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More Regulation-More Expense

2019 is shaping up as another year of increased regulation of businesses and greater employer exposure to litigation by employees, resulting in some better rights for employees at increased costs of doing business for employers. While a number of changes in Illinois law impact Illinois businesses, a few of the more notable bits and pieces are described as follows.

Biometric Information Policy and Consent Form

This law has helped cause a newer form of costly employer exposure to litigation. A new breed of law firms are going after businesses for violation of the Illinois Biometric Information Privacy Act, which is the first of its kind nationally. These fetcher lawsuits are about to become as common as wage collection suits except that damages are due solely from employers. The strongest form of protection for employers here is to have all employees sign a waiver and consent form consistent with a biometric information policy contained in the employers' handbooks.

Time To File State Law Discrimination Charge

Last year, the Illinois Human Rights Act was amended to increase the amount of time for employees to file discrimination charges from 180 to 300 days. An employee may now initiate a state charge of discrimination during the same, longer time period already permitted for federal charges. Employers should mark their calendars accordingly for any potential civil rights violation claims arising on or after August 24, 2018, the effective date of the amendment.

Longer Waiting Period But Shorter Time to File Suit

While Illinois employees now have 300 days to file a state discrimination claim, they can dramatically shorten the waiting period to obtain a right to sue letter and proceed to file a state court discrimination suit. Instead of being required to wait 365 days for the Illinois Department of Human Rights to make its determination that it could not complete its investigation of the claim within that time - before a right to sue letter could even be requested by the employee - now IDHR must notify the employee within 10 business days of the charge of discrimination being filed and that the employee has 60 days to opt out of the investigatory process and file his/her claim in state court instead. This could dramatically increase the number of state court discrimination claims filed by disgruntled employees, essentially reducing the timing for filing a state court claim from more than one year to only a few months.

IDHR is also now required to and does publish a Helpline on its website to assist people claiming or witnessing sexual harassment or discrimination in the workplace. Reporting of these claims is encouraged by IDHR and they provide assistance in recommending psychological counseling as well as in the filing of complaints.

Sexual Harassment Posting Required For All Illinois Employers

All Illinois employers (no matter how large or small) must now post the state's sexual harassment and discrimination poster in a conspicuous location on the employer's premises and in their employee handbooks.

All Reasonable Employee Expenses Must Now Be Reimbursed

Last but not at all least, most employee work expenses must now be reimbursed by employers in Illinois. Employers must now reimburse all reasonable and necessary expenses that fall within the employee's scope of employment, directly relate to services performed for the employer, are required of the employee in the discharge of his or her duties, and inure to the primary benefit of the employer. It seems that both generous and "Scrooge" employers alike will have a larger financial burden for these expenses going forward, like it or not.