Employers with Illinois workers should be aware of several new employment laws and amendments to existing laws that were enacted during the state's 2024 legislative session.

Below are summaries of the new requirements, organized by effective date.

Biometric Information Privacy Act (BIPA) Reined In

Effective: August 2, 2024 | SB 2979

This year's amendments to BIPA significantly limit potential damages and update its definition of "written release" to include an "electronic signature." Now, a prevailing plaintiff under BIPA may recover the greater of $1,000 for each negligent violation, $5,000 for each intentional or reckless violation, or actual damages (plus

reasonable attorneys' fees and litigation costs). The amendment provides that a private entity that collects or discloses a person's biometric identifier or biometric information from the same person more than once in violation of BIPA commits a single BIPA violation, limiting the aggrieved party to a single recovery per individual.

SB 2979 also clarifies that an "electronic signature" is sufficient to secure a "written release" under BIPA. BIPA defines "electronic signature" as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record." This resolves a contested issue in BIPA litigation and confirms that employers may procure releases via a checkbox or other electronic confirmation.

The amendment does not address, however, whether it is to be applied retroactively, including to pending lawsuits. When Illinois statutory amendments are not explicit about retroactivity and do not have a savings clause, courts generally apply substantive amendments prospectively and procedural amendments retroactively.

Day and Temporary Labor Services Act (DTLSA): Change to Timing of Paying "Equivalent Benefits" to Employees

Effective: August 9, 2024 | SB 3650

The DTLSA requires, among other things, temporary employment agencies to provide pay to employees employed for 90 calendar days the "equivalent benefits" as the lowest paid, comparable, directly hired employee at the third-party client or the hourly cash equivalent of the actual cost of benefits. SB 3650 replaces the 90-calendar-day threshold with a requirement that the laborer work more than 720 hours within a 12-month period. The amendment also (1) adds new pay requirements for situations when the laborer works more than 4,160 hours in a 48-month period based on the most recent Standard Occupational Classification System published by the U.S. Department of Labor's Bureau of Labor Statistics; (2) requires the temporary employment agencies to inform eligible laborers of the seniority and hourly wage of the comparator being used to determine the wage; (3) provides alternative methods for computing the rate of pay based on Bureau of Labor Statistics data; (4) defines "applicant" and "labor dispute" for purposes of the DTLSA; and (5) requires temporary employment agencies to provide receipts of applications to laborers who are not placed or contracted to work.

Digital Voice and Likeness Protection Act

Effective: August 9, 2024 | HB 4762

To protect performers and other individuals from wrongful use of artificial voice or melody replicas, the Digital Voice and Likeness Protection Act provides that a provision in an agreement between an individual and any other person for the performance of personal or professional services is unenforceable if:

- The provision allows for 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.
- The provision does not include a reasonably specific description of the intended uses of the digital replica.
- The individual was neither (1) represented by legal counsel who negotiated on behalf of the individual licensing his or her digital replica rights, and the licensing terms governing the use of the applicable digital replica exist in a written agreement; or (2) represented by a labor union representing workers who do the proposed work, and the terms of the individual's collective bargaining agreement expressly cover uses of digital replicas as that term is defined in this act or in the individual's collective bargaining agreement.

Employers who engage with individuals for voice or melody services should proceed accordingly.

Changes to Illinois Human Rights Act (IHRA)

One of Illinois' flagship employment statutes, the IHRA, underwent substantial revisions this legislative session.

Increased Penalties and Hotlines

Effective: August 9, 2024 | HB 5371

The amendment provides successful plaintiffs with increased relief in "pattern and practice" cases by clarifying that each separate instance in which the IHRA is violated in a pattern and practice can constitute a separate violation, each of which can carry a $50,000 civil penalty (up from $25,000). In addition, employers found to have violated "any" provision of the IHRA in the last five years will face a $75,000 penalty per violation, and employers that have committed two or more such violations in the last five years will face a $100,000 penalty per violation.

The amendment also calls for the creation of hotlines for confidential reporting of "discrimination, harassment, and bias incidents." The amendment positions such communications as exempt from the federal Freedom of Information Act.

Statute of Limitations

Effective: January 1, 2025 | SB 3310

The amendment sets a two-year deadline for filing an administrative charge with the Illinois Department of Human Rights (IDHR) based on employment discrimination, harassment, or retaliation—a substantial increase from the current 300-day limit. Illinois now has one of the longest statutes of limitations for state employment discrimination claims.

While no changes have been made to the limitations period for federal employment discrimination claims brought in Illinois (which still must be filed with the Equal Employment Opportunity Commission within 300 calendar days from the day the alleged discrimination took place), the amendment allows employment discrimination claims to proceed under the IHRA where they may be otherwise barred as untimely under Title VII.

Family Responsibilities

Effective: January 1, 2025 | HB 2161

This amendment expands the substantive scope of protected classes under Illinois law by prohibiting employers from taking adverse actions against an employee or prospective employee based on the employee's "family responsibilities." The amendment defines "family responsibilities" as an employee's actual or perceived provision of personal care to a family member. "Personal care" is defined as activities to ensure that a covered family member's basic medical, hygiene, nutritional, or safety needs are met or to provide transportation to medical appointments for a covered family member who is unable to meet those needs themself. It also includes being physically present to provide emotional support to a covered family member with a serious health condition who is receiving inpatient or home care. Applicable family members include an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or

stepparent.

Note that employers are not required to make accommodations or modifications to company policies for an employee based on family responsibilities. Employers may also still take adverse action or otherwise enforce reasonable workplace rules or policies relating to leave, scheduling, productivity, attendance, absenteeism, timeliness, work performance, referrals from a labor union hiring hall, and benefits against an employee with family responsibilities, as long as their policies are applied in accordance with the IHRA.

Reproductive Health Decisions

Effective: January 1, 2025 | HB 4867

Similarly, this amendment adds "reproductive health decisions" to the list of actual or perceived characteristics upon which an employer cannot rely in taking adverse action or otherwise discriminating against an employee or prospective employee. "Reproductive health decisions" are defined 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." Although the IHRA already prohibits pregnancy-based discrimination, this more expansive provision includes decisions pertaining to numerous, broad, pregnancy-related conditions and processes. The most "hot button" of these processes is, of course, abortion; employers will not be able to take adverse action against employees based upon pro-choice or anti-abortion healthcare decisions (and, arguably, their views on such topics).

Limited Use of Artificial Intelligence (AI)

Effective: January 1, 2026 | HB 3773

This amendment aims to prevent employers' discriminatory use of AI technology and software. It prohibits employers from using AI in a discriminatory manner, including using an individual's ZIP code as a proxy identifier for characteristics, and requires employers to provide notice to individuals and employees that AI is being used.

Specifically, notice must be sent when AI is being used in processes related to "recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms or privileges, or conditions of employment."

The IDHR will develop and enforce rules regulating the notice requirement, including when and how to properly provide notice. While these rules are being promulgated, employers should ensure they understand how their algorithms—whether for resume screening, video interviewing, or worker management—affect decision-making. Employers should similarly collaborate with any third-party vendors to ensure measures are in place to monitor and detect potential discriminatory results.

Child Labor Law

Effective: January 1, 2025 | SB 3646

SB 3646 repeals the Illinois Child Labor Law and replaces it with the Child Labor Law of 2024. Among other changes, the new law specifies workplaces and industries in which minors cannot work and details hours and times of day that minors of different ages can work. It further requires employers to ensure that a minor

employee has a valid employment certificate and outlines civil and criminal penalties for violations of the law.

Changes to Secure Choice Savings Program Act

Effective: January 1, 2025 | HB 4719

The Secure Choice Savings Program Act requires most employers to offer their own qualified retirement plan or facilitate participation in the state's Secure Choice retirement savings program. This year's amendment allows participating employers to designate an open enrollment period, allows the creation of a qualified retirement plan at any time, and eliminates an automatic enrollment payroll deduction IRA from the list of qualified retirement plans.

Pay Transparency in Illinois Job Postings

Effective: January 1, 2025 | HB 3129

This amendment to the Illinois Equal Pay Act requires that employers with 15 or more employees disclose "pay scale and benefits" in all job postings. Required disclosures include the wage or salary, or the wage or salary range, plus a general description of benefits and other forms of compensation (including bonuses, stock options, and other incentives) the employer expects to offer for the position. The requirements apply to those jobs that (1) will be performed, at least in part, in Illinois or (2) will be performed outside of Illinois if the hired employee will report to a supervisor, office, or other worksite in Illinois.

An employer must include the "good faith" range it reasonably expects to offer and may meet its obligation to disclose benefit information by referencing an easily accessible public section of its website.

If an employer engages a third party to announce, post, or publish job opportunities, the third party must include this data in the job posting. However, if the employer fails to provide the necessary information, the third party may avoid liability by demonstrating that the omission was due to the employer's noncompliance with the requirements.

The amendments also require transparency regarding internal promotional opportunities. Employers are required to *announce, post, or otherwise make known all opportunities for promotion to current employees* no later than 14 calendar days after making an external job posting for the same position.

Employers must meet new recordkeeping requirements regarding postings, pay scales, benefits, and wages for each position for at least five years. Penalties range from $500 to $10,000 per offense, depending on whether the noncompliant job postings are active during the Illinois Department of Labor's (IDOL's) notice and whether the employer has previous violations.

Changes to Whistleblower Act

Effective: January 1, 2025 | HB 5561

HB 5561, which amends the Illinois Whistleblower Act, adds certain definitions and prohibits employers from retaliating against an employee who discloses or threatens to disclose information about the employer where the employee has a good faith belief that an activity, policy, or practice violates a law, rule, or regulation or poses a danger to public health or safety. The amendments do not apply retroactively.

Space Force Joins "Armed Forces" Definition

Effective: January 1, 2025 | HB 5640

In a sign of changing times, Illinois added the U.S. Space Force to its list of entities included as part of the "armed forces," "uniformed services," and "military service" across numerous statutes. Employers should include the Space Force in their military leave and related policies accordingly.

Sweeping E-Verify Requirements

Effective: January 1, 2025 | SB 508

In amending the Right to Privacy Act, Illinois clarified that state law does not require any employer to enroll in any electronic employment verification system, including E-Verify, unless obligated by federal law. Employers may voluntarily participate in such programs but cannot impose work authorization verification or reverification requirements greater than those required by federal law.

If an employer receives notification from any agency regarding a work authorization discrepancy (*e.g.*, employee name and Social Security number do not match), the employer cannot take any adverse action against the employee, including reverification, based on receipt of the notification alone. In addition, if an employer receives a notice of inspection of work authorization documents from an agency, the employer must provide notice to employees of the inspection within 72 hours (including the name of the entity conducting the inspections, the date the employer received notice of the inspection, the nature of the inspection, and a copy of the notice received by the employer). Finally, employers must provide notice to an employee if the employer or agency finds a discrepancy regarding work authorization status or if an inspection finds that an employee's documents do not establish that they are authorized to work in the United States. Notice deadlines range from five to seven business days, depending on the nature of the finding. Notice contents depend on the nature of the finding but generally include (1) a statement describing the finding, (2) the time period to contest the finding, and (3) a statement that the employee may have a representative of the employee's choosing in any discussions with the employer or inspecting entity.

In determining the penalty for violating these requirements, IDOL will consider the size of the business and the gravity of the violation. If a violation is willful and knowing, IDOL may impose a civil penalty ranging from $2,000 to $5,000 per affected employee for a first violation and $5,000 to $10,000 for each subsequent violation per affected employee, plus costs, attorneys' fees, and actual damages.

Illinois Wage Payment and Collection Act Amendment

Effective Date: January 1, 2025 | SB 3208

This amendment requires employers to maintain copies of employee pay stubs for at least three years, regardless of whether the employee's employment ends during that time. It also requires employers to provide employees and former employees with their pay stubs upon request. Violations can incur a civil penalty of up to $500 per violation.

Amendments to the Illinois Personnel Record Review Act (IPRRA)

Effective: January 1, 2025 | HB 3763

The amendments clarify that all requests by current or former employees for personnel records must:

1. Be made in writing.
2. Be made at reasonable intervals.
3. Be made to a person responsible for maintaining the employer's personnel records (examples provided in IPRRA text).
4. Identify what personnel records the employee is requesting.
5. Specify if the employee is requesting to inspect, copy, or receive copies of the records.
6. Specify whether records be provided in hardcopy or electronic format.
7. Specify whether inspection, copying, or receipt of copies will be performed by that employee's representative (including family members, lawyers, union stewards, other union officials, or translators).
8. If the records being requested include medical information and medical records, include a signed waiver to release medical information to that employee's specific representative.

Assuming a request meets these criteria, the requester is entitled to the following categories of information:

1. Any personnel documents that are, have been, or are intended to be used in determining that employee's qualifications for employment, promotion, transfer, additional compensation, benefits, discharge, or other disciplinary action (with limited exceptions).
2. Any employment-related contracts or agreements that the employer maintains are legally binding on the employee.
3. Any employee handbooks that the employer made available to the employee or that the employee acknowledged receiving.
4. Any written employer policies or procedures that the employer contends the employee was subject to and that concern qualifications for employment, promotion, transfer, compensation, benefits, discharge, or other disciplinary action.

The first category adds documents regarding benefits but is largely otherwise the same as the current version of the IPRRA. The remaining categories, however, are new and significantly expand the scope of employer obligations.

Employers must produce requested documents within seven *working* days after receipt of the request. If the employer can reasonably show that such a deadline cannot be met, the employer may have an additional seven *calendar* days to comply. The amendment clarifies that employers must grant at least two requests from an individual or their representative in a calendar year. The employer need not categorize responsive records in any specific manner.

The amendment retains existing exceptions to inspection of certain documents by employees and additionally protects an employer's trade secrets, client lists, sales projections, and financial data from inspection.

Illinois Worker Freedom of Speech Act Limits Employer Speech

Effective: January 1, 2025 | SB 3649

Illinois employers will be prohibited from terminating or disciplining employees (or threatening to do so) because they decline to attend or participate in an employer-sponsored meeting about political or religious matters or decline to receive communications about such meetings. The law defines "political matters" broadly, including elections, political parties, proposals to change legislation, regulations, or public policy and the decision to join or support any political, civic, community, fraternal, or labor organization.

The law, therefore, likely prohibits employers from, among other scenarios, holding meetings designed to discourage union organizing efforts. Further, since the definition of “employee” is not limited to nonmanagerial employees, employers may not be able to require managers to attend meetings designed to train them in union avoidance.

Remedies include injunctive relief, reinstatement, back pay, reestablishment of employee benefits, and any other appropriate relief deemed necessary by the court to make the employee whole. The court “shall” also award a prevailing employee reasonable attorneys’ fees and costs. In addition, IDOL must inquire into any alleged violations that are brought to its attention by an “interested party” to institute actions for additional penalties ($1,000 per violation). An “interested party” means an organization that monitors or is attentive to compliance with public or worker safety laws, wage-and-hour requirements, or other statutory requirements. This vague definition arguably includes unions and plaintiffs’ attorneys.

Legal challenges are likely. Similar legislation in other states prompted challenges based on preemption under the National Labor Relations Act (which allows employers to hold union meetings and protects employer speech on such subjects) and/or a violation of the First Amendment.

Authors

Adam Weiner

Counsel
AWeiner@perkinscoie.com 312.324.8506

Arthur J. Rooney

Partner
ARooney@perkinscoie.com 312.263.5071

Explore more in

Labor & Employment

Related insights

Update

Wrapping Paper Series: Issues and Trends Facing the Retail Industry During the Holiday Season

Update

New Statutory Requirements for Commercial Leases: SB 1103 Updates California Laws for Landlords and Commercial Tenants