

Illinois House Bill 4157 Extends Sexual Harassment Protections to Unpaid Interns

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On August 25, 2014, Illinois Governor Pat Quinn signed into law **House Bill 4157**, amending the Illinois Human Rights Act (the “Act”) to extend the Act’s sexual harassment protections to unpaid interns. Beginning on January 1, 2015, the definition of “employee” will be expanded to include unpaid interns who meet certain criteria.

Specifically, an “unpaid intern,” pursuant to the Act, is a person who performs work for an employer in circumstances under which the employer is not committed to hiring the individual at the conclusion of the individual’s tenure, and the parties agree the person is not entitled to wages. In addition, the work performed must meet the following requirements: supplements training that is given in an educational environment that may enhance the intern’s employability; provides experience for the benefit of the person performing the work; does not displace regular employees; is performed under close supervision; and provides no immediate advantage to the employer.

Illinois is the third state to enact legislation that protects interns. In 2013, Oregon legislatures passed a law expanding the state’s discrimination and harassment protections to interns, whether they are paid or not. In July of 2014, New York Governor Andrew Cuomo signed similar legislation, which amended the New York State Human Rights Law to make it unlawful for an employer to discriminate against an intern on the basis of his or her membership in a protected category or to engage in unwelcome conduct of a sexual nature towards an intern. Washington D.C. and New York City have similar protections in place for interns. Employers in Illinois should consider updating their training programs and policies to include the new state law protections for unpaid interns. In addition, employers must remember that even if a person does not satisfy the definition of an “unpaid intern,” he or she may be considered an “employee” otherwise entitled to the Act’s protections.

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