



SB 1480: Adverse Changes to Employer's Hiring Process and Equal Pay Compliance

SB 1480, an amendment to the Illinois Human Rights Act, is a sweeping piece of legislation that will have serious ramifications for employers. SB 1480 passed the House and Senate on a partisan basis in the waning hours of the 101st General Assembly's lame duck session and now awaits the Governor's signature. Highlighted below are some of the bill's most egregious provisions for employers. The Chamber, along with a coalition of business advocates, has requested a veto. Please forward this vital information to the legal counsel and human resources department within your organization.

Concerning Potential Criminal Backgrounds of Employees:

- Subsection A: The definition of "substantial relationship" is extremely restrictive. The definition requires the employer to show that the criminal conduct WILL recur in the future, which is an impossible standard to meet.
- Subsection C: While the Chamber understands the rationale and federal requirements in certain circumstances for pre-notice of an adverse decision and opportunity to dispute, many employers use a third party to conduct the background check and the third required to provide this notice under the Federal Credit Reporting Act, but the employer makes the substantive decision. This raises questions as to whether these new provisions are consistent with federal law and how employers will be able to comply. For larger employers that hire in the 100s at a time, the proposal has too many "pending" review and awaiting processes. It is unworkable where an employer has many applicants for a limited number of openings. For smaller employers, the delay caused by the notice to fill a critical position could be even more harmful.

Concerning Certification Standards and the Equal Pay Act:

- What will be the basis for an employer to be able to certify its average compensation for its female and minority employees is "not consistently below" the average compensation for its male and non-minority employees? This standard is undefined and open to wide interpretation by IDOL which will lead to significant litigation.
- Subsection (i) is awkwardly worded and does not provide adequate protection for specific employer data from being publicly accessed. Any employer required to file an EEO Form-1 must file "similar" information to the Secretary of State. The Secretary of State must publish the information on its website.
- Subsection (j) regarding penalties assumes a business operates with a "gross profit". First, the Chamber is unaware of any state or federal law that applies a penalty based on "gross profit". In the case of a blatant disregard of the law but the business has zero gross profit, that business pays nothing in penalties. Whereas a business that has a minor violation and \$100 million in gross profit, the absolute requirement of subsection (k) requires a penalty of \$1 million. Also, IDOL has no flexibility in applying such a potentially overly punitive penalty. The penalty is an absolute for even the most innocent violation.

Without further consideration and opportunity to fix the deficiencies in SB 1480, Illinois employers will face new liabilities, new regulation and costs to comply that employers in other states do not face.