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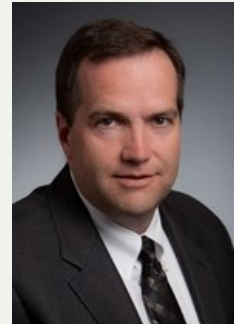
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LEGAL ALERT

WORKPLACE TRANSPARENCY ACT

On August 7, 2019, the Governor signed Public Act 101-221, the Workplace Transparency Act, (hereinafter "the Act"). The Act includes a number of new requirements and changes to several statutes applicable to local governments, including: the, Human Rights Act, State Officials and Employees Ethics Act, Freedom of Information Act, Victims' Economic Security and Safety Act, and the Governmental Ethics Act. Below is a summary of the major new requirements for your local government.

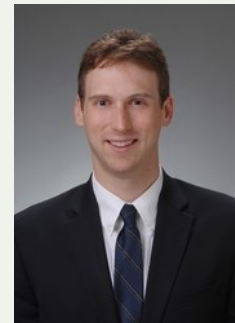
1. The Act significantly amends the Illinois Human Rights Act, expanding the definitions of working environment and harassment, identifying new civil rights violations, and mandating reporting and training. The amendments are more fully described below and include:
 - ◇ Extending the definition of "working environment" to places beyond the physical location where "an employee is assigned to perform his or her duties". See 775 ILCS 5/2-101 (E) effective 1/1/2020
 - ◇ Creating a new definition for "Harassment" that states:
any unwelcome conduct on the basis of an individual's actual or perceived race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, or citizenship status that has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment. See 775 ILCS 5/2-101 (E-1) effective 1/1/2020
 - ◇ Creating a civil rights violation for engaging in harassment as defined in 775 ILCS 5/2-101 (E-1). See 775 ILCS 5/2-102(A) effective 1/1/2020
 - ◇ Making an employer responsible when non-managers or non-supervisors harass other employees if the employer was aware of the harassment and failed to take corrective measures. See 775 ILCS 5/2-102 (A) effective 1/1/2020
 - ◇ Protecting non-employees from sexual harassment and harassment in the workplace by managers, supervisors, non-managers, and non-supervisors if the employer was aware of the



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harassment and failed to take corrective measures. “Non-employees” could be contractors, consultants, or other persons performing services for the employer. See 775 ILCS 5/2-102 (A-10); (D-5) effective 1/1/2020

- ◇ Compelling all employers in the State (private and public) to:
 - * report annually to the Department of Human Rights if an adverse judgment based on sexual harassment, discrimination or harassment based on sex, race, color, national origin, religion, age, disability, military status, sexual orientation, gender identity, or other protected characteristic has been entered against the employer;
 - * report annually to the Department of Human Rights any settlements based on sexual harassment, discrimination or harassment based on sex, race, color, national origin, religion, age, disability, military status, sexual orientation, gender identity, or other protected characteristic if the employer is currently under investigation by the Department of Human Rights;
 - * not disclose the name of the victim of these adverse judgments or settlements. See 775 ILCS 5/2-108 effective 1/1/2020
 - ◇ Mandating all employers in the State (private and public) to give a training program every year on sexual harassment prevention. The employer is to use a model sexual harassment prevention training program created by the Department of Human Rights, or one of its own that equals or exceeds that of the Department of Human Rights. See 775 ILCS 5/2-109 effective 1/1/2020
 - ◇ If employers fail to report pursuant to Section 5/2-108 or provide training pursuant to Section 5/2-109, they could be fined from \$500-\$1,000 for the 1st offense, depending on the number of employees. Second, third, and subsequent offenses could be assessed even greater fines. See 775 ILCS 5/8-109.1 effective 1/1/2020
2. The Act applies the provisions from the Human Rights Act to the State Officials and Employees Ethics Act, including:
- ◇ Requiring state employees, officers, and members to complete mandatory harassment and discrimination training. See 5 ILCS 430/5-10.5, effective 8/9/2019.
 - ◇ Protecting persons subject to discrimination. See 5 ILCS 430/20-63; 5 ILCS 430/25-63, effective 8/9/2019
3. Commensurate with the new reporting requirements, the Act exempts “data reported by an employer to the Department of Human Rights” from disclosure pursuant to the Freedom of Information Act (“FOIA”). See 5 ILCS 140/7(oo) effective 1/1/2020
4. The Act expanded the definition of “electronic communications” contained in the Victims’ Economic Security and Safety Act to include communications via an “online platform (including, but not limited to, any public-facing website, web application, digital application, or social network). See 820 ILCS 180/10 effective 1/1/2020
5. Besides the changes to the Human Rights Act and FOIA, the Act also changes how and where certain public officials file statements of economic interest. The following persons now must submit their statements of economic interests to the County Clerk:
- ◇ Elected officials
 - ◇ Candidates for office
 - ◇ Regional superintendents of school districts

- ◇ Appointees to governing boards / special districts such as zoning or plan commission that have authority to authorize expending public funds
- ◇ Department heads or persons with direct supervisory authority to issue contracts over \$1,000 employed by local government units
- ◇ Non-ministerial employees that approve licenses and permits
- ◇ Employees that adjudicate, arbitrate, or decide administrative proceedings for a local government
- ◇ Employees that have authority to issue or adopt rules for the local government
- ◇ Supervisors of 20 or more employees
- ◇ School district employees that are required to hold an administrative or chief school business official endorsement
- ◇ Members of pension fund board, if not required to file already

The chief administrative officer of each local government unit shall certify to the county clerk a list of names and addresses of persons in the local government that are required to file.

See 5 ILCS 420/4A-101.5 and 5 ILCS 420/4A-106.5, effective 8/9/2019

6. Finally, the Act mandates all local governments, including home-rule municipalities, not subject to the jurisdiction of a state or local inspector general, adopt an ordinance or resolution amending its sexual harassment policy to provide for a “mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit” before February 9, 2020. *See 5 ILCS 430/70-5, effective 8/9/2019.*

These six sections are not an exhaustive list of the changes made by the Act. Important changes may have to be made to your existing policies, and provision will have to be made for the newly required annual training. For assistance in changing any policies, or to arrange for sexual harassment training, please contact us.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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