

Illinois Human Rights Act Amendments

The Illinois Human Rights Act (“IHRA”) was recently amended to expand employer obligations by providing additional protections for employees alleging discrimination. (Illinois Public Act 101-0430) (effective July 1, 2020)

Expanded Definition of Discrimination

Unlawful discrimination now includes discrimination against a person because of his or her “actual or perceived” protected class or characteristic. This definition includes but is not limited to race, color, religion, national origin, and sexual orientation. Discrimination based on a perception that an individual is a member of a protected group can now lead to liability for employers, even if that perception is erroneous.

Anti-Harassment Training

Employers are required to train all employees once a year on preventing and responding to sexual harassment.

Employees Covered

“Employer” is redefined as a person or entity with one (1) or more employees during twenty (20) or more calendar weeks in the current year or year preceding the alleged violation. Prior to the new amendments, the IHRA generally applied only to employers with fifteen (15) or more employees.

Expanded Geographic Scope

The work environment is not limited to a physical location where an employee is assigned to work. The IHRA's protections against harassment extend to incidents that occur outside of the office.

Expanded Coverage to Contractors

Employers can be held liable for harassment or discrimination against non-employees present in the workplace. Non-employees include contractors, subcontractors, vendors, consultants, or other people performing work on-site.

Disclosure

Employers with adverse judgments or settlements regarding discrimination or harassment will be required to report details about the incidents to IDHR. During IDHR investigations, employers will be required to disclose information about agreements or settlements entered into to resolve discrimination or harassment claims. Failure to comply could result in penalties up to \$3,000.

Posting

Employers are required to post a specific notice issued by the Illinois Department of Human Rights ("IDHR"). The notice must alert employees of their right to be free from unlawful discrimination, sexual harassment, and the right to reasonable accommodations for the employee's job if they are pregnant or disabled.

The notice must also point out that retaliation is prohibited and provide instructions on how to report discrimination. All details provided in the notice should be included in an employee handbook.

Proactive Solutions

- Revise Handbooks
- Schedule training of employees
- Inform contractors of rights
- Update posting in office