Engage PEO Client Alert: Illinois

Year End Legislative Updates

ILLINOIS EXPANDS UNPAID LEAVE FOR IVF, PREGNANCY AND ADOPTION LOSS

What's New: As of January 1, 2023, Illinois employers with at least 50 employees are required to provide unpaid leave up to 2 weeks (10 working days) for absences resulting from a pregnancy loss, unsuccessful in vitro fertilization (IVF) treatment, a failed adoption or surrogacy, or a diagnosis that impacts pregnancy.

Why It Matters: The Illinois Family Bereavement Leave Act will run concurrently with leave under the federal Family and Medical Leave Act (FMLA). Like the FMLA, employees become eligible for unpaid leave under the Family Bereavement Leave Act after 12 months of employment and at least 1,250 hours worked within the previous 12-month period.

Employers *may* request documentation to justify the requested leave. However, employers are prohibited from requiring employees to identify whether they experienced a miscarriage, a failed adoption, or any other category set forth in the law. Instead, employers should anticipate receiving a form from the employee's health care practitioner – provided by the Illinois Department of Labor – that will verify the leave-qualifying event without identifying the specific statutory category. The state agency has not yet issued a template form; Engage will keep clients updated. Notably, leave under this law may not exceed the amount of unpaid leave permitted under the FMLA.

What Employers Should Do: "Covered employers" under the FMLA should review their leave policies regarding bereavement leave to ensure compliance with this new law.

THE FAMILY BEREAVEMENT ACT EXPANDS BEREAVEMENT LEAVE FOLLOWING THE DEATH OF A FAMILY MEMBER

What's New: As of January 1, 2023, covered employees must be given 10 workdays of unpaid leave to grieve the death of a family member. Covered family members include "an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent."

Why It Matters: As mentioned above, the Illinois Family Bereavement Leave Act will run concurrently with leave under the federal Family and Medical Leave Act (FMLA). Like the FMLA, employees become eligible for unpaid leave under the Family Bereavement Leave Act after 12 months of employment and at least 1,250 hours worked within the previous 12-month period. Employers seeking reasonable documentation of bereavement leave must use a form published by the Illinois Department of Labor. The state agency has not yet issued a form; Engage will keep clients updated.

Previously, this leave was only applicable to parents following the death of a child.

What Employers Should Do: "Covered employers" under the FMLA should review their leave policies regarding bereavement leave to ensure compliance with this new law.

ONE DAY OF REST IN SEVEN AND EXPANDED EMPLOYER LIABILITY FOR MEAL AND REST PERIOD VIOLATIONS

What's New: As of January 1, 2023, employers with one or more employees in Illinois who are found to violate any provision of the One Day Rest in Seven Act (ODRISA) can be found guilty of a civil offense and subject to a civil penalty of up to $250 per offense for employers with fewer than 25 employees and $500 per offense for employers with 25 or more employees. Additionally, employees must now receive at least 24 hours of consecutive rest in every rolling *seven-day period*. The previous version of the law only required 24 hours of consecutive rest per *calendar week*.

Why It Matters: ODRISA requires employers to provide all nonexempt employees who work 7.5 continuous hours "at least 20 minutes for a meal period beginning no later than 5 hours after the start of the work period." Additionally, employees who work in excess of 7.5 continuous hours should receive an *additional* 20-minute meal period for every additional 4.5 continuous hours worked. Further, the "meal period" should not include reasonable time spent using the restroom. Finally, ODRISA requires that employees receive at least 24 hours of consecutive rest in every consecutive seven-day period.

Illinois employers should note that fines can multiply quickly under the new amendment.

What Employers Should Do: Employers should review their meal and break policies regarding nonexempt employees to ensure compliance under the new amendments.

THE ILLINOIS CROWN ACT EXPANDS RACE DISCRIMINATION TO INCLUDE HAIR TEXTURE AND PROTECTIVE HAIRSTYLES

What's New: As of January 1, 2023, Illinois will amend the state Human Rights Act to expand its definition of race to include traits associated with race, including but not limited to hair texture and protective hairstyles such as braids, locks, and twists.

Why It Matters: Otherwise known as the CROWN (Create a Respectful and Open Workplace for Natural Hair) Act, this new legislation prohibits Illinois employers from discriminating against employees based on hair texture or hairstyle.

What Employers Should Do: To ensure compliance with this law, all Illinois employers should review their existing grooming and appearance policies. Employers should also refrain from sending employees home early because of their hairstyle. Further, requiring employees to wear specific hairstyles, or even prohibiting hair of a certain length, could run afoul of the Illinois CROWN Act.