

Illinois: Report from Springfield, Illinois

4/8/2013

Practices: Employment, Labor & Benefits

The Illinois House of Representatives and Senate committees have now approved the following bills, which will impact all employers in Illinois. Therefore, this is the time, before the full House and Senate vote on the bills, for all concerned to contact their human resource networking groups, the Illinois Chamber of Commerce, or their legislative representatives to tell them their opinion of how these changes in the laws will impact their companies. The names, telephone numbers and e-mail addresses of state representatives and senators are located on the website for the Illinois General Assembly, www.ilga.gov.

In HB2562, the Personnel Record Review Act is amended to include civil penalties sought by the Illinois Department of Labor when an employer does not comply with the Act and discloses personnel documents. The penalties are \$250 per violation plus \$25 per day for each day the violation continued. The penalties will be placed into a Personnel Records Enforcement Fund which will fund the hiring of additional investigators by the Department of Labor.

In HB3005, the full House will likely consider a new Employee Background Check Act. A "background check" is defined as a pre-interview criminal history inquiry. Under this proposed law, the background check may "only be conducted after the candidate has completed an application, been determined qualified for the position and been interviewed for employment." This language is probably not troubling, because most employers conduct criminal background checks after making a conditional offer of employment. However, the next sentence in the Act is troubling. It states that an "employer may not inquire about a candidate's background before the candidate has been interviewed." This would mean that the job application may not contain a question about the candidate's criminal history. Other sections allow employers to ask about criminal convictions during an interview and allow healthcare, law enforcement and financial institutions to conduct background checks before the employer interviews the candidate.

In HB1190, the full Senate will likely consider enacting the Family Care Provider Act. The proponents of this Act state that it recognizes the changing demographics and realities of family life in the 21st Century. Therefore, the Act requires all companies that must comply with the federal FMLA to include grandparents and grandchildren as eligible employees. Grandparents could take FMLA-qualifying leave to care for a grandchild born or adopted, for a grandparent to care for a grandchild that has a serious health condition and for a grandchild to care for a grandparent with a serious health condition. Under the Family Care Provider Act, the grandchild and grandparent must comply with the other provisions of the federal FMLA, including the need for a certification from a health care provider and the requirement to give notice to the employer of a foreseeable leave.