discrepancy as it relates to an employee's individual taxpayer identification number or other identifying documents," an employer is prohibited from taking any adverse action against such employee based solely on the receipt of the notification.

In addition, employers must now notify the employee (and the employee's authorized representative) of the written notification no more than five business days after receipt. The notice provided to the employee must outline the nature of the discrepancy, the time period the employee has to contest the disputed information, and any action the employer is required to take. Further, the notice must be provided by hand if possible, and if not possible, by mail and by email (if an email address is known).

The IDOL and state AG office are tasked with investigating and pursuing violations of the law. In addition, employees and prospective employees may bring suit for violations on behalf of themselves and others similarly situated. Labor unions and not-for-profit corporations that monitor or are "attentive to" compliance with work safety and privacy laws, wage and hour requirements, or other statutory requirements may also bring actions against employers as "interested parties." This broad "interested parties" definition gives standing to nearly any nonprofit or labor organization.

Penalties for violation of the Right to Privacy in the Workplace Act range from $100 – $1,000 per violation, and remedies include: reinstatement (with the same seniority status that the employee would have had but for the violation); back pay (with interest); a civil penalty up to $10,000; and compensation for any damages sustained as a result of the violation, including litigation costs, expert witness fees, and reasonable attorneys' fees. In the event of any repeat offense of the law within a three-year period, the range of penalties will increase, in that case ranging from $1,000 – $5,000 per violation. However, if an employer acted in good faith after consulting with the Illinois Department of Labor or the Department of Homeland Security, or if a bona fide administrative error was made which did not impact an employee's or a prospective employee's pay or job status, no penalties for violation of the law will be imposed.

Laws effective January 1, 2026 (unless otherwise noted)

Workplace Transparency Act amendment

HB 3638 amends the Illinois Workplace Transparency Act (IWTA) to broaden worker protections and impose new employer obligations. The IWTA, enacted in 2020, restricts certain nondisclosure and nondisparagement terms to protect reporting of unlawful employment practices, among other things. The amendment expands these limits as follows:

Concerted activity protection: Agreements that restrict current, former, or prospective employees from engaging in protected concerted activity to address work-related issues are void. "Protected concerted activity" is defined as activities engaged in for purposes of collective bargaining or other mutual aid or protection, as provided by the National Labor Relations Act (NLRA) as it existed on January 19, 2025 (prior to the second Trump administration taking office), as well as by the Illinois Education Labor Relations Act, Illinois Public Labor Relations Act, and the Labor Dispute Act. Specifically, the amendment requires that any agreement, clause, covenant, or waiver that is a mutual condition of employment or continued employment – and contains provisions that are against public policy as unilateral conditions – must acknowledge the right of the employee or prospective employee to engage in concerted activity to address work-related issues.

Unlawful employment practices expansion: Presently, the IWTA limits employers' ability to enter into employment-related agreements that interfere with an employee's ability to disclose "unlawful employment practices," defined specifically to include any form of discrimination, harassment, or retaliation. However, under the amended IWTA, the definition of "unlawful employment practices" will be expanded to include any unlawful practice actionable under any state or federal law governing employment, including those enforced by the IDOL, the Illinois Labor Relations Board, the US Department of Labor, the Occupational Safety and Health Administration, and the National Labor Relations Board.

Prohibited unilateral provisions: Under the amendment, clauses that unilaterally 1) shorten the applicable statute of limitations for a claim; 2) apply non-Illinois law to an Illinois employee's claim; or 3) require out-of-state venues for Illinois employees are now void as unilateral conditions of employment or continued employment. Such clauses are permitted if they are mutually agreed upon, meaning they satisfy several conditions, including that the agreement is in writing, is entered into knowingly, and reflects bargained-for consideration, along with acknowledging certain protected rights for the employee.

Separate consideration for confidentiality clauses in settlement or termination agreements: Settlement or termination agreements that include promises of confidentiality related to alleged unlawful employment practices, other than future or prospective concerted activity related to workplace conditions, must now be supported by consideration that is "separate from any consideration that is provided in exchange for a release of claims." The state has not yet provided guidance on what may constitute sufficient separate consideration. When incorporating promises of confidentiality related to alleged unlawful employment practices in settlement or termination agreements, employers should expressly identify the separate consideration being provided for the release of claims and for the confidentiality provision.

Right to testify clarified: The amendment clarifies that the right to testify in any proceeding concerning alleged criminal conduct or alleged unlawful employment practices also includes arbitral proceedings, as well as depositions taken in connection with any of the proceedings, pursuant to a court order, subpoena, or written request from an administrative agency or the legislature. The amendment requires that agreements, clauses, covenants, or waivers that are a mutual condition of employment or continued employment that contain provisions that are against public policy as unilateral conditions must acknowledge the right of the employee or prospective employee to participate in a proceeding related to unlawful employment practices, including litigation brought by any federal, state, or local government agency or any other person.

Expanded remedies: The amendment permits employees, prospective employees and former employees to recover consequential damages, in addition to reasonable attorneys' fees and costs when they successfully challenge the validity and enforceability of an employment-related agreement implicating the IWTA or in defending an action for breach of a confidentiality agreement under the IWTA.

Employee recordings of violence

HB 1278 amends the Victims' Economic Security and Safety Act (VESSA) to protect employees who use employer-provided electronic devices to document or otherwise record domestic, sexual, gender-based violence, or other violent crimes against themselves or a family/household member. Employers may not take adverse action – such as refusing to hire, terminating, or otherwise discriminating – because an employee used an employer-provided device to record or document actual or potential acts of violence against themselves or a family/household member. Employers also may not deprive employees of the devices solely because they used the device to record an act of violence against themselves or a family/household member and must provide employees with access to the documentation or recordings (including photos, videos, audio, and other digital files). "Access" is not defined under the law; therefore, the scope of the required access to documentation or recordings under HB 1278 is unclear. For example, HB 1278 does not specify whether employers must provide employees with access to documentation or recordings following the termination of their employment.

Organ donation leave expansion

HB 1616 amends the Employee Blood and Organ Donation Leave Act to extend **paid** organ donation leave eligibility to part-time employees. Eligible part-time employees may take up to 10 days of paid leave in a 12-month period to serve as organ donors. HB 1616 specifies that part-time employees must be paid their daily average rate based on pay from the prior two months.

Human Rights Act amendment

SB 2487 amends the Illinois Human Rights Act to make fact-finding conferences by the Illinois Department of Human Rights (IDHR) discretionary. A conference will only be held if both parties submit a written request within 90 days of the charge being filed. That request must also include a written agreement to extend the IDHR's deadline for issuing its report by 120 days, if requested by the IDHR.

The amendment also adds civil penalties that escalate with prior violations: up to $16,000 for a first violation; up to $42,500 for one prior offense within the past five years; and up to $70,000 for two or more prior offenses within the past seven years. However, if the same person committed prior and current violations, the higher penalties may apply regardless of the time between the offenses. These changes apply to charges pending or filed on or after January 1, 2026.

Paid lactation breaks for nursing mothers

SB 0212 amends the Nursing Mothers in the Workplace Act to make Illinois another state (joining New York, Georgia and Washington) to require that "reasonable" break time spent expressing breast milk be paid at the employee's regular rate. Employers may not require employees to use other paid leave or reduce their compensation for this time, although the breaks may run concurrently with existing break periods.

AI bias ban and notice reminder

Enacted in the prior legislative session (to be effective January 1, 2026) and as described in this prior Cooley alert, HB 3773 amended the Illinois Human Rights Act to prohibit using artificial intelligence (AI) in a manner that results in discrimination (including "digital redlining," such as excluding applicants by ZIP code). Employers must also notify employees when AI is used in recruitment, hiring, promotion, renewal, training/apprenticeship selection, discharge, discipline, tenure, or other terms, privileges, or conditions of employment. The law defines "AI" as "a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, recommendations, or decisions that can influence physical or virtual environments." AI also includes generative AI.

The IDHR recently issued proposed rules implementing the notice requirement of HB 3773. The proposed guidance sets forth specific requirements for timing, distribution, content, and recordkeeping:

- **Timing and distribution:** Current employees must receive notice annually and within 30 days of the employer's adoption of any new or substantially updated AI system. Prospective employees must receive notice in connection with all job postings. Notice must be provided through all applicable channels, including: (1) employee handbooks, manuals, or policy documents; (2) conspicuous locations on physical premises where notices are customarily posted; (3) conspicuous locations on intranet or external websites where notices are customarily posted, accessible through a conspicuous link on the employer's homepage; and (4) all job notices or postings.
- **Required content:** Each notice must include: (1) the AI system's product name, developer, and vendor (if applicable); (2) the specific covered employment decision(s) the system influences or facilitates; (3) the system's purpose, including the categories of personal information or employee data collected or processed; (4) the types of job positions for which the AI system will be used; (5) a designated point of contact for questions about the system; (6) the right to request reasonable accommodation and instructions for submitting such requests; and (7) the statutory language set forth in 775 ILCS 5/2-102(L).
- **Scope:** The guidance clarifies that notice is required for AI systems that screen or evaluate applicants, make predictive assessments, measure skills or personality traits, screen resumes for particular terms or patterns, analyze facial expressions or voice characteristics in interviews, direct job advertisements to targeted groups, or analyze third-party data about employees – all of which would likely encompass your iCIMS features and LinkedIn integration.
- **Recordkeeping:** Employers must preserve all AI-related notices, postings, disclosures, and records of AI use for four years following such use. The guidance also extends the general recordkeeping periods for applications, personnel files, and job descriptions from one year to four years.

These rules remain in draft form and may be modified prior to the effective date of the law.

Family NICU leave

Effective June 1, 2026, HB 2978 creates a new form of job-protected, unpaid leave for employees of a covered employer to care for a child who is in a neonatal intensive care unit (NICU).

Employers with 16 – 50 employees must provide up to 10 days of unpaid leave while any child of the employee is a patient in a neonatal intensive care unit; those with 51+ employees must provide up to 20 days of unpaid leave while any child of the employee is a patient in a neonatal intensive care unit.

Leave may be taken continuously or intermittently at the employee's selection. An employer may require that leave be taken in increments of a minimum of two hours. An employer may not require use of accrued paid time off or sick leave instead of NICU leave (although employees may elect to substitute paid or unpaid leave for an equivalent period of NICU leave).

Further, leave provided pursuant to HB 2978 is in addition to leave that an employee may be eligible for under the federal Family and Medical Leave Act. Health insurance benefits must continue during this leave period. Employers may seek reasonable verification of the child's NICU length of stay but may not request HIPAA-protected or other confidential information. As noted above, this leave is job-protected; employers must reinstate employees taking leave for this purpose to the same or substantially similar job position following the conclusion of the leave.

Next steps

Employers should update employee handbooks and policies to reflect new leave laws, including family NICU leave and military funeral honors leave; ensure nursing breaks of a reasonable duration are paid for one year following childbirth; and revise organ-donation leave policies to provide paid leave for part-time employees. Employers should determine whether they are now covered by the equal pay registration certification requirements due to the recently enacted amendments to the IEPA, and, if so, they should submit their contact information to the IDOL by January 1, 2026. Employers should also review policies relating to employee verification and work authorization procedures to ensure compliance with SB 2339. Any policies relating to employer property or electronic device use should also be modified as necessary for compliance with VESSA's new device documentation, recording, and use protections. Employers should also review confidentiality, settlement, separation, and other employment-related agreements containing confidentiality and/or nondisparagement restrictions (which may limit an employee's ability to disclose "unlawful employment practices") for compliance with the amended IWTA. Ahead of HB 3773's effective date, employers should look

out for finalized guidance from the IDHR on notice obligations and related rules and get ahead of the game by inventorying AI tools used across the employment life cycle and preparing notices in line with the IDHR's proposed rules. Finally, employers should train HR and management personnel in the new and revised leave laws and updated policy requirements for Illinois employees.

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