



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1567

Introduced 2/14/2005, by Rep. Kevin A. McCarthy

SYNOPSIS AS INTRODUCED:

New Act

Creates the Employment Termination Notice Act. Provides that an employer who employs 12 or more employees in Illinois must give a terminated employee, who has been employed by the employer for at least one year, a written termination notice of at least one week or, at the employer's option, termination pay in an amount equal to the wages the employee would have earned if the employee had worked his or her regular hours of work for one week. Excludes voluntary leaving and termination for cause. Provides that termination pay shall be in addition to any other payments that the employee may owe to the terminated employee. Provides that the Director of Labor shall administer and enforce the Act and may adopt rules necessary to administer and enforce the Act. Provides for hearings, relief, and civil penalties. Provides that a willful violation of the Act is a petty offense.

LRB094 08476 WGH 38682 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 1. Short title. This Act may be cited as the
5 Employment Termination Notice Act.

6 Section 5. Definitions. As used in this Act:

7 "Employee" means a person who has been employed by an
8 employer on a full-time or part-time basis for at least one
9 year. "Employee" does not include an independent contractor.

10 "Employer" means a person, entity, State officer or agency,
11 unit of local government, or school district that employs 12 or
12 more employees in Illinois.

13 "Termination" means the dismissal of an employee by an
14 employer or a layoff of an employee by an employer for more
15 than 2 consecutive months; however, "termination" does not
16 include (i) the voluntary leaving of an employee or (ii)
17 termination for cause.

18 "Cause" means a reasonable basis related to an individual
19 employee for termination of the employee's employment in view
20 of relevant factors and circumstances, which may include the
21 employee's duties, responsibilities, conduct on the job or
22 otherwise, job performance, and employment record.

23 Section 10. Notice. An employer who terminates an employee
24 must give the employee written termination notice of at least
25 one week. Instead of giving a termination notice, an employer
26 may pay an employee termination pay in an amount equal to the
27 wages the employee would have earned if the employee had worked
28 his or her regular hours of work for one week. Termination pay
29 shall be in addition to any other payments that the employee
30 may owe to the terminated employee. Termination pay must be
31 paid within 14 days after the termination.

1 Section 15. Rights not diminished. This Act may not be
2 construed to diminish an employee's right to termination notice
3 or termination pay that may exist under any other law or rule
4 or under a contract.

5 Section 20. Administration; violations; enforcement.

6 (a) The Director of Labor shall administer and enforce this
7 Act. The Director may adopt rules necessary to administer and
8 enforce this Act.

9 (b) If an employee alleges that he or she has been denied
10 his or her rights under this Act, the employee may file a
11 complaint with the Department of Labor. The Department shall
12 have the power to conduct investigations in connection with the
13 administration and enforcement of this Act. The Department may
14 conduct hearings in accordance with the Illinois
15 Administrative Procedure Act. After a hearing, if supported by
16 the evidence, the Department may (i) issue and cause to be
17 served on any party an order to cease and desist from further
18 violation of the Act, (ii) take affirmative or other action as
19 deemed reasonable to eliminate the effect of the violation,
20 (iii) award, to an employee who received neither termination
21 notice nor termination pay in accordance with Section 10, an
22 amount equal to the termination pay that would have been
23 payable under Section 10 had the employer elected to pay the
24 employer termination pay under Section 10, and (iv) impose a
25 civil penalty not to exceed \$500 for each violation. The
26 Director of Labor or his or her representative may compel, by
27 subpoena, the attendance and testimony of witnesses and the
28 production of records and other evidence in any investigation
29 or hearing and may administer oaths to witnesses. Any party to
30 a proceeding under this Act may apply for and obtain judicial
31 review of an order of the Department entered under this Act in
32 accordance with the Administrative Review Law, and the
33 Department in proceedings under the Act may obtain an order
34 from the court for the enforcement of its order.

1 (c) A willful violation of this Act is a petty offense.

2 Section 25. Applicability. This Act applies to
3 terminations occurring on or after its effective date.