

Illinois Employers Face Numerous Recent Laws Impacting Workplaces in 2023

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The Illinois legislature has been quite active, passing a number of bills which will affect Illinois workplaces. The following is a summary of recent legislation impacting Illinois employers in 2023.

Amendment to Meal & Rest Break Rules, Penalties:

- **Date:** Effective January 1, 2023.
- **Summary:** Illinois Senate Bill 3146 revises the state's meal and rest break law to provide at least 24 consecutive hours of rest in every consecutive seven-day period (instead of every calendar week).
- The bill further states that employers must provide employees with an additional 20-minute meal break for every additional 4.5 consecutive hours worked beyond 7.5 consecutive hours.
- The bill also adds a requirement that employers post a notice summarizing the requirements of the Act and information pertaining to the filing of a complaint thereunder.
- Finally, the bill revises the law's enforcement and penalty provisions with **significant increases** in penalties and damages.
 - Previously, employers who violated the law would be subject to a fine for each offense of "not less than \$25 nor more than \$100."
 - Under the revised law:
 - Employers with fewer than 25 employees will be subject to both "a *penalty* not to exceed \$250 per offense, payable to the

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Department of Labor, and *damages* of up to \$250 per offense, payable to the employee or employees affected.”

- Employers with 25 or more employees will be subject to both “a *penalty* not to exceed \$500 per offense, payable to the Department of Labor, and *damages* of up to \$500 per offense, payable to the employee or employees affected.”
- Furthermore, an offense under the Act “shall be determined on an individual basis for each employee whose rights are violated.”
- **Application:** Employers should check their meal and rest break practices for compliance to ensure (1) no employees work any consecutive seven-day period without at least 24 consecutive hours of rest; and (2) employees receive a second meal break when they work 12 consecutive hours and a third meal break when they work 16.5 consecutive hours. Employers should also be aware that non-compliance with meal and rest break laws will result in much greater penalties beginning in 2023.

Expanded Bereavement Leave Law:

- **Date:** Effective January 1, 2023.
- **Summary:** Illinois Senate Bill 3120 expands the state's child bereavement leave law.
- “Covered family members” include the employee’s child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent.
- The bill also allows employees to use the leave when they are absent due to a miscarriage or stillbirth, an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure, a failed adoption match or surrogacy agreement, an adoption that isn't finalized because it is contested, or a diagnosis that negatively impacts pregnancy or fertility.
- **Application:** Employers should review their bereavement leave policies to ensure that they include “covered family members” and allow leave for additional reasons related to complications with childbearing and child adoption, as required by the expanded law.

Prohibition Against Hair Discrimination:

- **Date:** Effective January 1, 2023.
- **Summary:** Illinois Senate Bill 3616 amends the state fair employment law to specify that prohibited discrimination on the basis of race includes discrimination on the basis of traits associated with race, including hair texture and protective hairstyles such as braids, locks, and twists.

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- **Application:** Employers should review their non-discrimination and anti-harassment policies and practices, as well as their dress codes, to ensure that no adverse action is taken against employees on the basis of their hair texture and protective hairstyles.

Expansion of the Illinois Secure Choice Retirement Savings Program:

- **Summary:** Earlier in 2022, Illinois expanded the scope of the application of the state's Secure Choice Retirement Savings Program which requires employers of a certain size to automatically enroll each employee who has not opted out of participation in the program and deposit their payroll deductions in the program on behalf of those employees.

Employers with 25 or more employees were required to register by November 1, 2021. Under the new rules, employers with 16-24 employees had until November 1, 2022, to register and enroll their employees, and employers with 5-15 employees have until November 1, 2023. Employers who fail to take these steps could face fines of \$250 to \$500 per employee.

- **Note:** Employers who offer their own retirement program, such as a Section 401(k) or 403(b), are not required to participate in the Secure Choice Retirement Savings Program.
- **Application:** Employers with five or more employees that do not offer their own retirement program must ensure compliance with Illinois Secure Choice Retirement Savings Program by automatically enrolling employees and making deductions on their behalf unless the employees have opted out of the program.

Please contact your servicing Laner Muchin attorney if you have questions about complying with these new Illinois requirements.