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Significant Changes to Illinois Discrimination Law

By Lee Levin

Effective July 1, 2020, two significant changes to the Illinois Human Rights Act (Act) went into effect. The first change significantly expands the number of employers in Illinois that may be subject to state discrimination claims. The second change imposes new reporting requirements on employers that had adverse judgments or administrative rulings entered against them in unlawful employment practice matters.

The first change is an amendment to the Act that reduces, from fifteen to one, the number of employees that an employer need have before an action can be brought against the employer for violating the Act. Previously, only disability, pregnancy discrimination and sexual harassment claims could be brought against employers with as few as one employee. With the new amendment, however, employers with as few as one employee can also be subject to claims based on race, gender, religion, national origin, age or/or sexual orientation. This change to Illinois law now distinguishes Illinois law from the Federal Civil Rights Act, which still requires an employer to have fifteen employees before the employer can be the subject of a Federal claim based on race, gender, religion, national origin, age or/or sexual orientation.

The second change imposes a new annual obligation on employers to report to the Illinois Department of Human Rights (IDHR) final, adverse judgments or administrative rulings entered against them in discrimination or sexual harassment matters. By October 1, 2020, employers are required to submit reports for any final, adverse judgments or rulings entered against them during calendar year 2019. Then, by July 1, 2021, and before July 1 of each succeeding year, employers must file such reports for judgments or rulings entered against them in the preceding calendar year (ie, 2020 judgments by July 1, 2021, 2021 judgments by July 1, 2022, etc). The reports must (i) identify the total number of adverse judgments or rulings during the preceding year; (ii) state whether equitable relief was ordered against the employer; and (iii) identify the number of judgments or rulings under the categories of sexual harassment, and discrimination or harassment on the basis of sex, race, color, national origin, religion, age, disability, sexual orientation or gender identity or military status. Under this new provision, an “adverse judgment or administrative ruling” means any final and non-appealable judgment that finds sexual harassment or unlawful discrimination where the ruling is in the employee’s favor and against an employer. There is no requirement under the new provision for an employer to identify settlement agreements in its annual report. However, if the IDHR is investigating harassment or discrimination allegations against an employer, it will have the power to request the employer to report on settlement agreements that the employer entered into during the preceding five years as to those kinds of allegations. An employer who fails to produce a required report will be subject to civil monetary penalties, with the penalties increasing with each violation.

For the newly expanded group of employers subject to state discrimination actions, now is the time to review or implement policies and procedures related to workplace discrimination and the employer’s response. For employers that already were subject to these discrimination actions, now is a great time to update workplace discrimination policies. Roetzel is here to assist employers with questions regarding how to prevent, and prepare to defend against, potential claims.

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