

Illinois Employers Will Need To Comply With Several New Laws That Take Effect In 2015

Antonio Caldarone, Wesley Covert, and David Moore

01.20.2015

The Job Opportunities for Qualified Applicant Act: Commonly referred to as the "**ban-the-box**" law, employers with 15 or more employees cannot consider or inquire into an applicant's criminal record or history until: (a) the employer has determined that the applicant is qualified for the position and has been notified that he or she has been selected for an interview; or (b) if no interview will take place as part of the hiring process, until after a conditional offer of employment is made to the applicant. This law does not apply to positions where employers are required to exclude applicants with certain criminal convictions under state or federal law; a bond is required and an applicant's conviction of one or more criminal offenses would disqualify the applicant from obtaining a bond; or employers who employ persons under the Emergency Medical Services Systems Act.

Unpaid Interns Now Covered By Sexual Harassment Provisions Of The Illinois Human Rights Act: Unpaid interns can now sue employers for sexual harassment. The definition of "employee" under the Illinois Human Rights Act (IHRA) was expanded to include unpaid interns for purposes of sexual harassment. Generally, the IHRA applies to employers with 15 or more employees. However, the IHRA prohibitions against sexual harassment, disability discrimination, pregnancy discrimination and retaliation apply to all employers that have at least one employee. Employers should ensure that their anti-harassment policies encompass protections for unpaid interns, that unpaid interns are provided with a copy of the anti-harassment policy and complaint procedures, and that unpaid interns attend

Attorneys

Antonio Caldarone

Wesley H. Covert

David A. Moore

Practice Areas

Counseling and
Transactional

Employment Counseling

Illinois Employers Will Need To Comply With Several New Laws That Take Effect In 2015

harassment training.

Pregnancy Accommodation Provisions Of Illinois Human Rights Act: The Illinois Human Rights Act now requires all employers to provide reasonable accommodations for medical or common conditions of pregnancy or childbirth of a job applicant or a full-time or part-time employee. Recently, the Illinois Department of Human Rights published the attached posters that describe employees' rights under the amendments in **English** and **Spanish**, which employers are required to post in a conspicuous location where notices to employees are customarily posted. Employers should also review their employee handbooks to determine whether any related policies need to be updated, such as policies addressing equal employment opportunities, reasonable accommodations, and leaves of absence. More details about employers' new legal obligations and the types of reasonable accommodations that may be required can be found **here**.

Illinois Secure Choice Savings Law Mandates Employers To Provide Retirement Savings Plans: On January 4, 2015, former Illinois Governor Quinn **signed into law** legislation which creates the Illinois Secure Choice Savings Program (the Program). With the passage of this legislation, Illinois became the first state to require private employers to provide retirement savings programs. The Program only applies to private employers with twenty-five or more employees that have operated for two or more years and offer no other qualified retirement plan. Under this law, employers must provide a retirement savings plan for its employees (e.g., a 401(k) plan) or automatically enroll employees in a state-run retirement plan through the Program, unless the employee affirmatively chooses to opt-out of participating in the Program. Qualifying employers that participate in the Program (instead of providing an employer-sponsored plan) must deduct three percent of each participating employee's compensation, which will be automatically deferred and invested in a default IRA, unless the employee chooses otherwise. No employer contributions are required, but employers will bear the administrative cost of providing the payroll deductions. Although the law becomes effective June 1, 2015, employers have until June 1, 2017 to provide a retirement plan to employees or enroll them in a Program plan. The Program is not operational yet, as it seeks to establish its administrative board and qualify for favorable tax treatment under federal tax law. Employers will be subject to monetary penalties for failing to comply with the law.

Chicago Minimum Wage Ordinance Will Increase Hourly Minimum Wage To \$13 By 2019: Effective July 1, 2015, the **City of Chicago's Minimum Wage Ordinance** (Ordinance) will increase the minimum wage for work performed within the City of Chicago to \$10 per hour and will be subject to further increases until it reaches \$13 per hour on July 1, 2019. After 2019, the minimum wage will be tied to the Consumer Price Index ("CPI"), and will increase at the same rate as the CPI (but will not increase by more than 2.5% in any

Illinois Employers Will Need To Comply With Several New Laws That Take Effect In 2015

year). The Ordinance applies to employers who maintain a facility within the boundaries of the City of Chicago or who are recipients of specified licenses issued by the City of Chicago. Covered employers must pay individuals who perform at least two hours of work within the geographic boundaries of Chicago within a two-week period. The Ordinance contains a posting requirement requiring employers to post a notice about the minimum wage. The Ordinance also contains severe penalties for employers, including treble damages (i.e., triple the amount of back pay) and the revocation or denial of a business license for violations of this Ordinance or other state and federal wage and hour laws.