

In Brief

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ILLINOIS PASSES OMNIBUS LEGISLATION TO COMBAT SEXUAL HARASSMENT

Last Friday, August 9, Governor Pritzker signed sweeping legislation that aims to deter and better redress claims of sexual harassment and other unlawful employment practices. The new law creates the *Sexual Harassment Victim Representation Act* (“SHVRA”) and the *Workplace Transparency Act* (“WTA”). The SHVRA prevents conflicts that would result from representing both a victim and a perpetrator in a proceeding brought by one union member against another. The WTA governs contracts between employers and their employees (other than collective bargaining agreements). The SHVRA and the WTA are both effective January 1, 2020.

The new legislation also amends existing laws including the *Illinois Human Rights Act* (“IHRA”), the *Victims’ Economic Security and Safety Act* (“VESSA”), the *State Officials and Employee Ethics Act* (“SOEEA”), and the *Illinois Governmental Ethics Act* (“IGEA”). Changes to the IHRA and VESSA are effective January 1, 2020, while changes to the SOEEA and IGEA are effective immediately.

The Sexual Harassment Victim Representation Act and the Workplace Transparency Act

The SHVRA provides that, for any proceeding in which a victim of sexual harassment is a union member and has accused another member of the same union, a union representative cannot represent both the victim and the perpetrator in that proceeding. Rather, the union must designate separate representatives to represent the victim and alleged perpetrator.

The WTA prohibits contract terms that would restrict an employee from reporting allegations of unlawful conduct to government officials for investigation. The WTA also establishes conditions for terms in employment contracts or settlement agreements that would require an employee to waive or limit rights, arbitrate claims, or keep confidential

allegations that are related to alleged unlawful employment practices.

Changes to Existing Laws

The new legislation makes significant changes to various Illinois discrimination and ethics laws. The following are a few highlights:

- Unlawful discrimination or harassment includes discrimination based on a perceived protected category, not just an actual protected category.
- Employers may be liable for harassment against consultants or contractors, not just for harassment against employees.
- Beginning July 1, 2020, employers must make annual reports of any adverse court or administrative decisions to the Illinois Department of Human Rights (“IDHR”).
- IDHR will adopt a model sexual harassment prevention training program and make it available to the public. To avoid civil penalties, employers must implement annual training using the IDHR model program or its own program which meets the minimum standards set by the IDHR.
- Victims of violence and their family members can take unpaid leave in certain cases, now including when the violence was based on the victim’s gender.
- By February 9, 2020, a local government that is not subject to a local Inspector General must amend its sexual harassment policy to provide a mechanism for reporting and independent review of allegations made by one elected official against another.

Robbins Schwartz will monitor the IDHR’s development of the training program. Contact your Robbins Schwartz attorney with any questions about this law and how it impacts your organization.