

NEW LAWS FOR ILLINOIS EMPLOYERS – 2006 – Election Leave (Paid), Blood Donation Leave, Family Military Leave, Service Member Employee Tenure Act, Sexual Orientation Protection Against Discrimination (Human Rights Act), Whistleblower Act

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#### ELECTION LEAVE--PAID

An amended Election Leave Act permits employees to take paid time off for two hours on election day to vote. If the work day begins less than two hours after the opening of the polls and ends less than two hours before the poll closing, then the employee is entitled to a two-hour absence during working hours.

#### BLOOD DONATION LEAVE

Employees are entitled to one hour paid time off every 56 days to donate blood. The law only applies to employers of 50 or more employees. Employees are eligible if they work full-time, have six months on the job, and receive prior approval of the employer.

#### FAMILY MILITARY LEAVE

The Family Military Leave Act allows time off work for family members of persons in military service.

The law applies to both employees and independent contractors who are spouses or parents of a person in military service for longer than 30 days. Employers with 15 to 50 employees must provide up to 15 days unpaid leave while deployment orders are in effect. Employers with more than 50 employees must provide up to 30 days unpaid leave.

Modeled in some respects on the Family and Medical Leave Act, the family military leave law applies only to those who have been employed for 12 months and performed 1,250 hours of service in the 12 month period prior to the leave. Employees must exhaust all available vacation, personal, comp and other leave time (except sick and disability time) before taking family military leave.

If the leave is for more than 5 consecutive days, the employee must give 14 days notice and consult with the employer on scheduling. But, if the leave is for less than 5 consecutive days, the employee must give only advanced notice as is practicable, with no obligation to consult. This raises the possibility of employees taking lawful unannounced time off of less than 5 consecutive days until they have exhausted their entitlement.

Employers may require certification from the proper military authority to verify the employee's eligibility.

While on leave, employees must be permitted to continue benefits at their own expense. Upon return, employees are entitled to all accrued benefits and the same or an equivalent position, unless there is a reason unrelated to the leave request why the employee cannot be reinstated.

Employers are prohibited from interfering with employee rights, discriminating or retaliating against employees for exercising family military leave rights.

#### SERVICE MEMBER EMPLOYEE TENURE ACT

A related new law protects employees who are called for military service after being offered a job but before they begin work. If requested, employers must provide a written offer. If the employee applies to work within 90 days of release from service, the employee is entitled to a job preference for the position for one year. Automatic placement in the offered job is not required if the employee is no longer qualified or other factors make it unreasonable.

#### SEXUAL ORIENTATION PROTECTION

The Illinois Human Rights Act now prohibits discrimination on the basis of sexual orientation. The definition of sexual orientation includes homosexuality, and also includes bisexuality, heterosexuality, gender-related identity (which may include trans-gender and cross-dressing), and an employer's perception of the employee's orientation. The law does not apply to adult attraction to a minor.

#### WHISTLEBLOWER PROTECTION

Although the Illinois Whistleblower Act went into effect in 2004, it is worth reviewing. The law protects employees who make disclosures to government or law enforcement agencies if they have reasonable cause to believe a violation of the law has been committed. No retaliation against a whistle-blowing employee is permitted, and the company may not have policies against such reporting. Recently we reviewed an innocent-looking policy that may violate the law: "Do not discuss the company's confidential business with anyone who does not work for us." This policy is so comprehensive, it appears to prohibit disclosures that the law protects.

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