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# New Illinois Law Restricts Use of AI in Employment Practices

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On Aug. 9, Illinois Governor J.B. Pritzker signed House Bill 3773 into law, amending the Illinois Human Rights Act to address the use of artificial intelligence (AI) in employment decisions. This legislation, effective in 2026, places Illinois at the forefront of efforts to regulate AI in the workplace, setting a potential model for other states to follow.

As AI becomes increasingly prevalent in everyday life, legislators have taken notice, eyeing ways to regulate its use. Illinois has become the second state — after Colorado in May 2024 — to enact a law restricting AI use in employment. This new legislation builds upon existing protections in the Illinois Human Rights Act — a comprehensive law designed to protect individuals from discrimination in various aspects of daily life, including employment — and reflects broader concerns about AI's role in perpetuating bias in hiring and other employment decisions.

## Key Provisions of the New Law

Employers may not use AI systems that have “the effect of discriminating against employees” or job applicants based on any protected characteristic under the Illinois Human Rights Act, including race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

Thus, an employer can violate the statute even if it has no intent to discriminate if its use of AI results in a discriminatory impact based on any of these protected characteristics, potentially similar to disparate impact under Title VII. The law also explicitly bans using zip codes as proxies for protected classes when using AI in employment decisions to prevent indirect discrimination through seemingly neutral data points.

What qualifies as AI under the statute? The law broadly defines AI as “a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.” The definition

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also explicitly includes “generative” AI, which the new law separately defines as “an automated computing system that, when prompted with human prompts, descriptions, or queries, can produce outputs that simulate human-produced content.”

This requirement applies to a wide range of employment decisions, including: recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, and other terms, privileges, or conditions of employment. The law covers both employees and job applicants and applies to all employers with one or more employees in Illinois.

The law also contains a notice requirement. Employers must notify employees when AI is being used to make or assist in any of the employment-related decisions listed above. Failure to do so constitutes its own violation of the statute.

Violating these provisions subjects an employer to the full range of penalties under the Illinois Human Rights Act. These include investigation and civil penalties by the Illinois Department of Human Rights and private lawsuits by affected individuals seeking actual damages and attorney’s fees.

### **Recommendations for Employers**

With an effective date of Jan. 1, 2026, employers have time to update their policies to ensure compliance with these new requirements. It is recommended that employers consider taking these steps:

- **AI System Audit:** Conduct a comprehensive review of all AI tools used in employment processes to identify potential biases or discriminatory effects.
- **Risk Assessment and Mitigation:** Develop processes to evaluate AI systems for discriminatory impacts and implement strategies to mitigate identified risks.
- **Notification:** Create clear and compliant procedures for informing employees about AI use in employment decisions.
- **Training:** Implement training for HR personnel, managers, and other decision makers on the new legal requirements and proper use of AI tools.
- **Policy Development:** Draft or update internal policies on AI use in employment to ensure compliance with the new law.
- **Vendor Management:** Review agreements with AI vendors and other vendors to ensure their systems comply with the new requirements and consider indemnification provisions.
- **Documentation:** Maintain detailed records of AI system assessments, mitigation efforts, and employee notifications to establish compliance.

### **Conclusion**

The new law tasks the Illinois Department of Human Rights — the state agency that administers the statute

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— with creating regulations necessary to implement and enforce these new requirements. It is expected the department will issue regulations before the effective date that will provide more detail to aid employers in compliance efforts.

Developments related to this legislation will continue to be monitored, and updates will be provided as new guidance becomes available. For questions about how to ensure that workplace policies comply with applicable laws, contact an attorney in the Employment Law team. For questions about how AI may affect business operations from a legal perspective, contact an attorney in the Technology and Artificial Intelligence team.

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