



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1829

Introduced 2/15/2019, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

See Index

Creates the Workplace Transparency Act. Provides that an employer shall not enter into a contract or agreement with an employee or applicant if that contract or agreement contains a nondisclosure or nondisparagement clause or forced arbitration clause that covers workplace harassment or discrimination, including sexual harassment or retaliation for reporting, resisting, opposing, or assisting in the investigation of workplace harassment or discrimination. Makes corresponding changes in the Uniform Arbitration Act, the Illinois Human Rights Act, and the Illinois Freedom to Work Act. Changes the definition of "sexual harassment" in the State Officials and Employees Ethics Act and the Lobbyist Registration Act. Amends the Code of Civil Procedure. Provides that no court shall enter an order or judgment that has the purpose or effect of concealing a public hazard or any information concerning a public hazard, nor shall the court enter an order or judgment that has the purpose or effect of concealing any information that may be useful to members of the public in protecting themselves from injury that may result from the public hazard. Further amends the Illinois Human Rights Act. Requires the Department of Human Rights to adopt a model sexual harassment prevention training program and provides that all employers shall use the model or establish a training program that equals or exceeds the minimum standards provided by the model. Makes other changes concerning: definitions; procedures following an employer's failure to post required notices; and employer disclosure requirements. Amends the Victims' Economic Security and Safety Act. Makes the Act applicable in instances of sexual harassment. Provides that a civil action may be brought to enforce the Act without first filing an administrative complaint. Makes other changes concerning definitions and documentation. Effective immediately.

LRB101 10761 LNS 55883 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 1.

5 Section 1-1. Short title. This Article may be cited as the
6 Workplace Transparency Act. References in this Article to "this
7 Act" mean this Article.

8 Section 1-5. Definitions. As used in this Act:

9 "Applicant" means an applicant for employment as an
10 employee.

11 "Doing business with this State" means an entity or any of
12 its subsidiaries or parent entities receiving State funds
13 exceeding \$100,000 in exchange for goods or services provided
14 to the State or a third party. "Doing business with this State"
15 includes, but is not limited to, persons or entities performing
16 public work on State contracts, merchants of goods and services
17 purchased by the State, and persons or entities providing
18 services to third parties in exchange for funds provided
19 directly by the State.

20 "Employee" has the same meaning as set forth in Section
21 2-101 of the Illinois Human Rights Act.

22 "Employer" has the same meaning as set forth in Section

1 2-101 of the Illinois Human Rights Act.

2 "Forced arbitration clause" means a provision in a contract
3 or agreement requiring that disputes between the parties to the
4 contract or agreement are subjected to a binding dispute
5 resolution procedure separate from federal or State judicial or
6 administrative process, including contracts or agreements that
7 either contain or do not provide the right to opt out of the
8 agreement at a later date.

9 "Nondisclosure clause" means a provision in a contract or
10 agreement establishing that the parties to the contract or
11 agreement agree not to disclose information covered by the
12 terms and conditions of the contract or agreement.

13 "Nondisparagement clause" means a provision in a contract
14 or agreement requiring one or more parties to the contract or
15 agreement not to make negative statements about the other.

16 "Sexual harassment" has the same meaning as set forth in
17 Section 2-101 of the Illinois Human Rights Act.

18 Section 1-10. Prohibitions.

19 (a) An employer may not enter into a contract or agreement
20 with an employee or applicant, as a condition of employment,
21 promotion, compensation, benefits, or change in employment
22 status or contractual relationship, or as a term, condition, or
23 privilege of employment, if that contract or agreement contains
24 a nondisclosure or nondisparagement clause that covers
25 workplace harassment or discrimination, including sexual

1 harassment or retaliation for reporting, resisting, opposing,
2 or assisting in the investigation of workplace harassment or
3 discrimination. Any such nondisclosure or nondisparagement
4 clause is severable, and all other provisions of the employment
5 contract shall remain in effect.

6 (b) Notwithstanding any other provision of law, an employer
7 may not enforce or attempt to enforce a nondisparagement clause
8 or nondisclosure clause described in subsection (a).

9 (c) Except where inconsistent with federal law, an employer
10 may not enter into a contract or agreement with an employee or
11 applicant, as a condition of employment, promotion,
12 compensation, benefits, or change in employment status or
13 contractual relationship, or as a term, condition, or privilege
14 of employment, if that contract or agreement contains a forced
15 arbitration clause that covers workplace harassment or
16 discrimination, including sexual harassment or retaliation for
17 reporting, resisting, opposing, or assisting in the
18 investigation of workplace harassment or discrimination. Any
19 such forced arbitration clause is severable, and all other
20 provisions of the employment contract shall remain in effect.

21 (d) Any forced arbitration clause in an employment contract
22 is invalid, unenforceable, and void if the enforceability of
23 the forced arbitration clause is governed by State law. A
24 forced arbitration clause that is part of any written contract
25 of employment of seamen, railroad employees, or any other class
26 of workers engaged in foreign or interstate commerce or

1 otherwise exempted from the Federal Arbitration Act is
2 unenforceable and void. Any such forced arbitration clause is
3 severable, and all other provisions of the employment contract
4 shall remain in effect.

5 (e) Except where inconsistent with federal law, an employer
6 may not enforce or attempt to enforce a forced arbitration
7 clause described in subsections (c) and (d).

8 Section 1-15. Voidable agreements. A contract or agreement
9 containing a provision contrary to this Act that was entered
10 into on or before the effective date of this Act shall be
11 voidable by a party who entered into it under any of the
12 following circumstances:

13 (1) while under duress in the execution of the contract or
14 agreement;

15 (2) while incompetent or impaired at the time of execution
16 of the contract or agreement; or

17 (3) while a minor at the time of execution of the contract
18 or agreement, regardless of whether the person was represented
19 at the time by counsel, a guardian, or a parent.

20 Section 1-20. Unconscionable terms.

21 (a) There is a rebuttable presumption that the following
22 contractual terms are unconscionable if they are included in an
23 employment contract or agreement and the employee or applicant
24 does not draft the contract or agreement:

1 (1) A requirement that resolution of legal claims take
2 place in an inconvenient venue. As used in this paragraph,
3 "inconvenient venue" means: (i) for State law claims, a
4 place other than the county in which the employee or
5 applicant resides or the contract was consummated; and (ii)
6 for federal law claims, a place other than the federal
7 judicial district in which the employee or applicant
8 resides or the contract was consummated.

9 (2) A waiver of the employee or applicant's right to
10 assert claims or seek remedies provided by State or federal
11 statute.

12 (3) A waiver of the employee or applicant's right to
13 seek punitive damages as provided by law.

14 (4) A provision limiting the time that an employee or
15 applicant may bring an action to a period shorter than the
16 applicable statute of limitations.

17 (5) A requirement that the employee or applicant pay
18 fees and costs to bring a legal claim substantially in
19 excess of the fees and costs that State or federal courts
20 require to bring a claim.

21 (b) An employer may not include one of the presumptively
22 unconscionable terms identified in subsection (a) in an
23 employment contract or agreement if the employee or applicant
24 does not draft the contract.

25 Section 1-25. Settlement or separation agreements.

1 (a) This Act does not apply to a nondisclosure clause or
2 nondisparagement clause contained in a settlement agreement or
3 separation agreement that resolves legal claims or disputes if:

4 (1) the legal claims accrued or the disputes arose
5 before the settlement agreement or separation agreement
6 was executed;

7 (2) the clauses are mutually agreed upon and mutually
8 benefit both the employer and the employee;

9 (3) the settlement or separation agreement is provided
10 to all parties and the employee or applicant has 21 days to
11 consider the agreement before it is executed; and

12 (4) for a period of at least 7 days following execution
13 of the agreement, the employee or applicant has the right
14 to revoke the agreement and the agreement is not effective
15 or enforceable until the revocation period has expired.

16 (b) An employer may not unilaterally include a
17 nondisclosure clause or nondisparagement clause that solely
18 benefits the employer in a separation or settlement agreement.

19 (c) Notwithstanding signing, before or after the effective
20 date of this Act, a settlement or separation agreement
21 containing a nondisclosure or nondisparagement clause, an
22 employee or applicant retains any right that person would
23 otherwise have had to report a concern about workplace
24 harassment or discrimination, including sexual harassment or
25 another violation of the law, to the Department of Human Rights
26 or any other federal, State, or local agency, and any right

1 that person would otherwise have had to bring an action in a
2 court of this State or of the United States.

3 Section 1-30. Enforcement. A violation of this Act
4 constitutes a civil rights violation under the Illinois Human
5 Rights Act.

6 Section 1-35. Application. If there is a conflict between
7 any collective bargaining agreement and this Act, the
8 collective bargaining agreement controls.

9 Section 1-40. Conditions on entities doing business with
10 this State.

11 (a) An entity that includes forced arbitration clauses in
12 any of its contracts or agreements with employees or applicants
13 is prohibited from doing business with this State, unless 180
14 days before doing business with this State, the entity, or its
15 parent entity or subsidiary, provides reasonable notice to
16 employees or applicants that it will cease enforcing forced
17 arbitration clauses in employment contracts or agreements.

18 (b) An entity, or any of its parent entities or
19 subsidiaries, is prohibited from doing business with this State
20 if that entity, or any of its parent entities or subsidiaries,
21 enforces forced arbitration clauses against any employee or
22 applicant.

23 (c) Before the privilege of doing business with this State

1 is granted to any entity, the State agency representing this
2 State in the business relationship shall confirm that the
3 entity, its parent entities, and its subsidiaries do not form
4 or enforce forced arbitration clauses against employees or
5 applicants, and shall ensure, where appropriate, that a
6 contract between this State and the entity includes a provision
7 prohibiting that entity, its parent entities, and its
8 subsidiaries from forming or enforcing forced arbitration
9 clauses.

10 (d) If the Attorney General, after giving an entity doing
11 business with this State notice and an opportunity to be heard,
12 concludes that the entity has violated this Section, the
13 Attorney General shall notify all State agencies doing business
14 with the entity about the violation and may seek actual damages
15 caused to this State by the violation.

16 (e) If a State agency receives notice from the Attorney
17 General that an entity with whom the agency does business has
18 violated this Section, the agency shall terminate its business
19 dealings with the entity as soon as practical.

20 Section 1-45. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.

22 Article 2.

23 Section 2-5. The State Officials and Employees Ethics Act

1 is amended by changing Section 5-65 as follows:

2 (5 ILCS 430/5-65)

3 Sec. 5-65. Prohibition on sexual harassment.

4 (a) All persons have a right to work in an environment free
5 from sexual harassment. All persons subject to this Act are
6 prohibited from sexually harassing any person, regardless of
7 any employment relationship or lack thereof.

8 (b) For purposes of this Act, "sexual harassment" means any
9 unwelcome sexual advances, ~~or~~ requests for sexual favors, other
10 verbal or physical conduct of a sexual nature, or any other
11 conduct that has the purpose or effect of interfering with an
12 individual's work performance or creating an intimidating,
13 hostile, or offensive working environment because of the
14 individual's actual or perceived sex. This includes, but is not
15 limited to, conduct of a sexual nature when: (i) submission to
16 such conduct is made either explicitly or implicitly a term or
17 condition of an individual's employment; (ii) submission to or
18 rejection of such conduct by an individual is used as the basis
19 for employment decisions affecting such individual; or (iii)
20 such conduct has the purpose or effect of ~~substantially~~
21 interfering with an individual's work performance or creating
22 an intimidating, hostile, or offensive working environment.
23 For purposes of this definition, the phrase "working
24 environment" is not limited to a physical location an employee
25 is assigned to perform his or her duties and does not require

1 an employment relationship.

2 (Source: P.A. 100-554, eff. 11-16-17.)

3 Section 2-10. The Lobbyist Registration Act is amended by
4 changing Section 4.7 as follows:

5 (25 ILCS 170/4.7)

6 Sec. 4.7. Prohibition on sexual harassment.

7 (a) All persons have the right to work in an environment
8 free from sexual harassment. All persons subject to this Act
9 shall refrain from sexual harassment of any person.

10 (b) Beginning January 1, 2018, each natural person required
11 to register as a lobbyist under this Act must complete, at
12 least annually, a sexual harassment training program provided
13 by the Secretary of State. A natural person registered under
14 this Act must complete the training program no later than 30
15 days after registration or renewal under this Act. This
16 requirement does not apply to a lobbying entity or a client
17 that hires a lobbyist that (i) does not have employees of the
18 lobbying entity or client registered as lobbyists, or (ii) does
19 not have an actual presence in Illinois.

20 (c) No later than January 1, 2018, each natural person and
21 any entity required to register under this Act shall have a
22 written sexual harassment policy that shall include, at a
23 minimum: (i) a prohibition on sexual harassment; (ii) details
24 on how an individual can report an allegation of sexual

1 harassment, including options for making a confidential report
2 to a supervisor, ethics officer, Inspector General, or the
3 Department of Human Rights; (iii) a prohibition on retaliation
4 for reporting sexual harassment allegations, including
5 availability of whistleblower protections under the State
6 Officials and Employee Ethics Act, the Whistleblower Act, and
7 the Illinois Human Rights Act; and (iv) the consequences of a
8 violation of the prohibition on sexual harassment and the
9 consequences for knowingly making a false report.

10 (d) For purposes of this Act, "sexual harassment" means any
11 unwelcome sexual advances, ~~or~~ requests for sexual favors, other
12 verbal or physical conduct of a sexual nature, or any other
13 conduct that has the purpose or effect of interfering with an
14 individual's work performance or creating an intimidating,
15 hostile, or offensive working environment because of the
16 individual's actual or perceived sex. This includes, but is not
17 limited to, conduct of a sexual nature when: (i) submission to
18 such conduct is made either explicitly or implicitly a term or
19 condition of an individual's employment; (ii) submission to or
20 rejection of such conduct by an individual is used as the basis
21 for employment decisions affecting such individual; or (iii)
22 such conduct has the purpose or effect of ~~substantially~~
23 interfering with an individual's work performance or creating
24 an intimidating, hostile, or offensive working environment.
25 For the purposes of this definition, the phrase "working
26 environment" is not limited to a physical location an employee

1 is assigned to perform his or her duties and does not require
2 an employment relationship.

3 (e) The Secretary of State shall adopt rules for the
4 implementation of this Section. In order to provide for the
5 expeditious and timely implementation of this Section, the
6 Secretary of State shall adopt emergency rules under subsection
7 (z) of Section 5-45 of the Illinois Administrative Procedure
8 Act for the implementation of this Section no later than 60
9 days after the effective date of this amendatory Act of the
10 100th General Assembly.

11 (Source: P.A. 100-554, eff. 11-16-17.)

12 Section 2-15. The Uniform Arbitration Act is amended by
13 changing Section 1 as follows:

14 (710 ILCS 5/1) (from Ch. 10, par. 101)

15 Sec. 1. Validity of arbitration agreement. A written
16 agreement to submit any existing controversy to arbitration or
17 a provision in a written contract to submit to arbitration any
18 controversy thereafter arising between the parties is valid,
19 enforceable and irrevocable save upon such grounds as exist for
20 the revocation of any contract, except: (1) as provided in the
21 Workplace Transparency Act; and (2) ~~that~~ any agreement between
22 a patient and a hospital or health care provider to submit to
23 binding arbitration a claim for damages arising out of (i) ~~(1)~~
24 injuries alleged to have been received by a patient, or (ii)

1 ~~(2)~~ death of a patient, due to hospital or health care provider
2 negligence or other wrongful act, but not including intentional
3 torts, is also subject to the Health Care Arbitration Act.

4 (Source: P.A. 80-1012; 80-1031.)

5 Section 2-20. The Code of Civil Procedure is amended by
6 adding Section 2-2302 as follows:

7 (735 ILCS 5/2-2302 new)

8 Sec. 2-2302. Settlement of public hazard cases.

9 (a) This Section may be referred to as the Sunshine in
10 Litigation Law.

11 (b) As used in this Section, "public hazard" means an
12 instrumentality, including, but not limited to, any device,
13 instrument, person, procedure, product, or a condition of a
14 device, instrument, person, procedure, or product, that has
15 caused and is likely to cause injury.

16 (c) Except as otherwise provided by this Section, no court
17 shall enter an order or judgment that has the purpose or effect
18 of concealing a public hazard or any information concerning a
19 public hazard, nor shall the court enter an order or judgment
20 that has the purpose or effect of concealing any information
21 that may be useful to members of the public in protecting
22 themselves from injury that may result from the public hazard.

23 (d) Any portion of an agreement or contract that has the
24 purpose or effect of concealing a public hazard, any

1 information concerning a public hazard, or any information that
2 may be useful to members of the public in protecting themselves
3 from injury that may result from the public hazard, is void,
4 contrary to public policy, and may not be enforced.

5 (e) A trade secret, as defined by Section 2 of the Illinois
6 Trade Secrets Act, or other competitively sensitive,
7 confidential, or proprietary information that is not pertinent
8 to the public hazard shall remain confidential.

9 (f) Any substantially affected person, including, but not
10 limited to, a representative of news media, has standing to
11 contest an order, judgment, agreement, or contract that
12 violates this Section. A person may contest an order, judgment,
13 agreement, or contract that violates this Section by motion in
14 the court that entered the order or judgment, or by bringing a
15 declaratory judgment action.

16 (g) Upon motion and good cause shown by a party attempting
17 to prevent disclosure of information or material that has not
18 previously been disclosed, including, but not limited to, an
19 alleged trade secret, the court shall examine the disputed
20 information or material in camera. If the court finds that the
21 information or material or portions thereof consist of
22 information concerning a public hazard or information that may
23 be useful to members of the public in protecting themselves
24 from injury that may result from a public hazard, the court
25 shall allow disclosure of the information or material. If
26 allowing disclosure, the court shall allow disclosure of only

1 that portion of the information or material necessary or useful
2 to the public regarding the public hazard.

3 (h) Any portion of an agreement or contract that has the
4 purpose or effect of concealing information relating to the
5 settlement or resolution of any claim or action involving a
6 public hazard against this State, its agencies, or subdivisions
7 or against any municipality or constitutionally created body or
8 commission is void, contrary to public policy, and may not be
9 enforced. Any person has standing to contest an order,
10 judgment, agreement, or contract that violates this Section. A
11 person may contest an order, judgment, agreement, or contract
12 that violates this subsection by motion in the court that
13 entered the order or judgment, or by bringing a declaratory
14 judgment action.

15 Any person having custody of any document, record,
16 contract, or agreement relating to any settlement as set forth
17 in this Section shall maintain the public record in compliance
18 with the State Records Act.

19 A custodian who fails to disclose and provide any document,
20 record, contract, or agreement pursuant to this Section is
21 subject to the sanctions set forth in Section 11 of the State
22 Records Act.

23 (i) A governmental entity, except a municipality or county,
24 that settles a claim in tort involving a public hazard that
25 requires the expenditure of public funds in excess of \$5,000
26 shall provide notice of the settlement in the county in which

1 the claim arose within 60 days of entering into the settlement;
2 however, notice is not required if the settlement is approved
3 by a court of competent jurisdiction.

4 Section 2-25. The Illinois Human Rights Act is amended by
5 changing Sections 2-101, 5A-101, and 6-102 and by adding
6 Sections 2-108 and 7-114 as follows:

7 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

8 Sec. 2-101. Definitions. The following definitions are
9 applicable strictly in the context of this Article.

10 (A) Employee.

11 (1) "Employee" includes:

12 (a) Any individual performing services for
13 remuneration within this State for an employer,
14 including, but not limited to, a contractor,
15 subcontractor, vendor, consultant, or other person
16 providing services pursuant to a contract in the
17 workplace;

18 (b) An apprentice;

19 (c) An applicant for any apprenticeship.

20 For purposes of subsection (D) of Section 2-102 of this
21 Act, "employee" also includes an unpaid intern. An unpaid
22 intern is a person who performs work for an employer under
23 the following circumstances:

24 (i) the employer is not committed to hiring the

1 person performing the work at the conclusion of the
2 intern's tenure;

3 (ii) the employer and the person performing the
4 work agree that the person is not entitled to wages for
5 the work performed; and

6 (iii) the work performed:

7 (I) supplements training given in an
8 educational environment that may enhance the
9 employability of the intern;

10 (II) provides experience for the benefit of
11 the person performing the work;

12 (III) does not displace regular employees;

13 (IV) is performed under the close supervision
14 of existing staff; and

15 (V) provides no immediate advantage to the
16 employer providing the training and may
17 occasionally impede the operations of the
18 employer.

19 (2) "Employee" does not include:

20 (a) (Blank);

21 (b) Individuals employed by persons who are not
22 "employers" as defined by this Act;

23 (c) Elected public officials or the members of
24 their immediate personal staffs;

25 (d) Principal administrative officers of the State
26 or of any political subdivision, municipal corporation

1 or other governmental unit or agency;

2 (e) A person in a vocational rehabilitation
3 facility certified under federal law who has been
4 designated an evaluatee, trainee, or work activity
5 client.

6 (B) Employer.

7 (1) "Employer" includes:

8 (a) Any person employing 15 or more employees
9 within Illinois during 20 or more calendar weeks within
10 the calendar year of or preceding the alleged
11 violation;

12 (b) Any person employing one or more employees when
13 a complainant alleges civil rights violation due to
14 unlawful discrimination based upon his or her physical
15 or mental disability unrelated to ability, pregnancy,
16 or sexual harassment;

17 (c) The State and any political subdivision,
18 municipal corporation or other governmental unit or
19 agency, without regard to the number of employees;

20 (d) Any party to a public contract without regard
21 to the number of employees;

22 (e) A joint apprenticeship or training committee
23 without regard to the number of employees.

24 (2) "Employer" does not include any religious
25 corporation, association, educational institution,
26 society, or non-profit nursing institution conducted by

1 and for those who rely upon treatment by prayer through
2 spiritual means in accordance with the tenets of a
3 recognized church or religious denomination with respect
4 to the employment of individuals of a particular religion
5 to perform work connected with the carrying on by such
6 corporation, association, educational institution, society
7 or non-profit nursing institution of its activities.

8 (C) Employment Agency. "Employment Agency" includes both
9 public and private employment agencies and any person, labor
10 organization, or labor union having a hiring hall or hiring
11 office regularly undertaking, with or without compensation, to
12 procure opportunities to work, or to procure, recruit, refer or
13 place employees.

14 (D) Labor Organization. "Labor Organization" includes any
15 organization, labor union, craft union, or any voluntary
16 unincorporated association designed to further the cause of the
17 rights of union labor which is constituted for the purpose, in
18 whole or in part, of collective bargaining or of dealing with
19 employers concerning grievances, terms or conditions of
20 employment, or apprenticeships or applications for
21 apprenticeships, or of other mutual aid or protection in
22 connection with employment, including apprenticeships or
23 applications for apprenticeships.

24 (E) Sexual Harassment. "Sexual harassment" means any
25 unwelcome sexual advances, ~~or~~ requests for sexual favors, other
26 verbal or physical conduct of a sexual nature, or any other

1 conduct that has the purpose or effect of interfering with an
2 individual's work performance or creating an intimidating,
3 hostile, or offensive working environment because of the
4 individual's actual or perceived sex. This includes, but is not
5 limited to, conduct of a sexual nature when (1) submission to
6 such conduct is made either explicitly or implicitly a term or
7 condition of an individual's employment, (2) submission to or
8 rejection of such conduct by an individual is used as the basis
9 for employment decisions affecting such individual, or (3) such
10 conduct has the purpose or effect of ~~substantially~~ interfering
11 with an individual's work performance or creating an
12 intimidating, hostile or offensive working environment.

13 For purposes of this definition, the phrase "working
14 environment" is not limited to a physical location an employee
15 is assigned to perform his or her duties and does not require
16 an employment relationship.

17 (F) Religion. "Religion" with respect to employers
18 includes all aspects of religious observance and practice, as
19 well as belief, unless an employer demonstrates that he is
20 unable to reasonably accommodate an employee's or prospective
21 employee's religious observance or practice without undue
22 hardship on the conduct of the employer's business.

23 (G) Public Employer. "Public employer" means the State, an
24 agency or department thereof, unit of local government, school
25 district, instrumentality or political subdivision.

26 (H) Public Employee. "Public employee" means an employee of

1 the State, agency or department thereof, unit of local
2 government, school district, instrumentality or political
3 subdivision. "Public employee" does not include public
4 officers or employees of the General Assembly or agencies
5 thereof.

6 (I) Public Officer. "Public officer" means a person who is
7 elected to office pursuant to the Constitution or a statute or
8 ordinance, or who is appointed to an office which is
9 established, and the qualifications and duties of which are
10 prescribed, by the Constitution or a statute or ordinance, to
11 discharge a public duty for the State, agency or department
12 thereof, unit of local government, school district,
13 instrumentality or political subdivision.

14 (J) Eligible Bidder. "Eligible bidder" means a person who,
15 prior to contract award or prior to bid opening for State
16 contracts for construction or construction-related services,
17 has filed with the Department a properly completed, sworn and
18 currently valid employer report form, pursuant to the
19 Department's regulations. The provisions of this Article
20 relating to eligible bidders apply only to bids on contracts
21 with the State and its departments, agencies, boards, and
22 commissions, and the provisions do not apply to bids on
23 contracts with units of local government or school districts.

24 (K) Citizenship Status. "Citizenship status" means the
25 status of being:

26 (1) a born U.S. citizen;

- 1 (2) a naturalized U.S. citizen;
- 2 (3) a U.S. national; or
- 3 (4) a person born outside the United States and not a
- 4 U.S. citizen who is not an unauthorized alien and who is
- 5 protected from discrimination under the provisions of
- 6 Section 1324b of Title 8 of the United States Code, as now
- 7 or hereafter amended.
- 8 (Source: P.A. 99-78, eff. 7-20-15; 99-758, eff. 1-1-17; 100-43,
- 9 eff. 8-9-17.)

10 (775 ILCS 5/2-108 new)

11 Sec. 2-108. Employer disclosure requirements.

12 (A) Definitions. The following definitions are applicable

13 strictly to this Section:

14 (1) "Employer" includes:

15 (a) any party to a public contract without regard

16 to the number of employees;

17 (b) any person employing 100 or more employees

18 within this State during 20 or more calendar weeks

19 within the preceding calendar year; and

20 (c) the State and any political subdivision,

21 municipal corporation, or other governmental unit or

22 agency, without regard to the number of employees.

23 (2) "Settlement" means any commitment or agreement,

24 without regard to whether the commitment or agreement is in

25 writing, including any agreed judgment, stipulation,

1 decree, agreement to settle, assurance of discontinuance,
2 or otherwise, under which the employer directly or
3 indirectly:

4 (a) provides to an individual compensation or
5 other consideration because of an allegation that the
6 individual has been a victim of sexual harassment or
7 unlawful discrimination under this Act; or

8 (b) establishes conditions that affect the terms
9 of the employment, including terminating the
10 employment of the individual with the employer:

11 (i) because of the experience of the individual
12 with, or the participation of the individual in, an
13 alleged act of sexual harassment or unlawful
14 discrimination under this Act; and

15 (ii) in exchange for which the individual agrees or
16 commits not to bring legal, administrative, or any
17 other type of action against the employer; or publicly
18 disclose, for a period of any length, any information
19 regarding the alleged act on which the commitment or
20 agreement, as applicable, is based.

21 (B) Required disclosures. Beginning July 1, 2020, each
22 employer under this Section must disclose annually to the
23 Department of Human Rights the following information:

24 (1) the total number of settlements entered into during
25 the preceding year by the employer, a corporate executive
26 of the employer, or a subsidiary, a contractor, or a

1 subcontractor of the employer that relate to any alleged
2 act of sexual harassment or unlawful discrimination that:

3 (a) occurred in the workplace of the employer or a
4 subsidiary, contractor, or subcontractor of the
5 employer; or

6 (b) involved the behavior of an employee of the
7 employer, a corporate executive of the employer, or a
8 subsidiary, contractor, or subcontractor of the
9 employer, without regard to whether that behavior
10 occurred in the workplace of the employer, subsidiary,
11 contractor, or subcontractor;

12 (2) the total and average dollar amount paid with
13 respect to the settlements described in paragraph (1);

14 (3) how many settlements described in paragraph (1) are
15 in each of the following categories:

16 (a) sexual harassment or discrimination on the
17 basis of sex;

18 (b) discrimination or harassment on the basis of
19 race, color, or national origin;

20 (c) discrimination or harassment on the basis of
21 religion;

22 (d) discrimination or harassment on the basis of
23 age;

24 (e) discrimination or harassment on the basis of
25 disability;

26 (f) discrimination or harassment on the basis of

1 military status or unfavorable discharge from military
2 status;

3 (g) discrimination or harassment on the basis of
4 sexual orientation or gender identity; and

5 (h) discrimination or harassment on the basis of
6 any other characteristic protected under this Act;

7 (4) the total number of adverse judgments or
8 administrative rulings during the preceding year based on
9 claims of sexual harassment or unlawful discrimination
10 brought under this Act, Title VII of the Civil Rights Act
11 of 1964, or any other federal, State, or local law
12 prohibiting sexual harassment or unlawful discrimination;

13 (5) the total and the average dollar amount of those
14 adverse judgments or administrative rulings described in
15 paragraph (4);

16 (6) whether any equitable relief was ordered against
17 the employer in any adverse judgment or administrative
18 ruling described in paragraph (4);

19 (7) how many adverse judgments or administrative
20 rulings described in paragraph (4) are in each of the
21 following categories:

22 (a) sexual harassment or discrimination on the
23 basis of sex;

24 (b) discrimination or harassment on the basis of
25 race, color, or national origin;

26 (c) discrimination or harassment on the basis of

1 religion;

2 (d) discrimination or harassment on the basis of

3 age;

4 (e) discrimination or harassment on the basis of

5 disability;

6 (f) discrimination or harassment on the basis of

7 military status or unfavorable discharge from military

8 status;

9 (g) discrimination or harassment on the basis of

10 sexual orientation or gender identity; and

11 (h) discrimination or harassment on the basis of

12 any other characteristic protected under this Act;

13 (8) the average length of time required for the

14 employer to resolve a complaint relating to sexual

15 harassment or unlawful discrimination during the preceding

16 year;

17 (9) as of the date on which the disclosure is made, the

18 total number of complaints relating to sexual harassment or

19 unlawful discrimination that the employer is working to

20 resolve through:

21 (a) processes that are internal to the employer;

22 (b) mediation or arbitration; and

23 (c) litigation; and

24 (10) a description of measures taken by the employer or

25 any subsidiary, contractor, or subcontractor of the

26 employer to prevent sexual harassment and unlawful

1 discrimination in the workplace.

2 (C) Prohibited disclosures. An employer may not disclose
3 the name of a victim of an act of alleged sexual harassment or
4 unlawful discrimination in any disclosures required under this
5 Section.

6 (D) Annual reporting. The Department shall publish an
7 annual report containing an anonymized summary of the
8 disclosures made under this Section and that report shall be
9 filed with the General Assembly.

10 (E) Continuing violations. The Department shall open a
11 preliminary investigation if the information disclosed under
12 this Section identifies an employer, a corporate executive of
13 the employer, or a subsidiary, contractor, or subcontractor of
14 the employer who has:

15 (1) disclosed more than 10 separate settlements,
16 adverse judgments, or administrative rulings in the
17 preceding year; or

18 (2) disclosed settlements, adverse judgments, or
19 administrative rulings requiring the employer to pay more
20 than \$1 million during the preceding year. If a continuing
21 violation is found, the Department shall initiate a charge
22 of a civil rights violation.

23 (G) Failure to report and penalties. If an employer fails
24 to make any disclosures required under this Section, the
25 Department shall issue a notice to show cause giving the
26 employer 30 days to disclose the required information. If the

1 employer does not make the required disclosures within 30 days,
2 the Department shall initiate a charge of a civil rights
3 violation.

4 (H) Rules. The Department shall adopt any rules it deems
5 necessary for implementation of this Section.

6 (775 ILCS 5/5A-101) (from Ch. 68, par. 5A-101)

7 Sec. 5A-101. Definitions. The following definitions are
8 applicable strictly in the content of this Article, except that
9 the term "sexual harassment in elementary, secondary, and
10 higher education" as defined herein has the meaning herein
11 ascribed to it whenever that term is used anywhere in this Act.

12 (A) Institution of Elementary, Secondary, or Higher
13 Education. "Institution of elementary, secondary, or higher
14 education" means: (1) a publicly or privately operated
15 university, college, community college, junior college,
16 business or vocational school, or other educational
17 institution offering degrees and instruction beyond the
18 secondary school level; or (2) a publicly or privately operated
19 elementary school or secondary school.

20 (B) Degree. "Degree" means: (1) a designation,
21 appellation, series of letters or words or other symbols which
22 signifies or purports to signify that the recipient thereof has
23 satisfactorily completed an organized academic, business or
24 vocational program of study offered beyond the secondary school
25 level; or (2) a designation signifying that the recipient has

1 graduated from an elementary school or secondary school.

2 (C) Student. "Student" means any individual admitted to or
3 applying for admission to an institution of elementary,
4 secondary, or higher education, or enrolled on a full or part
5 time basis in a course or program of academic, business or
6 vocational instruction offered by or through an institution of
7 elementary, secondary, or higher education.

8 (D) Elementary, Secondary, or Higher Education
9 Representative. "Elementary, secondary, or higher education
10 representative" means and includes the president, chancellor
11 or other holder of any executive office on the administrative
12 staff of an institution of higher education, an administrator
13 of an elementary school or secondary school, a member of the
14 faculty of an institution of higher education, including but
15 not limited to a dean or associate or assistant dean, a
16 professor or associate or assistant professor, and a full or
17 part time instructor or visiting professor, including a
18 graduate assistant or other student who is employed on a
19 temporary basis of less than full time as a teacher or
20 instructor of any course or program of academic, business or
21 vocational instruction offered by or through an institution of
22 higher education, and any teacher, instructor, or other
23 employee of an elementary school or secondary school.

24 (E) Sexual Harassment in Elementary, Secondary, and Higher
25 Education. "Sexual harassment in elementary, secondary, and
26 higher education" means any unwelcome sexual advances, ~~or~~

1 requests for sexual favors, other verbal or physical conduct of
2 a sexual nature, or any other conduct that has the purpose or
3 effect of creating an intimidating, hostile, or offensive
4 educational environment because of the individual's actual or
5 perceived sex made by an elementary, secondary, or higher
6 education representative to a student, or any conduct of a
7 sexual nature exhibited by an elementary, secondary, or higher
8 education representative toward a student, when such conduct
9 has the purpose of ~~substantially~~ interfering with the student's
10 educational performance or creating an intimidating, hostile
11 or offensive educational environment; or when the elementary,
12 secondary, or higher education representative either
13 explicitly or implicitly makes the student's submission to such
14 conduct a term or condition of, or uses the student's
15 submission to or rejection of such conduct as a basis for
16 determining:

17 (1) Whether the student will be admitted to an
18 institution of elementary, secondary, or higher education;

19 (2) The educational performance required or expected
20 of the student;

21 (3) The attendance or assignment requirements
22 applicable to the student;

23 (4) To what courses, fields of study or programs,
24 including honors and graduate programs, the student will be
25 admitted;

26 (5) What placement or course proficiency requirements

1 are applicable to the student;

2 (6) The quality of instruction the student will
3 receive;

4 (7) What tuition or fee requirements are applicable to
5 the student;

6 (8) What scholarship opportunities are available to
7 the student;

8 (9) What extracurricular teams the student will be a
9 member of or in what extracurricular competitions the
10 student will participate;

11 (10) Any grade the student will receive in any
12 examination or in any course or program of instruction in
13 which the student is enrolled;

14 (11) The progress of the student toward successful
15 completion of or graduation from any course or program of
16 instruction in which the student is enrolled; or

17 (12) What degree, if any, the student will receive.

18 (Source: P.A. 96-1319, eff. 7-27-10.)

19 (775 ILCS 5/6-102)

20 Sec. 6-102. Violations of other Acts. A person who violates
21 the Section 11-117-12.2 of the Illinois Municipal Code, Section
22 224.05 of the Illinois Insurance Code, Section 8-201.5 of the
23 Public Utilities Act, Sections 2-1401.1, 9-107.10, 9-107.11,
24 and 15-1501.6 of the Code of Civil Procedure, Section 4.05 of
25 the Interest Act, the Military Personnel Cellular Phone

1 Contract Termination Act, Section 405-272 of the Civil
2 Administrative Code of Illinois, Section 10-63 of the Illinois
3 Administrative Procedure Act, Sections 30.25 and 30.30 of the
4 Military Code of Illinois, Section 16 of the Landlord and
5 Tenant Act, Section 26.5 of the Retail Installment Sales Act,
6 or Section 37 of the Motor Vehicle Leasing Act, or the
7 Workplace Transparency Act commits a civil rights violation
8 within the meaning of this Act.

9 (Source: P.A. 100-1101, eff. 1-1-19.)

10 (775 ILCS 5/7-114 new)

11 Sec. 7-114. Sexual harassment prevention training.

12 (A) The General Assembly finds that the Equal Employment
13 Opportunity Commission estimates that 25% to 85% of working
14 women have experienced sexual harassment on the job.
15 Organizational tolerance of sexual harassment has a
16 detrimental influence in workplaces by creating a hostile
17 environment for women, reducing productivity, and increasing
18 legal liability. It is the General Assembly's intent to
19 encourage employers to adopt and actively implement policies to
20 ensure their workplaces are safe for women to report concerns
21 about sexual harassment without fear of retaliation, loss of
22 status, or loss of promotional opportunities.

23 (B) The Department shall produce a model sexual harassment
24 prevention training program aimed at the prevention of sexual
25 harassment in the workplace. This model program shall be

1 interactive and, at a minimum, include the following:

2 (1) an explanation of sexual harassment consistent
3 with this Act;

4 (2) examples of conduct that constitutes unlawful
5 sexual harassment;

6 (3) a summary of federal and State statutory provisions
7 concerning sexual harassment and remedies available to
8 victims of sexual harassment;

9 (4) a summary of employees' rights and available
10 remedies and forums to adjudicate complaints;

11 (5) examples of appropriate and inappropriate conduct
12 by supervisors; and

13 (6) a summary of additional responsibilities of
14 supervisors in the prevention, investigation, and
15 adjudication of sexual harassment.

16 (C) Every employer shall use the model sexual harassment
17 prevention training program under this Section or establish a
18 training program for employees and supervisors to prevent
19 sexual harassment that equals or exceeds the minimum standards
20 provided by the model training. The sexual harassment
21 prevention training shall be provided to all employees on an
22 annual basis.

23 (D) An employer who violates this Section is subject to a
24 civil penalty as follows:

25 (1) For an employer with fewer than 4 employees: a
26 penalty not to exceed \$500 for a first offense; a penalty

1 not to exceed \$1,000 for a second offense; a penalty not to
2 exceed \$3,000 for a third or subsequent offense.

3 (2) For an employer with 4 or more employees: a penalty
4 not to exceed \$1,000 for a first offense; a penalty not to
5 exceed \$3,000 for a second offense; a penalty not to exceed
6 \$5,000 for a third or subsequent offense.

7 The appropriateness of the penalty to the size of the
8 business of the employer charged and the gravity of the
9 violation shall be considered in determining the amount of the
10 penalty. The penalty may be recovered in a civil action brought
11 by the Director in any circuit court.

12 Section 2-30. The Illinois Freedom to Work Act is amended
13 by adding Section 20 as follows:

14 (820 ILCS 90/20 new)

15 Sec. 20. Nondisclosure agreements prohibited.

16 (a) No employer shall enter into a nondisclosure agreement
17 with any low-wage employee of the employer.

18 (b) A nondisclosure agreement between an employer and a
19 low-wage employee is illegal and void.

20 Section 2-35. The Victims' Economic Security and Safety Act
21 is amended by changing Sections 10, 15, 20, 25, 30, 35, and 45
22 as follows:

1 (820 ILCS 180/10)

2 Sec. 10. Definitions. In this Act, except as otherwise
3 expressly provided:

4 (1) "Commerce" includes trade, traffic, commerce,
5 transportation, or communication; and "industry or
6 activity affecting commerce" means any activity, business,
7 or industry in commerce or in which a labor dispute would
8 hinder or obstruct commerce or the free flow of commerce,
9 and includes "commerce" and any "industry affecting
10 commerce".

11 (2) "Course of conduct" means a course of repeatedly
12 maintaining a visual or physical proximity to a person or
13 conveying oral or written threats, including threats
14 conveyed through electronic communications, or threats
15 implied by conduct.

16 (3) "Department" means the Department of Labor.

17 (4) "Director" means the Director of Labor.

18 (5) "Domestic or sexual violence" means domestic
19 violence, sexual assault, or stalking.

20 (6) "Domestic violence" means abuse, as defined in
21 Section 103 of the Illinois Domestic Violence Act of 1986,
22 by a family or household member, as defined in Section 103
23 of the Illinois Domestic Violence Act of 1986.

24 (7) "Electronic communications" includes
25 communications via telephone, mobile phone, computer,
26 e-mail, video recorder, fax machine, telex, ~~or~~ pager,

1 online platform (including, but not limited to, any
2 public-facing website, web application, digital
3 application, or social network), or any other electronic
4 communication, as defined in Section 12-7.5 of the Criminal
5 Code of 2012.

6 (8) "Employ" includes to suffer or permit to work.

7 (9) Employee.

8 (A) In general. "Employee" means any person
9 employed by an employer.

10 (B) Basis. "Employee" includes a person employed
11 as described in subparagraph (A) on a full or part-time
12 basis, or as a participant in a work assignment as a
13 condition of receipt of federal or State income-based
14 public assistance.

15 (10) "Employer" means any of the following: (A) the
16 State or any agency of the State; (B) any unit of local
17 government or school district; or (C) any person that
18 employs at least one employee.

19 (11) "Employment benefits" means all benefits provided
20 or made available to employees by an employer, including
21 group life insurance, health insurance, disability
22 insurance, sick leave, annual leave, educational benefits,
23 pensions, and profit-sharing, regardless of whether such
24 benefits are provided by a practice or written policy of an
25 employer or through an "employee benefit plan". "Employee
26 benefit plan" or "plan" means an employee welfare benefit

1 plan or an employee pension benefit plan or a plan which is
2 both an employee welfare benefit plan and an employee
3 pension benefit plan.

4 (12) "Family or household member", for employees with a
5 family or household member who is a victim of domestic
6 violence, sexual violence, or sexual harassment ~~or sexual~~
7 ~~violence~~, means a spouse, parent, son, daughter, other
8 person related by blood or by present or prior marriage,
9 other person who shares a relationship through a son or
10 daughter, and persons jointly residing in the same
11 household.

12 (13) "Parent" means the biological parent of an
13 employee or an individual who stood in loco parentis to an
14 employee when the employee was a son or daughter. "Son or
15 daughter" means a biological, adopted, or foster child, a
16 stepchild, a legal ward, or a child of a person standing in
17 loco parentis, who is under 18 years of age, or is 18 years
18 of age or older and incapable of self-care because of a
19 mental or physical disability.

20 (14) "Perpetrator" means an individual who commits or
21 is alleged to have committed any act or threat of domestic
22 violence, sexual violence, or sexual harassment ~~or sexual~~
23 ~~violence~~.

24 (15) "Person" means an individual, partnership,
25 association, corporation, business trust, legal
26 representative, or any organized group of persons.

1 (16) "Public agency" means the Government of the State
2 or political subdivision thereof; any agency of the State,
3 or of a political subdivision of the State; or any
4 governmental agency.

5 (17) "Public assistance" includes cash, food stamps,
6 medical assistance, housing assistance, and other benefits
7 provided on the basis of income by a public agency or
8 public employer.

9 (18) "Reduced work schedule" means a work schedule that
10 reduces the usual number of hours per workweek, or hours
11 per workday, of an employee.

12 (19) "Repeatedly" means on 2 or more occasions.

13 (20) "Sexual assault" means any conduct proscribed by:
14 (i) Article 11 of the Criminal Code of 2012 except Sections
15 11-35 and 11-45; (ii) Sections 12-13, 12-14, 12-14.1,
16 12-15, and 12-16 of the Criminal Code of 2012; or (iii) a
17 similar provision of the Criminal Code of 1961 ~~the Criminal~~
18 ~~Code of 1961 or the Criminal Code of 2012 in Sections~~
19 ~~11 1.20, 11 1.30, 11 1.40, 11 1.50, 11 1.60, 12 13, 12 14,~~
20 ~~12-14.1, 12-15, and 12-16.~~

21 (21) "Stalking" means any conduct proscribed by the
22 Criminal Code of 1961 or the Criminal Code of 2012 in
23 Sections 12-7.3, 12-7.4, and 12-7.5.

24 (22) "Victim" or "survivor" means an individual who has
25 been subjected to domestic violence, sexual violence, or
26 sexual harassment ~~or sexual violence.~~

1 (23) "Victim services organization" means a nonprofit,
2 nongovernmental organization that provides assistance to
3 victims of domestic violence, sexual violence, or sexual
4 harassment ~~or sexual violence~~ or to advocates for such
5 victims, including a rape crisis center, an organization
6 carrying out a domestic violence program, an organization
7 operating a shelter or providing counseling services, or a
8 legal services organization or other organization
9 providing assistance through the legal process.

10 (24) "Emotional distress" means significant mental
11 suffering, anxiety, or alarm.

12 (25) "Sexual harassment" means any harassment or
13 discrimination on the basis of an individual's actual or
14 perceived sex or gender, including unwelcome sexual
15 advances, requests for sexual favors, other verbal or
16 physical conduct of a sexual nature, or any other conduct
17 of a sexual nature directed at a specific person that would
18 cause the victim or survivor emotional distress.

19 (Source: P.A. 99-765, eff. 1-1-17.)

20 (820 ILCS 180/15)

21 Sec. 15. Purposes. The purposes of this Act are:

22 (1) to promote the State's interest in reducing
23 domestic violence, dating violence, sexual assault, sexual
24 harassment, and stalking by enabling victims of domestic
25 violence, sexual violence, or sexual harassment ~~or sexual~~

1 ~~violence~~ to maintain the financial independence necessary
2 to leave abusive situations, achieve safety, and minimize
3 the physical and emotional injuries from domestic
4 violence, sexual violence, or sexual harassment ~~or sexual~~
5 ~~violence~~, and to reduce the devastating economic
6 consequences of domestic violence, sexual violence, or
7 sexual harassment ~~or sexual violence~~ to employers and
8 employees;

9 (2) to address the failure of existing laws to protect
10 the employment rights of employees who are victims of
11 domestic violence, sexual violence, or sexual harassment
12 ~~or sexual violence~~ and employees with a family or household
13 member who is a victim of domestic violence, sexual
14 violence, or sexual harassment ~~or sexual violence~~, by
15 protecting the civil and economic rights of those
16 employees, and by furthering the equal opportunity of women
17 for economic self-sufficiency and employment free from
18 discrimination;

19 (3) to accomplish the purposes described in paragraphs
20 (1) and (2) by (A) entitling employed victims of domestic
21 violence, sexual violence, or sexual harassment ~~or sexual~~
22 ~~violence~~ and employees with a family or household member
23 who is a victim of domestic violence, sexual violence, or
24 sexual harassment ~~or sexual violence~~ to take unpaid leave
25 to seek medical help, legal assistance, counseling, safety
26 planning, and other assistance without penalty from their

1 employers for the employee or the family or household
2 member who is a victim; and (B) prohibiting employers from
3 discriminating against any employee who is a victim of
4 domestic violence, sexual violence, or sexual harassment
5 ~~or sexual violence~~ or any employee who has a family or
6 household member who is a victim of domestic violence,
7 sexual violence, or sexual harassment ~~or sexual violence,~~
8 in a manner that accommodates the legitimate interests of
9 employers and protects the safety of all persons in the
10 workplace.

11 (Source: P.A. 96-635, eff. 8-24-09.)

12 (820 ILCS 180/20)

13 Sec. 20. Entitlement to leave due to domestic violence,
14 sexual violence, or sexual harassment ~~or sexual violence.~~

15 (a) Leave requirement.

16 (1) Basis. An employee who is a victim of domestic
17 violence, sexual violence, or sexual harassment ~~or sexual~~
18 ~~violence~~ or an employee who has a family or household
19 member who is a victim of domestic violence, sexual
20 violence, or sexual harassment ~~or sexual violence~~ whose
21 interests are not adverse to the employee as it relates to
22 the domestic violence, sexual violence, or sexual
23 harassment ~~or sexual violence~~ may take unpaid leave from
24 work if the employee or employee's family or household
25 member is experiencing an incident of domestic violence,

1 sexual violence, or sexual harassment ~~or sexual violence~~ or
2 to address domestic violence, sexual violence, or sexual
3 harassment ~~or sexual violence~~ by:

4 (A) seeking medical attention for, or recovering
5 from, physical or psychological injuries caused by
6 domestic violence, sexual violence, or sexual
7 harassment ~~or sexual violence~~ to the employee or the
8 employee's family or household member;

9 (B) obtaining services from a victim services
10 organization for the employee or the employee's family
11 or household member;

12 (C) obtaining psychological or other counseling
13 for the employee or the employee's family or household
14 member;

15 (D) participating in safety planning, temporarily
16 or permanently relocating, or taking other actions to
17 increase the safety of the employee or the employee's
18 family or household member from future domestic
19 violence, sexual violence, or sexual harassment ~~or~~
20 ~~sexual violence~~ or ensure economic security; or

21 (E) seeking legal assistance or remedies to ensure
22 the health and safety of the employee or the employee's
23 family or household member, including preparing for or
24 participating in any civil or criminal legal
25 proceeding related to or derived from domestic
26 violence, sexual violence, or sexual harassment ~~or~~

1 ~~sexual violence.~~

2 (2) Period. Subject to subsection (c), an employee
3 working for an employer that employs at least 50 employees
4 shall be entitled to a total of 12 workweeks of leave
5 during any 12-month period. Subject to subsection (c), an
6 employee working for an employer that employs at least 15
7 but not more than 49 employees shall be entitled to a total
8 of 8 workweeks of leave during any 12-month period. Subject
9 to subsection (c), an employee working for an employer that
10 employs at least one but not more than 14 employees shall
11 be entitled to a total of 4 workweeks of leave during any
12 12-month period. The total number of workweeks to which an
13 employee is entitled shall not decrease during the relevant
14 12-month period. This Act does not create a right for an
15 employee to take unpaid leave that exceeds the unpaid leave
16 time allowed under, or is in addition to the unpaid leave
17 time permitted by, the federal Family and Medical Leave Act
18 of 1993 (29 U.S.C. 2601 et seq.).

19 (3) Schedule. Leave described in paragraph (1) may be
20 taken consecutively, intermittently, or on a reduced work
21 schedule.

22 (b) Notice. The employee shall provide the employer with at
23 least 48 hours' advance notice of the employee's intention to
24 take the leave, unless providing such notice is not
25 practicable. When an unscheduled absence occurs, the employer
26 may not take any action against the employee if the employee,

1 upon request of the employer and within a reasonable period
2 after the absence, provides certification under subsection
3 (c).

4 (c) Certification.

5 (1) In general. The employer may require the employee
6 to provide certification to the employer that:

7 (A) the employee or the employee's family or
8 household member is a victim of domestic violence,
9 sexual violence, or sexual harassment ~~or sexual~~
10 ~~violence~~; and

11 (B) the leave is for one of the purposes enumerated
12 in paragraph (a) (1).

13 The employee shall provide such certification to the
14 employer within a reasonable period after the employer
15 requests certification.

16 (2) Contents. An employee shall ~~may~~ satisfy the
17 certification requirement of paragraph (1) by providing to
18 the employer a sworn statement of the employee, and, if the
19 employee has possession of such documents, the employee
20 shall provide one of the following ~~upon obtaining such~~
21 ~~documents the employee shall provide:~~

22 (A) documentation from an employee, agent, or
23 volunteer of a victim services organization, an
24 attorney, a member of the clergy, or a medical or other
25 professional from whom the employee or the employee's
26 family or household member has sought assistance in

1 addressing domestic violence, sexual violence, or
2 sexual harassment ~~or sexual violence~~ and the effects of
3 the violence or harassment;

4 (B) a police or court record; or

5 (C) other corroborating evidence.

6 The employee shall choose which document to submit, and
7 the employer shall not request or require more than one
8 document to be submitted if the reason for leave is related
9 to the same incident of domestic violence, sexual violence,
10 or sexual harassment or the same perpetrator of the
11 domestic violence, sexual violence, or sexual harassment.

12 (d) Confidentiality. All information provided to the
13 employer pursuant to subsection (b) or (c), including a
14 statement of the employee or any other documentation, record,
15 or corroborating evidence, and the fact that the employee has
16 requested or obtained leave pursuant to this Section, shall be
17 retained in the strictest confidence by the employer, except to
18 the extent that disclosure is:

19 (1) requested or consented to in writing by the
20 employee; or

21 (2) otherwise required by applicable federal or State
22 law.

23 (e) Employment and benefits.

24 (1) Restoration to position.

25 (A) In general. Any employee who takes leave under
26 this Section for the intended purpose of the leave

1 shall be entitled, on return from such leave:

2 (i) to be restored by the employer to the
3 position of employment held by the employee when
4 the leave commenced; or

5 (ii) to be restored to an equivalent position
6 with equivalent employment benefits, pay, and
7 other terms and conditions of employment.

8 (B) Loss of benefits. The taking of leave under
9 this Section shall not result in the loss of any
10 employment benefit accrued prior to the date on which
11 the leave commenced.

12 (C) Limitations. Nothing in this subsection shall
13 be construed to entitle any restored employee to:

14 (i) the accrual of any seniority or employment
15 benefits during any period of leave; or

16 (ii) any right, benefit, or position of
17 employment other than any right, benefit, or
18 position to which the employee would have been
19 entitled had the employee not taken the leave.

20 (D) Construction. Nothing in this paragraph shall
21 be construed to prohibit an employer from requiring an
22 employee on leave under this Section to report
23 periodically to the employer on the status and
24 intention of the employee to return to work.

25 (2) Maintenance of health benefits.

26 (A) Coverage. Except as provided in subparagraph

1 (B), during any period that an employee takes leave
2 under this Section, the employer shall maintain
3 coverage for the employee and any family or household
4 member under any group health plan for the duration of
5 such leave at the level and under the conditions
6 coverage would have been provided if the employee had
7 continued in employment continuously for the duration
8 of such leave.

9 (B) Failure to return from leave. The employer may
10 recover the premium that the employer paid for
11 maintaining coverage for the employee and the
12 employee's family or household member under such group
13 health plan during any period of leave under this
14 Section if:

15 (i) the employee fails to return from leave
16 under this Section after the period of leave to
17 which the employee is entitled has expired; and

18 (ii) the employee fails to return to work for a
19 reason other than:

20 (I) the continuation, recurrence, or onset
21 of domestic violence, sexual violence, or
22 sexual harassment ~~or sexual violence~~ that
23 entitles the employee to leave pursuant to this
24 Section; or

25 (II) other circumstances beyond the
26 control of the employee.

1 (C) Certification.

2 (i) Issuance. An employer may require an
3 employee who claims that the employee is unable to
4 return to work because of a reason described in
5 subclause (I) or (II) of subparagraph (B)(ii) to
6 provide, within a reasonable period after making
7 the claim, certification to the employer that the
8 employee is unable to return to work because of
9 that reason. The employee shall choose which
10 document to submit.

11 (ii) Contents. An employee may satisfy the
12 certification requirement of clause (i) by
13 providing to the employer:

14 (I) a sworn statement of the employee;

15 (II) documentation from an employee,
16 agent, or volunteer of a victim services
17 organization, an attorney, a member of the
18 clergy, or a medical or other professional from
19 whom the employee has sought assistance in
20 addressing domestic violence, sexual violence,
21 or sexual harassment ~~or sexual violence~~ and the
22 effects of that violence or harassment;

23 (III) a police or court record; or

24 (IV) other corroborating evidence.

25 (D) Confidentiality. All information provided to
26 the employer pursuant to subparagraph (C), including a

1 statement of the employee or any other documentation,
2 record, or corroborating evidence, and the fact that
3 the employee is not returning to work because of a
4 reason described in subclause (I) or (II) of
5 subparagraph (B)(ii) shall be retained in the
6 strictest confidence by the employer, except to the
7 extent that disclosure is:

8 (i) requested or consented to in writing by the
9 employee; or

10 (ii) otherwise required by applicable federal
11 or State law.

12 (f) Prohibited acts.

13 (1) Interference with rights.

14 (A) Exercise of rights. It shall be unlawful for
15 any employer to interfere with, restrain, or deny the
16 exercise of or the attempt to exercise any right
17 provided under this Section.

18 (B) Employer discrimination. It shall be unlawful
19 for any employer to discharge or harass any individual,
20 or otherwise discriminate against any individual with
21 respect to compensation, terms, conditions, or
22 privileges of employment of the individual (including
23 retaliation in any form or manner) because the
24 individual:

25 (i) exercised any right provided under this
26 Section; or

1 (ii) opposed any practice made unlawful by
2 this Section.

3 (C) Public agency sanctions. It shall be unlawful
4 for any public agency to deny, reduce, or terminate the
5 benefits of, otherwise sanction, or harass any
6 individual, or otherwise discriminate against any
7 individual with respect to the amount, terms, or
8 conditions of public assistance of the individual
9 (including retaliation in any form or manner) because
10 the individual:

11 (i) exercised any right provided under this
12 Section; or

13 (ii) opposed any practice made unlawful by
14 this Section.

15 (2) Interference with proceedings or inquiries. It
16 shall be unlawful for any person to discharge or in any
17 other manner discriminate (as described in subparagraph
18 (B) or (C) of paragraph (1)) against any individual because
19 such individual:

20 (A) has filed any charge, or has instituted or
21 caused to be instituted any proceeding, under or
22 related to this Section;

23 (B) has given, or is about to give, any information
24 in connection with any inquiry or proceeding relating
25 to any right provided under this Section; or

26 (C) has testified, or is about to testify, in any

1 inquiry or proceeding relating to any right provided
2 under this Section.

3 (Source: P.A. 99-765, eff. 1-1-17.)

4 (820 ILCS 180/25)

5 Sec. 25. Existing leave usable for addressing domestic
6 violence, sexual violence, or sexual harassment ~~or sexual~~
7 ~~violence~~. An employee who is entitled to take paid or unpaid
8 leave (including family, medical, sick, annual, personal, or
9 similar leave) from employment, pursuant to federal, State, or
10 local law, a collective bargaining agreement, or an employment
11 benefits program or plan, may elect to substitute any period of
12 such leave for an equivalent period of leave provided under
13 Section 20. The employer may not require the employee to
14 substitute available paid or unpaid leave for leave provided
15 under Section 20.

16 (Source: P.A. 96-635, eff. 8-24-09.)

17 (820 ILCS 180/30)

18 Sec. 30. Victims' employment sustainability; prohibited
19 discriminatory acts.

20 (a) An employer shall not fail to hire, refuse to hire,
21 discharge, constructively discharge, or harass any individual,
22 otherwise discriminate against any individual with respect to
23 the compensation, terms, conditions, or privileges of
24 employment of the individual, or retaliate against an

1 individual in any form or manner, and a public agency shall not
2 deny, reduce, or terminate the benefits of, otherwise sanction,
3 or harass any individual, otherwise discriminate against any
4 individual with respect to the amount, terms, or conditions of
5 public assistance of the individual, or retaliate against an
6 individual in any form or manner, because:

7 (1) the individual involved:

8 (A) is or is perceived to be a victim of domestic
9 violence, sexual violence, or sexual harassment ~~or~~
10 ~~sexual violence~~;

11 (B) attended, participated in, prepared for, or
12 requested leave to attend, participate in, or prepare
13 for a criminal or civil court proceeding relating to an
14 incident of domestic violence, sexual violence, or
15 sexual harassment ~~or sexual violence~~ of which the
16 individual or a family or household member of the
17 individual was a victim, or requested or took leave for
18 any other reason provided under Section 20;

19 (C) requested an adjustment to a job structure,
20 workplace facility, or work requirement, including a
21 transfer, reassignment, or modified schedule, leave, a
22 changed telephone number or seating assignment,
23 installation of a lock, or implementation of a safety
24 procedure or any other reasonable accommodation in
25 response to actual or threatened domestic violence,
26 sexual violence, or sexual harassment ~~or sexual~~

1 ~~violence~~, regardless of whether the request was
2 granted; or

3 (D) is an employee whose employer is subject to
4 Section 21 of the Workplace Violence Prevention Act; or

5 (2) the workplace is disrupted or threatened by the
6 action of a person whom the individual states has committed
7 or threatened to commit domestic violence, sexual
8 violence, or sexual harassment ~~or sexual violence~~ against
9 the individual or the individual's family or household
10 member.

11 (b) In this Section:

12 (1) "Discriminate", used with respect to the terms,
13 conditions, or privileges of employment or with respect to
14 the terms or conditions of public assistance, includes not
15 making a reasonable accommodation to the known limitations
16 resulting from circumstances relating to being a victim of
17 domestic violence, sexual violence, or sexual harassment
18 ~~or sexual violence~~ or a family or household member being a
19 victim of domestic violence, sexual violence, or sexual
20 harassment ~~or sexual violence~~ of an otherwise qualified
21 individual:

22 (A) who is:

23 (i) an applicant or employee of the employer
24 (including a public agency); or

25 (ii) an applicant for or recipient of public
26 assistance from a public agency; and

1 (B) who is:

2 (i) or is perceived to be a victim of domestic
3 violence, sexual violence, or sexual harassment ~~a~~
4 ~~victim of domestic or sexual violence~~; or

5 (ii) with a family or household member who is a
6 victim of domestic violence, sexual violence, or
7 sexual harassment ~~or sexual violence~~ whose
8 interests are not adverse to the individual in
9 subparagraph (A) as it relates to the domestic
10 violence, sexual violence, or sexual harassment ~~or~~
11 ~~sexual violence~~;

12 unless the employer or public agency can demonstrate that
13 the accommodation would impose an undue hardship on the
14 operation of the employer or public agency.

15 A reasonable accommodation must be made in a timely
16 fashion. Any exigent circumstances or danger facing the
17 employee or his or her family or household member shall be
18 considered in determining whether the accommodation is
19 reasonable.

20 (2) "Qualified individual" means:

21 (A) in the case of an applicant or employee
22 described in paragraph (1)(A)(i), an individual who,
23 but for being a victim of domestic violence, sexual
24 violence, or sexual harassment ~~or sexual violence~~ or
25 with a family or household member who is a victim of
26 domestic violence, sexual violence, or sexual

1 harassment ~~or sexual violence~~, can perform the
2 essential functions of the employment position that
3 such individual holds or desires; or

4 (B) in the case of an applicant or recipient
5 described in paragraph (1)(A)(ii), an individual who,
6 but for being a victim of domestic violence, sexual
7 violence, or sexual harassment ~~or sexual violence~~ or
8 with a family or household member who is a victim of
9 domestic violence, sexual violence, or sexual
10 harassment ~~or sexual violence~~, can satisfy the
11 essential requirements of the program providing the
12 public assistance that the individual receives or
13 desires.

14 (3) "Reasonable accommodation" may include, but is not
15 limited to, an adjustment to a job structure, workplace
16 facility, or work requirement, including a transfer,
17 reassignment, or modified schedule, leave, a changed
18 telephone number or seating assignment, installation of a
19 lock, or implementation of a safety procedure, or
20 assistance in documenting domestic violence, sexual
21 violence, or sexual harassment ~~or sexual violence~~ that
22 occurs at the workplace or in work-related settings, in
23 response to actual or threatened domestic violence, sexual
24 violence, or sexual harassment ~~or sexual violence~~.

25 (4) Undue hardship.

26 (A) In general. "Undue hardship" means an action

1 requiring significant difficulty or expense, when
2 considered in light of the factors set forth in
3 subparagraph (B).

4 (B) Factors to be considered. In determining
5 whether a reasonable accommodation would impose an
6 undue hardship on the operation of an employer or
7 public agency, factors to be considered include:

8 (i) the nature and cost of the reasonable
9 accommodation needed under this Section;

10 (ii) the overall financial resources of the
11 facility involved in the provision of the
12 reasonable accommodation, the number of persons
13 employed at such facility, the effect on expenses
14 and resources, or the impact otherwise of such
15 accommodation on the operation of the facility;

16 (iii) the overall financial resources of the
17 employer or public agency, the overall size of the
18 business of an employer or public agency with
19 respect to the number of employees of the employer
20 or public agency, and the number, type, and
21 location of the facilities of an employer or public
22 agency; and

23 (iv) the type of operation of the employer or
24 public agency, including the composition,
25 structure, and functions of the workforce of the
26 employer or public agency, the geographic

1 separateness of the facility from the employer or
2 public agency, and the administrative or fiscal
3 relationship of the facility to the employer or
4 public agency.

5 (c) An employer subject to Section 21 of the Workplace
6 Violence Prevention Act shall not violate any provisions of the
7 Workplace Violence Prevention Act.

8 (d) All information provided to the employer pursuant to
9 subsection (b) or (c), including a statement of the employee
10 and any other documentation, record, or corroborating
11 evidence, and the fact that the employee has requested or
12 obtained leave pursuant to this Section, shall be retained in
13 the strictest confidence by the employer, except to the extent
14 that disclosure is:

15 (1) requested or consented to in writing by the
16 employee; or

17 (2) otherwise required by applicable federal or State
18 law.

19 (Source: P.A. 98-766, eff. 7-16-14; 99-78, eff. 7-20-15.)

20 (820 ILCS 180/35)

21 Sec. 35. Enforcement; remedies.

22 (a) Department of Labor.

23 (1) The Director or his or her authorized
24 representative shall administer and enforce the provisions
25 of this Act. Any employee or a representative of employees

1 who believes his or her rights under this Act have been
2 violated may, within 3 years after the alleged violation
3 occurs, file a complaint with the Department requesting a
4 review of the alleged violation. A copy of the complaint
5 shall be sent to the person who allegedly committed the
6 violation, who shall be the respondent. Upon receipt of a
7 complaint, the Director shall cause such investigation to
8 be made as he or she deems appropriate. The investigation
9 shall provide an opportunity for a public hearing at the
10 request of any party to the review to enable the parties to
11 present information relating to the alleged allegation.
12 The parties shall be given written notice of the time and
13 place of the hearing at least 7 days before the hearing.
14 Upon receiving the report of the investigation, the
15 Director shall make findings of fact. If the Director finds
16 that a violation did occur, he or she shall issue a
17 decision incorporating his or her findings and requiring
18 the party committing the violation to take such affirmative
19 action to abate the violation as the Director deems
20 appropriate, including:

21 (A) damages equal to the amount of wages, salary,
22 employment benefits, public assistance, or other
23 compensation denied or lost to such individual by
24 reason of the violation, and the interest on that
25 amount calculated at the prevailing rate;

26 (B) such equitable relief as may be appropriate,

1 including but not limited to hiring, reinstatement,
2 promotion, and reasonable accommodations; and

3 (C) reasonable attorney's fees, reasonable expert
4 witness fees, and other costs of the action to be paid
5 by the respondent to a prevailing employee.

6 If the Director finds that there was no violation, he
7 or she shall issue an order denying the complaint. An order
8 issued by the Director under this Section shall be final
9 and subject to judicial review under the Administrative
10 Review Law.

11 (2) The Director shall adopt rules necessary to
12 administer and enforce this Act in accordance with the
13 Illinois Administrative Procedure Act. The Director shall
14 have the powers and the parties shall have the rights
15 provided in the Illinois Administrative Procedure Act for
16 contested cases, including, but not limited to, provisions
17 for depositions, subpoena power and procedures, and
18 discovery and protective order procedures.

19 (3) Intervention. The Attorney General of Illinois may
20 intervene on behalf of the Department if the Department
21 certifies that the case is of general public importance.
22 Upon such intervention the court may award such relief as
23 is authorized to be granted to an employee who has filed a
24 complaint or whose representative has filed a complaint
25 under this Section.

26 (b) Refusal to pay damages. Any employer who has been

1 ordered by the Director of Labor or the court to pay damages
2 under this Section and who fails to do so within 30 days after
3 the order is entered is liable to pay a penalty of 1% per
4 calendar day to the employee for each day of delay in paying
5 the damages to the employee.

6 (c) An employee who believes his or her rights under this
7 Act or any rule adopted under this Act have been violated may,
8 within 3 years after the date of the last event constituting
9 the alleged violation for which the action is brought, file a
10 complaint with the Department of Labor or file a civil action.
11 In a claim filed in the circuit court, any employer that
12 violates this Act or any rule adopted under this Act is liable
13 to each affected individual for actual and compensatory
14 damages, punitive damages, and such equitable relief as may be
15 appropriate, in addition to reasonable attorney's fees,
16 reasonable expert witness fees, and other costs of the action
17 paid to the prevailing employee. A civil action may be brought
18 without first filing an administrative complaint.

19 (Source: P.A. 93-591, eff. 8-25-03.)

20 (820 ILCS 180/45)

21 Sec. 45. Effect on other laws and employment benefits.

22 (a) More protective laws, agreements, programs, and plans.
23 Nothing in this Act shall be construed to supersede any
24 provision of any federal, State, or local law, collective
25 bargaining agreement, or employment benefits program or plan

1 that provides:

2 (1) greater leave benefits for victims of domestic
3 violence, sexual violence, or sexual harassment ~~or sexual~~
4 ~~violence~~ than the rights established under this Act; or

5 (2) leave benefits for a larger population of victims
6 of domestic violence, sexual violence, or sexual
7 harassment ~~or sexual violence~~ (as defined in such law,
8 agreement, program, or plan) than the victims of domestic
9 violence, sexual violence, or sexual harassment ~~or sexual~~
10 ~~violence~~ covered under this Act.

11 (b) Less protective laws, agreements, programs, and plans.
12 The rights established for employees who are victims of
13 domestic violence, sexual violence, or sexual harassment ~~or~~
14 ~~sexual violence~~ and employees with a family or household member
15 who is a victim of domestic violence, sexual violence, or
16 sexual harassment ~~or sexual violence~~ under this Act shall not
17 be diminished by any federal, State or local law, collective
18 bargaining agreement, or employment benefits program or plan.

19 (Source: P.A. 93-591, eff. 8-25-03.)

20 Article 99.

21 Section 99-99. Effective date. This Act takes effect upon
22 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 5 ILCS 430/5-65

5 25 ILCS 170/4.7

6 710 ILCS 5/1 from Ch. 10, par. 101

7 735 ILCS 5/2-2302 new

8 775 ILCS 5/2-101 from Ch. 68, par. 2-101

9 775 ILCS 5/2-108 new

10 775 ILCS 5/5A-101 from Ch. 68, par. 5A-101

11 775 ILCS 5/6-102

12 775 ILCS 5/7-114 new

13 820 ILCS 90/20 new

14 820 ILCS 180/10

15 820 ILCS 180/15

16 820 ILCS 180/20

17 820 ILCS 180/25

18 820 ILCS 180/30

19 820 ILCS 180/35

20 820 ILCS 180/45