

Illinois Employment Law Updates for 2026: What Employers Need to Know

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by Susan Lorenc

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Illinois lawmakers were busy in 2025, passing laws and amendments to existing laws that impact Illinois employers as of January 1, 2026.

First, Illinois amended the Illinois Human Rights Act (“IHRA”), which prohibits discrimination, harassment, sexual harassment, and retaliation against individuals

in connection with employment. The Illinois Department of Human Rights (“IDHR”) administers the IHRA and is the agency to which employees submit complaints when they believe an employer has engaged in conduct that violates the IHRA. Effective January 1, 2026, it is now discretionary, rather than mandatory, for the IDHR to bring employee complaints to a fact-finding conference. This means the IDHR now has discretion to investigate employee complaints based on written submissions by the parties alone.

Further, a previously passed IHRA amendment making it a civil rights violation for an employer to use AI in a manner that subjects employees to discrimination went into effect on January 1, 2026. Illinois employers must now ensure that AI used or relied upon to make employment decisions does not have a discriminatory effect on employees based on a protected class. Failure to notify employees of the employer’s use of AI is also now a civil rights violation.

Third, Illinois’ VESSA law was amended and expanded as of January 1 to prohibit employers from firing, refusing to hire, discriminating against, or otherwise retaliating against an empl

oyee who uses employer-issued devices to record a crime of violence, including domestic violence or sexual violence, committed against the employee or their family or

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household member.

Next, the legislature amended the Illinois Workplace Transparency Act (“IWTA”). First enacted in 2019 in the midst of the #MeToo era, the IWTA restricted nondisclosure and nondisparagement language in employment, separation, and settlement agreements unless the clauses were mutual; limited the use of mandatory arbitration for sexual harassment or other discrimination claims; required annual sexual harassment training for all employees; and mandated that employers report settlements and adverse judgments to the Illinois Department of Human Rights.

As of January 1, 2026, the IWTA has been amended to expand its scope and impact on employment, separation, and settlement agreements. For example, the definition of “unlawful employment practice” has been expanded to include most employment claims, including wage and occupational safety claims. The law also now includes a definition of “concerted activity” and provides that agreements may not prohibit, prevent, or restrict an employee from reporting allegations of unlawful conduct to government officials or engaging in concerted activity to address work-related issues.

Perhaps most consequentially, the amendments address several technical provisions. The IWTA now provides that employers may not condition employment or continued employment on an agreement to shorten the applicable statute of limitations, apply non-Illinois law to an Illinois employee’s claim, state that confidentiality is the employee’s preference, or require a venue outside of Illinois to adjudicate an Illinois employee’s claim. Finally, confidentiality provisions related to alleged unlawful employment practices must be supported by distinct, bargained-for consideration separate from the consideration provided in exchange for a general release of claims. This may be accomplished by explicitly allocating a portion of the consideration payment to the confidentiality provision within the agreement.

Other Illinois employment laws that went into effect on January 1, 2026, include:

- Employee Blood and Organ Donation Leave Act: amended to apply to part-time employees
- Nursing Mothers in the Workplace Act: requires employers to provide nursing mothers with reasonable paid break time to express milk
- Family Neonatal Intensive Care Leave Act: requires employers to provide unpaid leave if an employee’s child is in the NICU

In light of these changes to Illinois employment laws, now is a good time to review employment policies and agreements to ensure compliance with these acts and amendments.