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## **Four Key Labor and Employment Law Developments for 2023**

Another year means another round of changes to labor and employment laws in Illinois of which all employers should be aware. A diverse range of topics including protection against hair-based discrimination, bereavement leave, rest and meal break periods, and minimum sick leave for collective bargaining agreements are covered by these laws. All changes went into effect on January 1, 2023.

### **1. The CROWN Act**

In June 2022, Governor Pritzker signed into law the Create a Respectful and Open Workplace for Natural Hair Act ([CROWN](#)) Act, which amends the Illinois Human Rights Act (IHRA), the prevailing state law prohibiting, in part, employment discrimination based on protected categories such as race, sex, national origin, sexual orientation, and gender identity. Specifically, the CROWN Act expands the definition of race under the IHRA to include “traits associated with race”, such as “hair texture and protective hairstyles such as braids, locks and twists.” In other words, employers cannot discriminate against employees based on hairstyles that may be associated with their race. Passage of the Act is viewed as an effort to remedy past and ongoing discrimination against members of the Black community based on negative perceptions of hairstyles common in their community.

**Employer Action:** Immediately review and update equal employment opportunity and appearance and grooming policies to ensure any restrictions do not directly or indirectly have the effect of discriminating against employees because of hairstyles associated with their race. Employers should also consider updating any relevant training to promote employee sensitivity to and acceptance of different hairstyles.

### **2. The Family Bereavement Law Act**

On June 9, 2022, Governor Pritzker signed into law the Family Bereavement Law Act ([FBLA](#)), which amends and renames the Child Bereavement Leave Act (CBLA). The FBLA applies to all public and private employers with more than 50 employees. To be eligible for this leave, employees must have worked 1,250 hours for their employer during the preceding 12-month period of a request for leave. Specifically, the Act requires employers to provide eligible employees with a maximum of two weeks (10 workdays) of unpaid bereavement leave not only for the death of a child, but also to:

1. Attend the funeral or alternative to a funeral of a covered family member, which includes spouses, domestic partners, siblings, grandparents, and stepparents;
2. Make arrangements necessitated by the death of a covered family member;
3. Grieve the death of a covered family member;
4. Be absent from work due to:
  - a. Miscarriage;
  - b. An unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure;

- c. A failed adoption match or an adoption that is not finalized because it is contested by another party;
- d. A failed surrogacy agreement;
- e. A diagnosis that negatively impacts pregnancy or fertility; or
- f. A stillbirth.

Employees must provide employers with at least 48 hours' advance notice of intention to take bereavement leave, and any leave taken under the FLBA must be completed within 60 days after the date on which the employee receives notice of the qualifying event.

Employers may, but are not required to, request reasonable documentation to certify that an employee requesting FLBA leave experienced an event covered by the Act. Reasonable documentation includes death certificates, published obituaries, healthcare practitioner documentation, or documentation from an adoption or surrogacy organization. Employers may elect to use the [FBLA certification form](#) that the Illinois Department of Labor (IDOL) provides on its website, or to adopt its own processes.

Employer Action: Immediately review and update bereavement policies to ensure compliance with the FBLA.

### 3. One Day Rest in Seven Act

On May 13, 2022, Governor Pritzker signed into law Senate Bill (SB) 2416, two amendments to the [One Day Rest in Seven Act](#) (ODRISA), with the following impact:

1. Additional Meal Breaks: prior to the amendments, ODRISA required that employers provide at least a 20-minute meal period within the first five hours of an employee's shift as long as the shift is at least 7.5 continuous hours. Now, for employees who work more than 7.5 hours, employers are required to provide an additional 20-minute meal break for each additional 4.5 continuous hours worked. An employee, therefore, who works a 12-hour continuous shift is required to receive two 20-minute breaks. These breaks are in addition to any reasonable time spent using the restroom.

Note: Even though ODRISA references at least 20-minute meal periods, under the Fair Labor Standards Act (FLSA), meal periods, different than non-meal breaks, are required to be at least 30 minutes long, are not work time (employees should be relieved of all duties), and are not compensable. As such, to comply with both ODRISA and the FLSA, employers should ensure that meal periods are in fact at least 30 minutes long.

2. Redefinition of Work Week: Prior to the amendments, employees were entitled to at least 24 consecutive hours of rest in "every calendar week". Now, employees are entitled to at least 24 consecutive hours of rest in "every consecutive seven-day period", recognizing that not all work weeks follow the calendar week. Thus, whenever an employee's work week begins, they are entitled to at least 24 consecutive hours of rest every seven days.

Note: the above two provisions do not apply to "employees for whom work hours, days of work, and rest periods are established through the collective bargaining process." They also

do not apply to “part-time employees whose total hours worked for one employer during a calendar week do not exceed 20” and FLSA exempt employees.

3. **Increased Penalties for Violations:** Prior to the amendments, employers who violated ODRISA were fined as a petty offense no less than \$25 and no more than \$100 for each violation. Now, employers with less than 25 employees not only may be fined as a civil offense up to \$250, but they may also owe damages, up to \$250, to the employee(s) affected. For employers with more than 25 employees, they may be fined as a civil offense up to \$500 and may owe damages, up to \$500, to the employee(s) affected.
4. **Notice Requirement:** Employers must conspicuously post, and provide via email or website for traveling and remote employees, a [notice](#) prepared by IDOL outlining employee rights under ODRISA.

**Employer Action:** Review, and take any other steps as appropriate, non-union, non-exempt, full-time work schedules and policies on hours worked and meal periods to ensure compliance with the amended ODRISA. Employers should also print and electronically provide employees with the IDOL notice.

#### 4. **Employee Sick Leave Act**

The [Employee Sick Leave Act](#) requires that if an employer provides sick leave or paid time off to employees, employees must be able to use some of that time to care for certain family members. Specifically, the Act entitles employees, if granted sick leave and paid time off, to use such time for “absences due to an illness, injury, or medical appointment of the employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, or for personal care of a covered family member, on the same terms upon which the employee is able to use personal sick leave benefits for the employee's own illness or injury.”

On May 13, 2022, Governor Pritzker signed into law [SB 645](#), which provides that “the rights afforded under this Act serve as the minimum standard in a negotiated collective bargaining agreement.”

**Employer Action:** Review sick and paid leave time policies, taking any steps as appropriate to ensure they comply with this Act, and be prepared to meet and discuss a union’s request to revise any CBA provisions consistent with the Employee Sick Leave Act.