

Your 2026 Illinois Employment Law Compliance Check Up: Are You Current on Legislative Changes?

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March 4, 2026

While it may feel like a rollback of employment law compliance requirements and enforcement priorities at the federal level, state legislatures continue to enact and amend state employment laws. For employers asking, 'what are the new Illinois employment laws for 2026?' the answer is: quite a few. If you are in the process of understanding and implementing these statutory requirements, the following list is a helpful check-up.

Illinois Human Rights Act - Artificial Intelligence in Employment

Effective January 1, 2026, the Illinois Human Rights Act (IHRA) is amended to prohibit employers from using artificial intelligence (AI) that "has the effect of subjecting employees to discrimination on the basis of protected classes." Illinois employers cannot use AI that has a discriminatory effect on employees with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment. Additionally, the amended IHRA requires employers to provide notice to employees and applicants when using AI during any of the above-noted employment actions.

To Do: The Illinois Department of Human Rights (IDHR) has issued draft rules implementing HB 3773. While the rules are not yet finalized, the AI provision of the statute is effective, and employers must comply with the law. Therefore, take steps to ensure compliance now. The draft rules are not binding, but they serve as a guide to identify compliance areas. Additionally, continue to monitor developments around the IDHR rules and developments at the federal level regarding employer AI obligations.

Nursing Mothers in the Workplace Act

The Nursing Mothers in the Workplace Act requires an employer to provide reasonable break time to an employee who needs to express breast milk for one year after the child's birth. The Act was amended effective January 1, 2026, to clarify that an employer must compensate an employee at the employee's regular rate of compensation for this break time. Additionally, the amendment provides that an employer cannot require an employee to use paid time off during the break time or reduce the employee's compensation during the break time in any other manner.

To Do: Review your time keeping and compensation practices for compliance.

Family Neonatal Intensive Care Leave Act

The Neonatal Intensive Care Leave Act (NICLA) provides leave and related job protections for employees with newborns hospitalized in a neonatal intensive care unit. Employers with 16 to 50 employees must provide 10 days of unpaid leave, while employers with more than 50 employees must provide 20 days of unpaid leave. (Employers with 15 or fewer employees are not covered by the law.) The leave, which can be taken incrementally or continuously, is separate from FMLA leave and employees cannot be required to use PTO concurrently with NICLA leave. NICLA also has provisions prohibiting retaliation against employees for exercising or attempting to exercise rights under the statute, opposing practices believed to violate the NICLA, or supporting the exercise of rights by another.

To Do: Review your leave policies and update as appropriate.

Victims' Economic Security and Safety Act

The Victims' Economic Security and Safety Act (VESSA) provides protections for employees who are victims of domestic violence, sexual violence, gender violence, or any other crime of violence. As of January 1, 2026, the law requires employers to permit employees to use their employer-provided devices (such as phones, laptops, and tablets) to record incidents of domestic violence, sexual violence, gender violence, or any other crime of violence committed against the employee or their family or household members. Additionally, employers must permit employees to access the recordings and cannot retaliate or discipline an employee who uses a company-issued device to document evidence of such violence.

To Do: Review your technology and electronic device policies for compliance.

Illinois Workplace Transparency Act

As we reported in our previous October 29, 2025 [Labor Days post](#), 2026 brings changes to the Illinois Workplace Transparency Act (IWTA), first enacted in 2020. The amended IWTA, effective January 1, 2026, ushered in a host of changes, which we covered in our prior post. A few reminders:

- The amended IWTA expands the definition of “unlawful employment practices,” expanding the types of claims that would bring a separation or settlement agreement under the auspices of the IWTA. The IWTA now covers not only discrimination, harassment, and retaliation claims, but also any unlawful practice under any state or federal law governing employment, including laws enforced by the Illinois Department of Labor, Illinois Labor Relations Board, U.S. Department of Labor, OSHA, and National Labor Relations Board. The expanded definition means that other provisions of the IWTA, including those prohibiting unilaterally imposed conditions restricting disclosure of unlawful employment practices now cover a broader range of allegations, including those related to workplace safety, wages, and labor activities.
- The amended IWTA also imposes additional requirements for certain terms of employment agreements and settlement or separation agreements. Among the changes, confidentiality provisions in settlement and separation agreements must be supported by distinct, bargained-for consideration that is separate and apart from any consideration provided for an employee's release of claims. In practice, this means parties must determine the consideration allocated to the agreed upon confidentiality provision.

To Do: Review your employment, separation, and settlement agreements.

Employee Blood and Organ Donation Act

Effective January 1, 2026, the Employee Blood and Organ Donation Act (BODLA) is amended to extend eligibility for paid leave for organ donation to part-time employees, in addition to the full-time employees, who already can take leave for both blood donation and organ donation under BODLA. Part-time employees also receive up to 10 days of organ donation leave within any 12-month period. To determine compensation, an employer must calculate the daily average pay the part-time employee earned in the two (2) months of employment prior to the leave and compensate the employee for any leave days used.

To Do: Review your leave policies and update as appropriate.

Illinois Human Rights Act - Fact Finding Conferences

Illinois also amended the procedural provisions of the IHRA for 2026. The mandatory fact-finding conference has been eliminated as part of the Illinois Department of Human Rights (IDHR) investigation process. Instead, such conferences are now within the discretion of the IDHR or upon written request by the complainant and respondent within 90 days after the charge is filed and if the parties agree to an additional 120 days for the IDHR to complete its investigation. Additionally, the IDHR can impose civil penalties against employers found in violation of the IHRA, in addition to existing remedies. The civil penalties range from \$16,000 to \$70,000 depending on the number of violations: The changes, which are effective January 1, 2026, are not retroactive and therefore do not apply to charges pending before the effective date.

To Do: Be aware of the new penalties that can be imposed for violations.

Unemployment Insurance Act

Effective January 1, 2026, the Unemployment Insurance Act is amended to establish a three (3)-year pilot program expanding eligibility for unemployment benefits to employees who voluntarily leave their jobs due to mental-health-related disabilities. The pilot includes individuals with claims between December 28, 2025 and December 24, 2028. The condition must be certified by “a licensed and practicing psychiatrist” and “the employer is unable to accommodate” the employee. While this broadens who may receive unemployment benefits, employer experience ratings will not be charged for such claims. The amendment also creates expanded tools for the Illinois Department of Employment Security to recover benefits improperly paid, especially in cases of fraud.

To Do: Monitor developments relating to the mental health pilot program.

Workers’ Rights and Worker Safety Act

The Illinois Workers’ Rights and Safety Act is designed to preserve worker protections under the federal OSHA, Fair Labor Standards Act, and Coal Mine Health and Safety Act in effect as of April 28, 2025, regardless of any future federal rollbacks with respect to the federal laws. If after April 28, 2025, a federal safety standard is revoked, repealed, amended, or interpreted in a way that makes it “less effective in providing safe and healthful employment and places of employment,” the Act directs the Illinois Department of Labor to promulgate rules and regulations that “adopt a standard that incorporates the federal occupational health or safety standard as it existed prior to being repealed, revoked, amended, or newly interpreted.”

To Do: Monitor developments.

Employers should review their policies and procedures and agreements for compliance and any necessary updates. Please contact a member of Kelley Drye's Labor and Employment team with any questions or if you would like more information about Illinois employment law compliance.