

Publications

Labor and Employment Alert: Illinois Employers Face New Laws in 2019

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CLIENT ALERT | 1.22.2019

The start of a new year often brings new laws. Discussed below are several laws affecting Illinois employers that became effective on January 1. Contact your Vorys lawyer if you have questions about these new laws and their potential effect on your operations in Illinois.

Cook County Sick Leave Ordinance

Employers that are subject to Cook County's sick leave law are required to provide their employees with a notice of rights upon hire **and** at least once each calendar year (such as at the beginning or end of the year). The County provides a **model notice** that can be used for this purpose.

Meal Breaks for Certain On-Call Employees

Under the Illinois One Day Rest in Seven Act, employers must provide a meal break of at least 20 minutes for on-call employees working seven or more hours during a shift. An "on-call employee" is one who is employed by a private company; licensed under the Emergency Medical Systems Act (e.g., first responders, emergency medical dispatchers, emergency medical technicians, paramedics, and certain registered nurses); required to be on-call for an 8-hour shift; and is not a government employee. The amendments to the One Day Rest law became effective on January 1, 2019.

Illinois Service Member Employment and Reemployment Rights Act

Illinois enacted the Illinois Service Member Employment and Reemployment Rights Act (ISERRA), which consolidates the State's Military Leave of Absence Act, Public Employee Armed Services Rights Act, Municipal Employees Military Active Duty Act, and Local Government Employees Benefits Continuation Act. ISERRA expressly adopts the protections in the federal Uniformed Service Member Employment and Reemployment Act (USERRA). At the same time, effective January 1, 2019, ISERRA adopts more expansive protections and benefits for veterans and those in active service that USERRA

provides.

First, ISERRA's definition of "military service" is more expansive than USERRA's and therefore ISERRA covers a broader array of employees. "Military service" includes services in the National Guard of any state, including the Illinois National Guard; service in a federally recognized auxiliary of the United States Armed Forces when performing official duties in support of military or civilian authorities as a result of an emergency; and a period for which an employee is absent from employment for the purpose of medical or dental treatment for a condition, illness, or injury sustained or aggravated during a period of active service in which treatment is paid by the United States Department of Defense Military Health System.

Second, service member employees are not required to get permission from their employer for a military leave. The employee is only required to give the employer advance notice of pending service, which "entitles a service member employee to military leave." Employers may not impose conditions for military leave, and an employee is not required to accommodate the employer's needs as to the timing, frequency, or duration of military leave.

Third, ISERRA, a service member employee who is absent on military leave must, minimally, for the period of military leave, be credited with the average of the efficiency or performance ratings or evaluations received for the 3 years immediately before the absence for military leave. Additionally, the rating may not be less than the rating that he or she received for the rated period immediately prior to his or her leave. In computing seniority and service requirements for promotion eligibility or any other benefit of employment, the period of military duty must be counted as civilian service.

Fourth, ISERRA requires that employers provide to employees a notice of the rights, benefits, and obligations of service members under ISERRA. A notice of ISERRA rights created by the Illinois Attorney General is available [here](#).

Finally, ISERRA creates both administrative action by the Illinois Attorney General and a private cause of action for violations. Punitive damages are not authorized, except for violations of the anti-discrimination provisions; in such cases, a court may award punitive damages not to exceed \$50,000 per violation (in addition to compensatory damages and reasonable attorney's fees). In actions by the Attorney General, a civil penalty of up to \$5,000 per violation may be assessed.

Illinois Equal Pay Act

The Illinois Equal Pay Act prohibits employers from discriminating on the basis of sex by paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex "for the same or substantially similar work" on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions. Wage differentials may be based on a seniority system, merit system, a system that measures earnings by quantity or quality of production, or a differential based on any factor other than sex or one that would constitute unlawful discrimination. Effective January 1, 2019, the equal pay protections are extended in the same manner to prohibit pay discrimination against African-Americans.

Contact your Vorys lawyer if you have questions about these new laws or related laws in other jurisdictions.

