



# 2018 Employment Law Update

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# Employment Law Update - 2018

The latest efforts at improving our lives through governmental regulation





## ***New Illinois Statutes:*** **Illinois “Religious Garb” Law**

- Effective August 11, 2017
- **Amends the ILLINOIS HUMAN RIGHTS ACT**
- **Makes it a Civil Rights Violation/Religious Discrimination:**  
For an Employer to impose as a condition of employment any requirement that would require a person “*to violate or forgo a sincerely held practice of his/her religion*”
  - Including but not limited to ***the wearing of any attire, clothing or facial hair*** in accordance with the requirements of his/her religion



# ***New Illinois Statutes:*** **Illinois “Religious Garb” Law**

- Amendment states that it **does not prohibit** an employer from enacting a dress code or grooming policy that includes restrictions on attire or facial hair to maintain ***workplace safety*** or ***food sanitation***
- ***Undue Hardship:*** If an employer can show an undue hardship on the conduct of its business it may not be required to reasonably accommodate the employee’s religious belief
  - Undue Hardship is a difficult showing
  - Co-worker or customer complaints or preferences are not undue hardships
- Not entirely “new”
  - IHRA and Title VII of Civil Rights Act already required employers to reasonably accommodate sincerely held religious beliefs



# *New Illinois Statutes:* Illinois “Religious Garb” Law

- Review existing uniform, dress and grooming policies
- Employers should explore accommodation requests on case-by-case basis
- Train supervisors to recognize when a “request” is made





## ***New Illinois Statutes:***

# **IL Genetic Information Privacy Act**

- Amended effective on January 1, 2018
- GIPA originally intended to prohibit an employer from using an employee's genetic information to make an employment decision or discriminate against employee
  - However, GIPA did allow an employer to use genetic information as part of a workplace wellness program benefitting an employee, when (1) employer offered health services, (2) employee gave written authorization, (3) only employee and licensed health care professional receive individually identifying info, and (4) individually identifying info is not provided to employer



## *New Illinois Statutes:* **IL Genetic Information Privacy Act**

- GIPA now amended to prohibit an employer from penalizing an employee who does not disclose his/her genetic information, OR
- Penalizing an employee who elects not to participate in an employer program requiring the disclosure of the employee's genetic information





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# IL Biometric Information Privacy Act

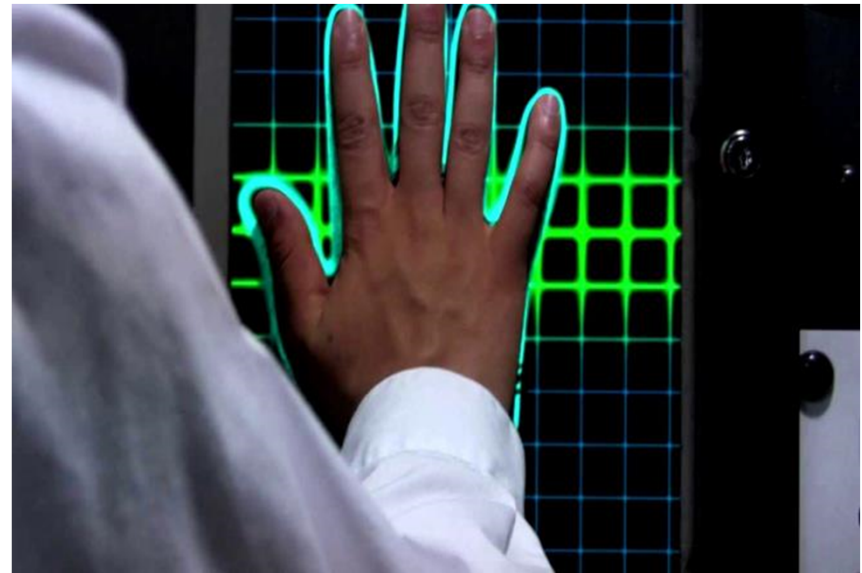
- BIPA signed into law in 2008
- Nothing new here --- BIPA is 10 years old
  - BUT – since July 2017 more than 25 lawsuits have been filed against companies and employers for violations of Act
- BIPA regulates the “collection, use, safeguarding, storage, retention and destruction of ***biometric identifiers and information***”
  - Defined as: a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry





# IL Biometric Information Privacy Act

- **Employer Uses:**
  - Time Management
  - Security Access
  - Health/Wellness Plans





# IL Biometric Information Privacy Act

## Requirements of BIPA

1. Prohibits any private company from collecting biometric info without written authorization
2. Prohibits anyone in possession of biometric info from selling or otherwise profiting from the info
3. Prohibits disclosure of biometric info without person's consent or as otherwise required by law
4. Must store and protect biometric info from disclosure using reasonable standard of care within industry
5. Must develop written policy on retention and destruction of biometric info (when purpose for collection ceases)



# IL Biometric Information Privacy Act

## Penalties for Violations of BIPA

1. Negligent Violation: \$1000 per violation
2. Intentional Violation: \$5000 per violation
3. Attorney Fees
4. Injunction



# IL Biometric Information Privacy Act

## Best Practices to avoid a BIPA suit:

1. Identify what biometric info is being collected
2. Only collect the information needed for business operations
3. Develop a plan to securely store and transmit information per applicable industry standards
4. Develop and follow a plan to permanently destroy biometric information when no longer needed



# Legislation Pending in Illinois:

## *How may the government help you?*

**SB 20: Reform of Human Rights Act**– If enacted into law, it would make a number of changes aimed in significant part at reducing back log of cases, including:

- Expands time to file charge of discrimination from 180 days to 300 days (to be same as EEOC requirements);
  - Allows a complainant to opt out of IDHR Investigation within 60 days of filing to file a lawsuit in circuit court;
  - Decreases size of Commission from 13 part-time to 7 full-time commissioners, while creating a temporary 3 person panel to address backlog
  - Allows IDHR to dismiss charge if another action is pending which would preclude claims in charge
- IL House and Senate have unanimously approved bill and are sending it on to Governor



## Legislation Pending in Illinois:

### *How may the government help you?*

**HB 4572: Amend Human Rights Act**– Would change the definition of “Employer” under IHRA to include any person employing one (1) employee [currently a person must employ 15 or more employees to be covered under Act].

- Has been approved by House and Senate and sent to Governor

**HB 4743: Amend Equal Pay Act** – Would prohibit an employer from asking an applicant about salary/wage history

- Includes punitive and compensatory damage provisions
- Passed both House and Senate and sent to Governor



# Legislation Pending in Illinois:

## *How may the government help you?*

**HB 2771: Mandatory Sick Leave** – Would require employers to provide employees with 40 hours of paid sick leave, which can be earned after 180 days of employment [exempts union construction companies, railroads, school districts and park districts].

- Failed to receive enough votes in House before end of session, but expected to be brought up again next legislative session

**HB 5046 and SB 202: Fair Scheduling Act** – Would require employers to provide work schedules at least 72 hours before start of shift, and requires that employee be paid if shift is canceled or reduced within 72 hours of the beginning of shift

- Expected to be brought to vote next legislative session