



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0291

Introduced 2/2/2023, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.990 new

Creates the Secure Jobs Act. Establishes a framework for employee discipline and discharge. Prohibits the unjust discharge of an employee. Contains provisions concerning factors to be considered when determining whether an employee has been discharged for just cause and the conditions that allow for a discharge based on bona fide economic reasons. Requires employers to use progressive discipline measures. Limits the use of electronic monitoring. Provides for severance pay. Directs the Department of Labor to adopt rules and administer the Act. Provides statutory remedies for wrongfully discharged employees and authorizes the recovery of damages. Creates the Wrongful Discharge Enforcement Fund as a special fund in the State treasury. Effective January 1, 2024.

LRB103 27122 SPS 53490 b

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the Secure
5 Jobs Act.

6 Section 5. Definitions. In this Act:

7 "Benefits" means the cash value of any employer-paid
8 vacation leave, sick leave, medical insurance plan, disability
9 insurance plan, life insurance plan, annuity, and pension
10 benefit plan in effect on the date of discharge.

11 "Casual employee" refers to work in or around a private
12 home, that is irregular, uncertain, or incidental in nature
13 and duration.

14 "Constructive discharge" means the voluntary termination
15 of employment by an employee because of a situation created by
16 an act or omission of the employer that an objective,
17 reasonable person would find so intolerable that voluntary
18 termination is the only reasonable alternative.

19 "Day or temporary laborer", "day and temporary labor
20 services agency", and "third party client" have the meaning
21 ascribed to those terms under Section 5 of the Day and
22 Temporary Labor Services Act.

23 "Department" means the Department of Labor.

1 "Discharge" means any cessation of employment, including
2 constructive discharge, indefinite suspension, layoff, or
3 reduction in hours.

4 "Egregious misconduct" means deliberate or grossly
5 negligent conduct that:

6 (1) endangers the safety or well-being of the
7 individual, co-workers, customers, or other persons,
8 including discrimination against, harassment of, or
9 causing physical or emotional harm to co-workers,
10 customers, or other persons;

11 (2) causes serious damage to the employer's or
12 customers' property or business interests, including, but
13 not limited to, theft; or

14 (3) involves grossly inappropriate behavior such as
15 working under the influence of intoxicants or controlled
16 substances.

17 "Electronic monitoring" means the collection of
18 information concerning worker activities, communications,
19 actions, biometric information, as that term is defined in
20 Section 10 of the Biometric Information Privacy Act, or
21 behaviors by electronic means including, but not limited to,
22 video or audio surveillance, electronic work pace tracking,
23 and other means.

24 "Employ" means to suffer or permit to work.

25 "Employee" has the meaning given that term in Section 2 of
26 the Illinois Wage Payment and Collection Act, and also

1 includes a "day or temporary laborer" but does not include a
2 casual employee who performs work in or around a private home
3 that is irregular in nature. A person may be an employee of 2
4 or more employers at the same time. "Employee" does not
5 include supervisors or persons who hold elective office.

6 "Employer" has the meaning given that term in Section 2 of
7 the Illinois Wage Payment and Collection Act, and also
8 includes a "third party client" and a "day and temporary labor
9 services agency". More than one entity may be the employer of
10 an employee, including in circumstances where one entity
11 controls, is controlled by, or is under common control with
12 another employer, or where one entity exerts control over the
13 operations of another employer. An employer-employee
14 relationship is presumed to exist when an individual performs
15 labor or services for an employer. The party asserting that an
16 individual is not an employee must establish by a
17 preponderance of the evidence that the individual is an
18 independent contractor.

19 "Just cause" means:

- 20 (1) an employee's failure to satisfactorily perform
21 his or her job duties or to comply with employer policies;
22 (2) an employee's egregious misconduct; or
23 (3) bona fide economic reasons.

24 "Progressive discipline" means an employer's disciplinary
25 system that provides a graduated range of reasonable responses
26 to an employee's failure to satisfactorily perform his or her

1 job duties or comply with employer policies, with the
2 disciplinary measures ranging from mild to severe, depending
3 on the frequency and degree of the failure, and the employee
4 being afforded a reasonable period of time to address
5 concerns.

6 "Reduction in hours" means a reduction in an employee's
7 hours of work totaling at least 15% of the employee's average
8 weekly work hours.

9 "Relator" means a current or former employee, contractor,
10 subcontractor, or employee of such a contractor or
11 subcontractor of an alleged violator of this Act, regardless
12 of whether that person has received full or partial relief,
13 who seeks relief through a public enforcement action brought
14 under this Act.

15 "Representative organization" means a nonprofit or labor
16 organization selected by a relator to initiate a public
17 enforcement action on the relator's behalf.

18 "Severance pay" has the meaning of that term as described
19 in Section 50.

20 "Short-term position" means employment pursuant to a
21 written contract that specifies that the position is to end
22 after a specified period of time, not to exceed 6 months, where
23 the employer can show that the work or need in question is
24 expected to end, such as in the case of a seasonal job or a job
25 to perform a specific project.

1 Section 10. Prohibition against discharge without just
2 cause.

3 (a) An employer shall not discharge an employee without
4 just cause. Just cause may not be based on off-duty conduct
5 unless there is a demonstrable and material nexus between the
6 conduct and the employee's job performance or the employer's
7 legitimate business interests.

8 (b) The employer shall within 3 days provide a written
9 explanation to any discharged employee of the specific reasons
10 for the discharge. In determining whether an employer had just
11 cause for discharge, a fact finder may not consider any
12 reasons not included in such written explanation. Where an
13 employer fails to provide a written explanation to a
14 discharged employee, the discharge shall not be deemed to be
15 based on just cause. All information and judgments that the
16 employer considered in making the determination shall be made
17 available to the employee or his or her representative.

18 (c) The employer shall bear the burden of proving just
19 cause including, if applicable, that the employer followed
20 progressive discipline, by a preponderance of non-hearsay
21 evidence in any proceeding brought pursuant to this Act.

22 Section 15. Factors to be considered. In determining
23 whether an employee has been discharged for just cause for
24 failure to satisfactorily perform job duties or for failure to
25 comply with employer policies, the fact finder shall consider,

1 in addition to any other relevant factors, whether:

2 (1) the employee knew or should have known of his or
3 her job duties or of the employer's policy;

4 (2) the employer provided relevant and adequate
5 training to the employee;

6 (3) the employer's policy was reasonable and applied
7 consistently;

8 (4) the employer undertook a thorough, fair and
9 objective investigation; and

10 (5) the employer used progressive discipline.

11 Section 20. Discharge for failure to satisfactorily
12 perform job duties. A discharge for failure to satisfactorily
13 perform job duties or comply with employer policies shall not
14 be deemed to be based on just cause unless the employer has
15 used progressive discipline. Provided, further, that the time
16 period between a first warning or discipline and termination
17 shall be not less than 15 days, and the employer may not rely
18 on a warning or discipline issued more than one year in the
19 past to justify a discharge.

20 Section 25. Progressive discipline. Under progressive
21 discipline, an employer may discharge an employee immediately
22 for egregious misconduct. A finding of misconduct for purposes
23 of unemployment insurance eligibility shall not necessarily
24 constitute serious misconduct for purposes of this Act. An

1 employee discharged for egregious misconduct shall not be
2 entitled to severance pay.

3 Section 30. Discharge based on bona fide economic reasons.
4 A discharge shall not be deemed to be based on bona fide
5 economic reasons unless the following conditions are met:

6 (1) the discharge results from a reduction in
7 production, sales, services, profit, or funding of the
8 employer, or technological or organizational changes in
9 the employer's operations that necessitate full or partial
10 reduction of the employer's operations;

11 (2) the employees or groups of employees to be
12 discharged are identified using broadly applicable
13 criteria that do not appear to target individuals; and

14 (3) the bona fide economic reasons justifying the
15 discharge were specified in writing to the employee at the
16 time of the discharge and are supported by the employer's
17 records.

18 A discharge shall be presumed not to be based on bona fide
19 economic reasons where the employer hired or hires another
20 employee to perform substantially the same work within 90 days
21 before or after the discharge. Elimination of staff redundancy
22 created by a merger or acquisition shall not be deemed a bona
23 fide economic reason for discharge of employees.

24 Section 35. Employee actions that do not constitute just

1 cause for termination. In no event shall any of the following
2 actions by an employee constitute just cause for termination:

3 (1) an employee's communication about workplace
4 practices or policies, including, but not limited to,
5 health or safety practices or hazards related to COVID-19,
6 to any person, including to an employer, an employer's
7 agent, other employees, a government agency, or the
8 public, including through print, online, social media, or
9 any other media; or

10 (2) an employee's refusal to work under conditions
11 that the employee reasonably believes would expose him or
12 her, other employees, or the public to an unreasonable
13 health or safety risk, including, but not limited to, risk
14 of illness or exposure to COVID-19.

15 An employer shall not retaliate against any employee or
16 other person for such conduct. Notwithstanding any other
17 provision of law, such conduct shall constitute protected
18 conduct and may not be contractually prohibited, or subject to
19 civil or criminal sanction or liability.

20 Section 40. Employer assessments. An employer must
21 conduct its own assessment of an employee, and may not rely on
22 data gathered through electronic monitoring in discharging or
23 disciplining an employee. Such employment decisions must be
24 made based on human-provided information sources such as
25 supervisors' assessments and documentation, or consulting

1 co-workers. An employer must disclose in advance to employees
2 any electronic monitoring or data collection at a workplace,
3 disclose the purposes for which the data will be used, and
4 provide employees meaningful opportunities to challenge any
5 electronic monitoring or data systems. However, data gathered
6 through electronic monitoring may be used in the following
7 circumstances: for non-employment-related purposes; for
8 discharging or disciplining an employee in cases of egregious
9 misconduct or involving threats to the health or safety of
10 other persons; or where required by State or federal law.
11 Provided further, information on employee tardiness or
12 absenteeism from electronic time-keeping systems that are used
13 to measure employee work shifts for payroll purposes may be
14 considered for purposes of employee discharge and discipline.

15 Section 45. Discharge; short-term position. Discharge at
16 the end of a short-term position shall not require a showing of
17 just cause and shall not entitle an employee to severance pay.
18 A position shall not be deemed to be a short-term position
19 where the employer hires another employee, including another
20 employee who is a day or temporary laborer, to perform
21 substantially the same work within 90 days before or after the
22 discharge. However, discharge prior to the end of the term of a
23 short-term position shall require a showing of just cause and
24 shall entitle the employee to severance pay.

1 Section 50. Severance pay. An employee shall accrue an
2 entitlement to one hour of severance pay for every 12.5 hours
3 worked during his or her first 2,080 hours of employment, and
4 for every 50 hours worked thereafter. Within 14 days after
5 discharge, the employer shall pay the employee his or her
6 accrued severance pay, calculated based on the number of hours
7 accrued multiplied by the employee's rate of pay upon
8 discharge. However, an employee who is discharged at the end
9 of a short-term position shall not be entitled to severance
10 pay. Severance pay shall be exclusive of final compensation
11 due an employee upon separation, as provided for under Section
12 2 of the Illinois Wage Payment and Collection Act. For
13 purposes of determining an employee's hours of employment,
14 tenure, or seniority, multiple periods worked for the
15 employer, including through a day and temporary services
16 agency, and any time worked for a predecessor employer shall
17 be aggregated.

18 Section 55. Employment through day and temporary labor
19 services agencies.

20 (a) Where an employee is a day or temporary laborer who has
21 worked 100 hours or more for a single third party client, the
22 third party client shall be deemed his or her employer, shall
23 become subject to the protections of this Act as regards the
24 employee, and may not discharge the employee without just
25 cause. However, if the employee's employment with the third

1 party client qualifies as a short-term position, then a
2 showing of just cause for discharge at the end of the
3 position's defined term shall not be required, nor shall
4 payment of severance pay at the end of the position's defined
5 term be required. In such a case the third party client must
6 show that all of the criteria and conditions for a short-term
7 position in Section 45 and in the definition of short-term
8 position are satisfied in order for the employment of the day
9 or temporary laborer to qualify as a short-term position.

10 (b) Where an employee is a day or temporary laborer who has
11 not worked 100 hours or more for a single third party client
12 but has worked 100 hours or more for a temporary labor services
13 agency, aggregating all hours worked for multiple third party
14 clients, the employee shall become subject to more limited
15 protection under the Act. Such an employee shall be given
16 priority by the temporary labor services agency for future
17 work assignments over employees who have not worked 100 hours
18 or more for the agency. When such an employee is discharged by
19 the day and temporary labor services agency, the employee
20 shall be entitled to payment of severance pay, as determined
21 under Section 50. Such an employee shall be deemed discharged
22 if he or she receives no work assignment offers from the
23 temporary labor services agency for a period of 21 days or
24 more. However, if such an employee's employment with the
25 temporary labor services agency ends in order for the employee
26 to commence direct employment with a third party client, then

1 no payment of severance pay shall be required.

2 (c) Employers that are third party clients and employers
3 that are day and temporary labor services agencies shall be
4 jointly and severally responsible with one another for
5 compliance with the Act's requirements.

6 Section 60. Collective bargaining agreement exemption. The
7 requirements of this Act shall not apply to employees who are
8 covered by a valid collective bargaining agreement.

9 Section 65. Retaliation prohibited. No employer or any
10 other person shall threaten, intimidate, discipline,
11 discharge, demote, suspend, or harass an employee, reduce the
12 hours or pay of an employee, inform another employer that an
13 employee has alleged that the employer violated this Act or
14 any other law, discriminate against an employee, or take any
15 other adverse action that penalizes an employee for, or is
16 reasonably likely to deter an employee from, exercising or
17 attempting to exercise any right protected under this Act or
18 any other law, including informing other employees or persons
19 of their rights under this Act or any other law, assisting in
20 any way with any complaint or investigation involving this
21 Act, including another workers' case, or sharing information
22 about workplace issues with other employees or the public,
23 including on social media. Threats or any other adverse action
24 related to perceived immigration status or work authorization

1 shall constitute threats or adverse actions as those terms are
2 used in this Section. An employee need not explicitly refer to
3 this Act or any other law or the rights enumerated herein to be
4 protected from retaliation. The protections afforded by this
5 Section shall apply to any person who mistakenly but in good
6 faith alleges violations of this Act.

7 Section 70. Protection of former employees from
8 blacklisting. An employer shall not prevent or attempt to
9 prevent, by word or writing of any kind, a former employee from
10 obtaining employment with any other employer. An employer is
11 not prohibited from providing by word or writing to any other
12 employer to whom the discharged employee has applied for
13 employment a truthful statement of the reason for discharge.

14 Section 75. Notice and posting of rights.

15 (a) The Department shall publish and make available
16 notices informing employees of their rights protected under
17 this Act. Employers shall post such notices in a conspicuous
18 location in the workplace or at any job site, and shall give a
19 notice to each employee at the time of hiring and on an annual
20 basis. The notices shall be made available in a downloadable
21 format on the Department's website in English, Spanish,
22 Polish, Mandarin, and Cantonese.

23 (b) Every employer shall conspicuously post at any
24 workplace or job site where any employee works the notices

1 described in subsection (a) that apply to the particular
2 workplace or job site. The notices shall be in English and any
3 language spoken as a primary language by at least 5% of the
4 employees at that location if the Department has made the
5 notice available in that language.

6 Section 80. Recordkeeping.

7 (a) Employers shall retain records documenting their
8 compliance with the applicable requirements of this Act. In
9 addition, day and temporary labor services agencies shall
10 maintain records of each individual day or temporary laborer's
11 start date with such day and temporary labor services agency
12 and the dates on which that laborer was placed with a third
13 party client. Employers shall retain such records for a period
14 of 3 years and shall allow the Department access to such
15 records and other information, in accordance with applicable
16 law and with appropriate notice, in furtherance of an
17 investigation conducted in accordance with this Act.

18 (b) In addition, employers shall report annually to the
19 Department, and any person who requests a copy of:

20 (1) the employer's total employment each year broken
21 down by full-time employment (defined as at least 30 hours
22 per week), part-time employment (defined as less than 30
23 hours per week), short-term employment, and employment
24 through a temp or staffing agency; and

25 (2) the employer's total number of separations each

1 year broken down by whether the separation was a discharge
2 for cause, a discharge for bona fide economic reasons, a
3 separation as a result of the end of a short-term
4 position, an employee resignation, or an employee
5 retirement.

6 Within 14 days after a request for such records, employers
7 shall make requested records available for review and copying.

8 (c) An employer's failure to maintain, retain, or produce
9 a record or other information required to be maintained by
10 this Section relevant to a material fact alleged by an
11 employee in a complaint brought pursuant to this Section or
12 requested by the Department pursuant to an investigation,
13 creates a rebuttable presumption that such fact is true.

14 Section 85. Administrative implementation and enforcement.

15 (a) The Department shall administer and enforce the
16 provisions of this Act and shall, within 120 days after its
17 effective date, adopt rules necessary to administer and
18 enforce the provisions of this Act. The rules shall include
19 the procedures for investigations and hearings under this Act.
20 The adoption, amendment, or rescission of rules shall be in
21 conformity with the requirements of the Illinois
22 Administrative Procedure Act.

23 (b) An aggrieved employee or his or her duly authorized
24 representative may file a complaint with the Department
25 regarding violations by an employer of this Act or of any

1 implementing rules. Upon receiving a complaint or on its own
2 initiative, the Department shall investigate potential
3 violations, make a determination whether a violation has
4 occurred, and take appropriate action to enforce the
5 provisions of this Act and any implementing rules.

6 (c) If an employer is found by the Department to have
7 violated this Act or any rules adopted under this Act, the
8 Department shall order the following, in addition to any other
9 remedy provided by law:

10 (1) In the case of unlawful discharge, retaliation,
11 blacklisting, or unlawful electronic monitoring, actual
12 and liquidated damages payable to each aggrieved worker
13 equal to, at the aggrieved party's election, \$10,000 or 3
14 times the actual damages including, but not limited to,
15 unpaid wages, benefits, other remuneration owed, and
16 compensation for emotional pain, suffering, inconvenience,
17 and mental anguish, unless an adjudicator finds that
18 mitigating circumstances are present, in which case the
19 adjudicator may order that the preceding liquidated
20 damages amount be reduced as circumstances make
21 appropriate, as well as reinstatement, restoration of
22 hours, other injunctive relief (including to rectify
23 conditions that led to constructive discharge), punitive
24 damages, and such other remedies as may be appropriate.

25 (2) In the case of discharge where severance pay was
26 not provided, payment of severance pay together with an

1 additional 2 times that amount as liquidated damages, and
2 such other remedies as may be appropriate including
3 punitive damages.

4 (3) In the case of failure to provide a timely written
5 explanation for a discharge, injunctive relief and
6 liquidated damages in an amount equal to \$5,000, unless an
7 adjudicator finds that mitigating circumstances are
8 present, in which case the adjudicator may order that the
9 preceding liquidated damage amount be reduced as
10 circumstances make appropriate, and such other remedies as
11 may be appropriate, including punitive damages.

12 (4) Payment of a further sum to the Department as a
13 civil penalty in an amount of \$10,000 for unlawful
14 discharge, retaliation, or blacklisting in violation of
15 this Act, or unlawful electronic monitoring, in an amount
16 of \$5,000 for or failure to provide a timely written
17 explanation for a discharge, or in an amount of \$1,000 for
18 other violations of this Act, including the Act's
19 recordkeeping requirements or failure to produce records
20 requested in an investigation. However, if an adjudicator
21 finds that mitigating circumstances are present, the
22 adjudicator may order that the preceding civil penalty
23 amounts be reduced as circumstances make appropriate. The
24 civil penalties imposed in accordance with this Section
25 shall be imposed on a per employee and per instance basis
26 for each violation.

1 (5) Payment of the complainant's reasonable attorneys'
2 fees, expert fees, and other costs. For the purposes of
3 this provision, a complainant shall be deemed to have
4 prevailed and entitled to an award of fees and costs if
5 commencement of a complaint has acted as a catalyst to
6 effect policy change on the part of the respondent,
7 regardless of whether that change has been implemented
8 voluntarily, as a result of a settlement, or as a result of
9 a judgment in such party's favor.

10 (6) In assessing an appropriate remedy, due
11 consideration shall be given to the gravity of the
12 violation, the history of previous violations, and the
13 good faith of the employer.

14 (7) All amounts specified in this Act shall be updated
15 annually to keep pace with the rising cost of living by
16 increasing each amount in proportion to the increase over
17 the most recent 12-month period for which data are
18 available in the value of the Consumer Price Index for All
19 Urban Consumers (CPI-U), as calculated by the Bureau of
20 Labor Statistics of the United States Department of Labor,
21 and rounding the new amounts to the nearest multiple of
22 \$5. Such increased amounts shall be announced by October 1
23 of each year, and shall take effect on January 1.

24 (8) Either party may bring an administrative appeal to
25 enforce, vacate, or modify the order, determination, or
26 other disposition.

1 (9) No procedure or remedy set forth in this Section
2 is exclusive or a prerequisite for asserting a claim for
3 relief to enforce any rights under this Act in a court of
4 law.

5 (10) Any employer who has been ordered by the
6 Department or ordered by a court to pay unpaid backpay,
7 front pay and benefits, severance pay, liquidated or
8 punitive damages, or civil penalties, and who fails to
9 seek timely review of such a demand or order as provided
10 for under this Act and who fails to comply within 15
11 calendar days after such demand or within 35 days after an
12 administrative or court order is entered shall also be
13 liable to pay a penalty to the Department of 20% of the
14 amount found owing and a penalty to the employee of 1% per
15 calendar day of the amount found owing for each day of
16 delay in paying such wages to the employee. All moneys
17 recovered as fees and civil penalties under this Act,
18 except those owing to the affected employee, shall be
19 deposited into the Wrongful Discharge Enforcement Fund, a
20 special fund which is hereby created in the State
21 treasury. Moneys in the Fund may be used only for
22 enforcement of this Act.

23 Section 90. Civil action. Except as otherwise provided by
24 law, any person claiming to be aggrieved by an employer's
25 violation of this Act has a cause of action in any court and,

1 upon prevailing, shall be awarded the relief specified in
2 Section 85 and, if the court finds in favor of the plaintiff,
3 it shall award such prevailing party, in addition to other
4 relief, his or her reasonable attorneys' fees, expert fees,
5 and other costs. As used in this Section, "prevailing" party
6 includes a party whose commencement of litigation has acted as
7 a catalyst to effect policy change on the part of the
8 defendant, regardless of whether that change has been
9 implemented voluntarily, as a result of a settlement, or as a
10 result of a judgment in such party's favor. Penalties and fees
11 under this Act may be assessed by the Department and recovered
12 in a civil action brought by the Department in any court or in
13 any administrative adjudicative proceeding under this Act. In
14 any such civil action or administrative adjudicative
15 proceeding under this Act, the Department shall be represented
16 by the Attorney General.

17 Section 95. Public enforcement action. A relator or
18 representative organization may initiate a public enforcement
19 action in any court to pursue civil penalties, injunctive
20 relief, and declaratory relief, as specified in Section 85, on
21 behalf of the Department, for a violation of the provisions of
22 this Act affecting the relator and other current or former
23 employees, according to the following procedures:

24 (a) The relator or representative organization shall
25 give written notice to the Department of the specific

1 provisions of this Act alleged to have been violated,
2 including the facts and theories to support the alleged
3 violation. The notice shall be given in such a manner as
4 the Department may prescribe by rule.

5 (b) If the Department intends to investigate the
6 alleged violation, it shall notify the relator or
7 representative organization of its decision within 65
8 calendar days after the postmark date of the notice.
9 Within 60 calendar days after that decision, the
10 Department may investigate the alleged violation and take
11 any enforcement action authorized by law. If the
12 Department determines that additional time is necessary to
13 complete the investigation, it may extend the time by not
14 more than 60 additional calendar days and shall notify the
15 relator or representative organization of the extension.

16 (c) Notwithstanding any other provision of law, a
17 public enforcement action brought under this Act must be
18 commenced within the limitations period specified in
19 Section 100. The statute of limitations for bringing a
20 public enforcement action under this Act shall be tolled
21 from the date a relator or representative organization
22 files a notice under this Section with the Department, or
23 the Department commences an investigation, whichever is
24 earlier.

25 (d) The relator or representative organization may
26 commence a civil action under this Act if the Department

1 determines that no enforcement action will be taken, or if
2 no enforcement action is taken by the Department within
3 the time limits prescribed.

4 (e) The Department may intervene in an action brought
5 under this Act and proceed with any and all claims in the
6 action as of right within 30 days after the filing of the
7 action, or for good cause, as determined by the court, at
8 any time after the 30-day period after the filing of the
9 action.

10 (f) Civil penalties recovered in a public enforcement
11 action brought under this Act shall be distributed as
12 follows:

13 (1) If the Department does not intervene in the
14 action, 60% to the Department, and 40% to the relator
15 or representative organization, to be distributed to
16 the employees affected by the violation, including a
17 service award that reflects the burdens and risks
18 assumed by the employee or representative organization
19 in prosecuting the action.

20 (2) If the Department does intervene in the
21 action, 70% to the Department, and 30% to the relator
22 or representative organization, the latter of which
23 shall be distributed to the employees affected by the
24 violation, including a service award that reflects the
25 burdens and risks assumed by the employee or
26 representative organization in prosecuting the action.

1 (3) The share of penalties recovered for the
2 Department under this Act shall be used solely to
3 support the Department's education and enforcement
4 activities relating to this Act, with approximately
5 25% of these penalties reserved for grants to
6 community organizations for outreach and education
7 about employee rights under this Act.

8 (g) In any public enforcement action commenced under
9 this Act, the court shall allow a prevailing relator or
10 representative organization to recover all reasonable
11 attorneys' fees, expert fees, and other costs. For the
12 purposes of this provision, a "prevailing" relator or
13 representative organization includes a relator or
14 representative organization whose commencement of
15 litigation has acted as a catalyst to effect policy change
16 on the part of the defendant, regardless of whether that
17 change has been implemented voluntarily, as a result of a
18 settlement, or as a result of a judgment in such relator or
19 representative organization's favor.

20 (h) No public enforcement action brought under this
21 Act shall be required to meet class action certification
22 requirements under Part 8 of Article II of the Code of
23 Civil Procedure or Rule 23(a) of the Federal Rules of
24 Civil Procedure.

25 (i) The relator or representative organization may not
26 recover compensatory damages or back pay, or seek

1 reinstatement, in a public enforcement action. But the
2 filing of a public enforcement action does not preclude an
3 employee from pursuing these remedies in another forum.

4 (j) The right to bring a public enforcement action
5 under this Act shall not be impaired by any private
6 contract.

7 Section 100. Limitation of actions. Notwithstanding any
8 other provision of law, an action under this Act must be filed
9 within 3 years after the complainant knew or should have known
10 of the alleged violation. However, this statute of limitations
11 period shall be tolled for the duration of any state of
12 emergency declared by the State or by any city or county in
13 which the action is commenced.

14 Section 105. Non-preemption. This Act does not preempt,
15 limit, or otherwise affect the authority of any other unit of
16 government to adopt laws, rules, requirements, policies, or
17 standards providing additional employment or workplace
18 protections.

19 Section 110. Violations. An employer that violates this
20 Act is guilty of a Class A misdemeanor.

21 Section 115. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

1 Section 120. The State Finance Act is amended by adding
2 Section 5.990 as follows:

3 (30 ILCS 105/5.990 new)

4 Sec. 5.990. The Wrongful Discharge Enforcement Fund.

5 Section 999. Effective date. This Act takes effect January
6 1, 2024.