



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5300

Introduced 2/9/2024, by Rep. Dagmara Avelar

SYNOPSIS AS INTRODUCED:

| | |
|-----------------|--------------------------|
| 820 ILCS 40/2 | from Ch. 48, par. 2002 |
| 820 ILCS 115/2 | from Ch. 48, par. 39m-2 |
| 820 ILCS 115/10 | from Ch. 48, par. 39m-10 |
| 820 ILCS 115/14 | from Ch. 48, par. 39m-14 |

Amends the Personnel Record Review Act. Provides that every employer shall, upon an employee's request which the employer may require be in writing on a form supplied by the employer, permit the employee to inspect his or her pay stubs. Amends the Illinois Wage Payment and Collection Act. Provides that employers shall keep records of names and addresses of all employees and of wages paid each payday, and shall furnish each employee with a pay stub for each pay period (rather than shall furnish each employee with an itemized statement of deductions made from the employee's wages for each pay period). Provides that an employer shall maintain a copy of an employee's pay stub for a period of not less than 3 years after the date of payment, whether the pay stub is provided electronically or in paper form, and the employer shall furnish the pay stub to the employee or former employee upon the employee or former employee's request. Provides that an employer who furnishes electronic pay stubs in a manner that is restricted to the employer's current employees must, upon an employee's separation from employment, furnish the employee or former employee with a paper or emailed electronic record of all of the employee's or former employee's pay stubs for up to 3 years prior to the date of separation, in the method specified by the employee or former employee. Provides that an employer who fails to furnish an employee with a pay stub or commits any other violation of this Act, except for specified violations, shall be subject to a civil penalty of \$500 per violation payable to the Department of Labor. Defines "pay stub".

LRB103 39473 SPS 69668 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Personnel Record Review Act is amended by
5 changing Section 2 as follows:

6 (820 ILCS 40/2) (from Ch. 48, par. 2002)

7 Sec. 2. Open records. Every employer shall, upon an
8 employee's request which the employer may require be in
9 writing on a form supplied by the employer, permit the
10 employee to inspect his or her pay stubs as defined in Section
11 2 of the Illinois Wage Payment and Collection Act and any
12 personnel documents which are, have been or are intended to be
13 used in determining that employee's qualifications for
14 employment, promotion, transfer, additional compensation,
15 discharge or other disciplinary action, except as provided in
16 Section 10. The inspection right encompasses personnel
17 documents in the possession of a person, corporation,
18 partnership, or other association having a contractual
19 agreement with the employer to keep or supply a personnel
20 record. An employee may request all or any part of his or her
21 records, except as provided in Section 10. The employer shall
22 grant at least 2 inspection requests by an employee in a
23 calendar year when requests are made at reasonable intervals,

1 unless otherwise provided in a collective bargaining
2 agreement. The employer shall provide the employee with the
3 inspection opportunity within 7 working days after the
4 employee makes the request or if the employer can reasonably
5 show that such deadline cannot be met, the employer shall have
6 an additional 7 days to comply. The inspection shall take
7 place at a location reasonably near the employee's place of
8 employment and during normal working hours. The employer may
9 allow the inspection to take place at a time other than working
10 hours or at a place other than where the records are maintained
11 if that time or place would be more convenient for the
12 employee. Nothing in this Act shall be construed as a
13 requirement that an employee be permitted to remove any part
14 of such personnel records or any part of such records from the
15 place on the employer's premises where it is made available
16 for inspection. Each employer shall retain the right to
17 protect his records from loss, damage, or alteration to insure
18 the integrity of the records. The employer shall, upon the
19 employee's written request, email or mail a copy of the
20 requested record to the employee by the email address or
21 mailing address identified by the employee for the purpose of
22 receiving the copy of requested record. An employer may charge
23 a fee for providing a copy of the requested record. The fee
24 shall be limited to the actual cost of duplicating the
25 requested record.

26 (Source: P.A. 103-201, eff. 1-1-24.)

1 Section 10. The Illinois Wage Payment and Collection Act
2 is amended by changing Sections 2, 10, and 14 as follows:

3 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

4 Sec. 2. Definitions. For all employees, other than
5 separated employees, "wages" shall be defined as any
6 compensation owed an employee by an employer pursuant to an
7 employment contract or agreement between the 2 parties,
8 whether the amount is determined on a time, task, piece, or any
9 other basis of calculation. Payments to separated employees
10 shall be termed "final compensation" and shall be defined as
11 wages, salaries, earned commissions, earned bonuses, and the
12 monetary equivalent of earned vacation and earned holidays,
13 and any other compensation owed the employee by the employer
14 pursuant to an employment contract or agreement between the 2
15 parties. Where an employer is legally committed through a
16 collective bargaining agreement or otherwise to make
17 contributions to an employee benefit, trust or fund on the
18 basis of a certain amount per hour, day, week or other period
19 of time, the amount due from the employer to such employee
20 benefit, trust, or fund shall be defined as "wage
21 supplements", subject to the wage collection provisions of
22 this Act.

23 As used in this Act, the term "employer" shall include any
24 individual, partnership, association, corporation, limited

1 liability company, business trust, employment and labor
2 placement agencies where wage payments are made directly or
3 indirectly by the agency or business for work undertaken by
4 employees under hire to a third party pursuant to a contract
5 between the business or agency with the third party, or any
6 person or group of persons acting directly or indirectly in
7 the interest of an employer in relation to an employee, for
8 which one or more persons is gainfully employed.

9 As used in this Act, the term "employee" shall include any
10 individual permitted to work by an employer in an occupation,
11 but shall not include any individual:

12 (1) who has been and will continue to be free from
13 control and direction over the performance of his work,
14 both under his contract of service with his employer and
15 in fact; and

16 (2) who performs work which is either outside the
17 usual course of business or is performed outside all of
18 the places of business of the employer unless the employer
19 is in the business of contracting with third parties for
20 the placement of employees; and

21 (3) who is in an independently established trade,
22 occupation, profession or business.

23 "Pay stub" means an itemized statement or statements
24 reflecting an employee's hours worked, rate of pay, overtime
25 pay and overtime hours worked, gross wages earned, deductions
26 made from the employee's wages, total of wages and deductions

1 year to date, and the unused balance of any benefit or paid
2 time off that is available to the employee. For the purposes of
3 this definition, "pay stub" may include the unused balance of
4 any benefit or paid time off in a separate statement from any
5 other required information.

6 The following terms apply to an employer's use of payroll
7 cards to pay wages to an employee under the requirements of
8 this Act:

9 "Payroll card" means a card provided to an employee by an
10 employer or other payroll card issuer as a means of accessing
11 the employee's payroll card account.

12 "Payroll card account" means an account that is directly
13 or indirectly established through an employer and to which
14 deposits of a participating employee's wages are made.

15 "Payroll card issuer" means a bank, financial institution,
16 or other entity that issues a payroll card to an employee under
17 an employer payroll card program.

18 (Source: P.A. 98-862, eff. 1-1-15.)

19 (820 ILCS 115/10) (from Ch. 48, par. 39m-10)

20 Sec. 10.

21 (a) Employers shall notify employees, at the time of
22 hiring, of the rate of pay and of the time and place of
23 payment. Whenever possible, such notification shall be in
24 writing and shall be acknowledged by both parties. Employers
25 shall also notify employees of any changes in the

1 arrangements, specified above, prior to the time of change.

2 (b) Employers shall keep records of names and addresses of
3 all employees and of wages paid each payday, and shall furnish
4 each employee with a pay stub ~~an itemized statement of~~
5 ~~deductions made from his wages~~ for each pay period.

6 (c) An employer shall maintain a copy of an employee's pay
7 stub for a period of not less than 3 years after the date of
8 payment, whether the pay stub is furnished electronically or
9 in paper form.

10 (d) In addition to furnishing a pay stub for each pay
11 period as required under subsection (b), an employer shall
12 furnish the pay stub to an employee or former employee upon the
13 employee or former employee's request. An employer who
14 furnishes electronic pay stubs in a manner that is restricted
15 to the employer's current employees must, upon an employee's
16 separation from employment, provide the employee or former
17 employee with a paper or emailed electronic record of all of
18 the employee's or former employee's pay stubs for up to 3 years
19 prior to the date of separation, in the method specified by the
20 employee or former employee.

21 (e) Every employer shall post and keep posted at each
22 regular place of business in a position easily accessible to
23 all employees one or more notices indicating the regular
24 paydays and the place and time for payment of his employees,
25 and on forms supplied from time to time by the Department of
26 Labor containing a copy or summary of the provisions of this

1 Act.

2 (Source: P.A. 81-593.)

3 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

4 Sec. 14. Penalties.

5 (a) Any employee not timely paid wages, final
6 compensation, or wage supplements by his or her employer as
7 required by this Act shall be entitled to recover through a
8 claim filed with the Department of Labor or in a civil action,
9 but not both, the amount of any such underpayments and damages
10 of 5% of the amount of any such underpayments for each month
11 following the date of payment during which such underpayments
12 remain unpaid. In a civil action, such employee shall also
13 recover costs and all reasonable attorney's fees.

14 (a-5) In addition to the remedies provided in subsections
15 (a), (b), and (c) of this Section, any employer or any agent of
16 an employer, who, being able to pay wages, final compensation,
17 or wage supplements and being under a duty to pay, willfully
18 ~~willfully~~ refuses to pay as provided in this Act, or falsely
19 denies the amount or validity thereof or that the same is due,
20 with intent to secure for himself or other person any
21 underpayment of such indebtedness or with intent to annoy,
22 harass, oppress, hinder, delay or defraud the person to whom
23 such indebtedness is due, upon conviction, is guilty of:

24 (1) for unpaid wages, final compensation or wage
25 supplements in the amount of \$5,000 or less, a Class B

1 misdemeanor; or

2 (2) for unpaid wages, final compensation or wage
3 supplements in the amount of more than \$5,000, a Class A
4 misdemeanor.

5 Each day during which any violation of this Act continues
6 shall constitute a separate and distinct offense.

7 Any employer or any agent of an employer who violates this
8 Section of the Act a subsequent time within 2 years of a prior
9 criminal conviction under this Section is guilty, upon
10 conviction, of a Class 4 felony.

11 (b) Any employer who has been demanded or ordered by the
12 Department or ordered by the court to pay wages, final
13 compensation, or wage supplements due an employee shall be
14 required to pay a non-waivable administrative fee to the
15 Department of Labor in the amount of \$250 if the amount ordered
16 by the Department as wages owed is \$3,000 or less; \$500 if the
17 amount ordered by the Department as wages owed is more than
18 \$3,000, but less than \$10,000; and \$1,000 if the amount
19 ordered by the Department as wages owed is \$10,000 or more. Any
20 employer who has been so demanded or ordered by the Department
21 or ordered by a court to pay such wages, final compensation, or
22 wage supplements and who fails to seek timely review of such a
23 demand or order as provided for under this Act and who fails to
24 comply within 15 calendar days after such demand or within 35
25 days of an administrative or court order is entered shall also
26 be liable to pay a penalty to the Department of Labor of 20% of

1 the amount found owing and a penalty to the employee of 1% per
2 calendar day of the amount found owing for each day of delay in
3 paying such wages to the employee. All moneys recovered as
4 fees and civil penalties under this Act, except those owing to
5 the affected employee, shall be deposited into the Wage Theft
6 Enforcement Fund, a special fund which is hereby created in
7 the State treasury. Moneys in the Fund may be used for
8 enforcement of this Act and for outreach and educational
9 activities of the Department related to the recovery of unpaid
10 or underpaid compensation and the disbursement of moneys to
11 affected parties.

12 (b-5) Penalties and fees under this Section may be
13 assessed by the Department and recovered in a civil action
14 brought by the Department in any circuit court or in any
15 administrative adjudicative proceeding under this Act. In any
16 such civil action or administrative adjudicative proceeding
17 under this Act, the Department shall be represented by the
18 Attorney General.

19 (c) Any employer, or any agent of an employer, who
20 discharges or in any other manner discriminates against any
21 employee because that employee has made a complaint to his or
22 her employer, to the Director of Labor or his or her authorized
23 representative, in a public hearing, or to a community
24 organization that he or she has not been paid in accordance
25 with the provisions of this Act, or because that employee has
26 caused to be instituted any proceeding under or related to

1 this Act, or because that employee has testified or is about to
2 testify in an investigation or proceeding under this Act, is
3 guilty, upon conviction, of a Class C misdemeanor. An employee
4 who has been unlawfully retaliated against shall be entitled
5 to recover through a claim filed with the Department of Labor
6 or in a civil action, but not both, all legal and equitable
7 relief as may be appropriate. In a civil action, such employee
8 shall also recover costs and all reasonable attorney's fees.

9 (d) Except as provided under subsections (a), (b), and
10 (c), an employer who fails to furnish an employee with a pay
11 stub as required by this Act or commits any other violation of
12 this Act, shall be subject to a civil penalty of \$500 per
13 violation payable to the Department.

14 (Source: P.A. 102-50, eff. 7-9-21; 103-182, eff. 6-30-23.)