

Insights: Alerts

Important Legal Development: Illinois Severance Agreements

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Illinois employers should promptly review their employment and separation agreements to ensure compliance with recent amendments to the Illinois Workplace Transparency Act (the “Act”).

On August 15, 2025, Governor Pritzker signed HB 3638, significantly expanding employee rights under the Act, originally enacted in 2019, in response to the #MeToo movement. The amendments broaden protections for employee speech, expand the scope of unlawful practices that can be reported, and strengthen limits on confidentiality and choice-of-law provisions in agreements. The amendments will apply prospectively to all contracts entered into after the effective date of January 1, 2026.

Key Changes

- **Expanded Scope of Protected Activity**

Employees, former employees, and job applicants cannot be unilaterally required to waive the right to report unlawful business practices or to engage in concerted activity regarding workplace issues. Any contract containing such restrictions is void as against public policy.

- **Choice of Law and Venue Restrictions**

Agreements may not unilaterally (1) shorten applicable statutes of limitation, (2) require application of non-Illinois law to Illinois employees' claims, or (3) mandate out-of-state venues. Employers with multi-state operations should revisit choice-of-law and forum-selection clauses.

- **Employment Agreements**

Employees may waive certain protections only in writing, with consideration, and only if the agreement preserves rights to report unlawful practices, cooperate in proceedings, and engage in future or prospective concerted activity.

- **Separation and Termination Agreements**

Confidentiality clauses remain permissible but cannot restrict former employees' concerted activity.

Confidentiality still must reflect the employee's preference, provide separate consideration, preserve future claims, and include a 21-day review/7-day revocation period.

- **Increased Damages**

Employees who prevail in challenging unlawful agreements may now recover consequential damages in

addition to attorney's fees and costs, heightening the risks of noncompliance and litigation.

Employer Action Items

- Review and update template employment, severance, and settlement agreements.
- Remove or revise provisions restricting reporting rights, concerted activity, or unilaterally applying non-Illinois law/venues.
- Train HR and legal teams on the expanded requirements to avoid costly litigation challenges.

Related People



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