

Legal Update

January 2015

Important Changes In Illinois Laws

By Glenn A. Rice

We wish our clients and friends continued health, happiness, and prosperity in the New Year. In keeping with FVLD tradition, in this *Legal Update* we discuss several significant new laws that may be of interest to you and your business. In particular, three significant new employment laws for Illinois employers take effect as we ring in the New Year. We strongly urge all affected employers to review and update their employee handbooks, policies, and procedures to ensure compliance with the new laws.

New Illinois Law Restricts Criminal Background Inquiries

Beginning January 1, 2015, the Job Opportunities for Qualified Applicants Act prohibits Illinois employers from considering or requiring disclosure of a job applicant's criminal record until the employer has determined that the applicant is qualified for the position and has either been selected for an interview or, if the applicant will not be interviewed, given a conditional employment offer. The new law applies to employers with 15 or more employees. It makes exceptions for (1) employers that are required to exclude applicants who have been convicted of certain crimes under applicable law, (2) applicants for positions for which a bond is required where specific criminal convictions may disqualify the applicant from obtaining the bond, and (3) applicants for positions for which employees must be licensed under Illinois' Emergency Medical Services Systems Act. Please see our [September, 2014 Legal Update](#) for more information.

Amended Illinois Human Rights Act Adds Protections for Pregnant Workers and Job Applicants

The Illinois Human Rights Act has been amended, effective January 1, 2015, to provide significant protections for pregnant employees and job applicants. The amendments prohibit employment discrimination based on pregnancy and generally require employers to provide reasonable accommodations for employees and job applicants affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth. The amended law is applicable to employers of all sizes and has four key requirements. An employer: (1) may not make employment decisions based on pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth; (2) must treat women affected by pregnancy or childbirth the same as other individuals who are not affected but are similar in their ability or inability to work, for all employment-related purposes; (3) may be required to make reasonable accommodations for an employee's or job applicant's medical or common conditions related to pregnancy or childbirth; and (4) must post the Illinois Department of Human Rights' Pregnancy Rights Notice, which summarizes the new requirements and rights under the amendments, and include the notice in the employer's employee handbook. Because employer obligations to accommodate pregnancy and childbirth-related conditions under the amended law go beyond current federal requirements, Illinois employers may need to review and update their employment policies, procedures, and practices to ensure compliance with the amended law. For an extensive discussion of the amendments to the Illinois Human Rights Act, please see our [December, 2014 Legal Update](#).

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Amendment to Illinois Wage Payment and Collection Act Limits Use of Payroll Cards

Effective January 1, 2015, Illinois has amended its Wage Payment and Collection Act to allow employers to pay employees using payroll cards, while restricting their use in a number of ways. For example, an employer may not require that an employee receive wages through a payroll card as a condition of employment. An employer must further secure an employee's written or electronic consent to receiving wages with a payroll card after providing a written disclosure regarding the terms of the payroll card and applicable fees. An employer must also comply with an employee's request to receive payment by a different method within two pay periods. For a more comprehensive summary of the new law, please see our [October, 2014 Legal Update](#).

Illinois Reins in Eavesdropping Law

Up until last year, Illinois' eavesdropping law criminalized the recording of any conversation without the consent of all parties, regardless of whether the conversation was private, the recording was made surreptitiously or the parties had any reasonable expectation of privacy. In March, 2014, the Illinois Supreme Court struck down the statute, holding that it was unconstitutionally overbroad. In so holding, the Court observed that the statute made it a felony to record even conversations that did not implicate privacy concerns, such as a loud argument on a street or any conversation loud enough that the speakers should expect to be overheard by others nearby. In response to the Court's decision, the eavesdropping statute has been amended effective December 30, 2014. Under the amended eavesdropping statute, it is an offense to surreptitiously record a "private" conversation without the consent of all parties. The amended statute defines "surreptitious" as meaning by "stealth or deception, or executed through secrecy or concealment." It further defines a "private" conversation as any oral communication between two or more persons "when one or more of the parties intended the communication to be of a private nature under circumstances reasonably justifying that expectation." The amended statute similarly narrows its reach to cover only eavesdropping of "private" electronic communications. It prohibits the surreptitious interception, recordation or transcription of a "private" electronic communication by a person who is not a party to the communication unless he or she does so with the consent of all parties to the private electronic communication. A "private" electronic communication is one that the sending or receiving party intends to be private under "under circumstances justifying that expectation."

Illinois Passes a Revenge Porn Law

Illinois joins a number of other states enacting laws to make it unlawful to post sexually explicit photos or videos of others without their consent – a form of cyberbullying also known as "revenge porn." The new law makes non-consensual dissemination of private sexual images a Class 4 felony punishable by up to three years in prison. The offender will also forfeit any money or property received as a result of the dissemination of the images. The new law takes effect June 1, 2015.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Glenn Rice, 312.701.6895, grice@fvldlaw.com, Jon Vegosen, 312.701.6860, jvegosen@fvldlaw.com, or your regular FVLD contact.

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