

TYPES NOT MAPPED YET August 16, 2024 | TTR not mapped yet | Susan M. Lorenc

Changes Abound for the Illinois Human Rights Act

Illinois employers take notice: Effective January 1, 2025, Illinois employees have more time to file a charge with the Illinois Department of Human Rights, per an amendment to the Illinois Human Rights Act ("IHRA"). While the current law provides for a deadline of 300 days to file an administrative charge, that deadline will now be extended to two years from the date that a civil rights violation allegedly occurred. Recall, however, that the EEOC has a 300-day deadline to pursue Title VII claims; that means Illinois employees who choose to wait more than 300 days to file a claim with the IDHR will not be able to pursue any claims under Title VII, as they will be time barred.

The **takeaway** for Illinois employers is to maintain and preserve information on separated employees for two years so that you are best able to defend any claims of wrongful termination. This may include getting written statements from those involved in the decision to terminate an employee since memories are short and those people may leave your employment before that two-year window closes.

Family Responsibilities

And as if that was not enough, the IHRA was further amended to include a new protected characteristic as of January 1, 2025: an employee's "family responsibilities." "Family responsibilities" is defined as "an employee's actual or perceived provision of personal care to a family member." "Personal care" is defined in the Illinois Employee Sick Leave Act as "activities to ensure that a covered family member's basic medical, hygiene, nutritional, or safety needs are met, or to provide transportation to medical appointments, for a covered family member who is unable to meet those needs him or herself," as well as "being physically present to provide emotional support to a covered family member with a serious health condition who is receiving inpatient or home care." Finally, "family member" is defined as "an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent."

The **takeaway** for this IHRA amendment is to ensure that you are not taking any adverse employment action *because of or related to* an individual's "family responsibilities." That said, the amendment does not require Illinois employers to make special accommodations for those with "family responsibilities," such as leave, scheduling, absenteeism, performance and so on. Time will tell where courts draw that line, but as with all protected characteristics, make sure you have a legitimate, non-discriminatory, non-family caregiving reason for any termination.

Reproductive Health Decisions

Finally, Illinois amended the IHRA (effective January 1, 2025) to add "reproductive health decisions" as a protected characteristic. "Reproductive health decisions" is defined as "a person's decisions regarding the person's use of: contraception; fertility or sterilization care; assisted reproductive technologies; miscarriage management care; healthcare related to the continuation or termination of pregnancy; or prenatal, intranatal or postnatal care."

The **takeaway** for the inclusion of this definition in the IHRA is to ensure that no employee or applicant is subjected to discrimination or harassment because of their stance on abortion, IVF or any other reproductive rights issues.



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