

Illinois Amends Gender Violence Act, Codifies Application to Employers in Certain Circumstances

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An amendment to the [Illinois Gender Violence Act](#) (740 ILCS 82 *et seq.*), codified as [Public Act No. 103-0282](#), was signed by Governor J.B. Pritzker on July 28, 2023, and goes into effect January 1, 2024. The amendment clarifies the application of the law to employers in certain situations and updates the definition of “gender-related violence” to include “domestic violence” as that term is defined in the [Victims’ Economic Security and Safety Act](#).

The Gender Violence Act was originally enacted in 2004 to create a civil cause of action for any person who had been subjected to “gender-related violence.” “Gender-related violence” is defined as a form of sex discrimination and includes acts of physical aggression, physical intrusions or invasions of a sexual nature, and threats of gender-related violence.

Incorporating the definitions of “Employee” and “Employer” as set forth in [Section 2-101 of the Illinois Human Rights Act](#), the amendment provides that an action against an employer must be commenced within four years after the cause of action accrued (unless the complainant is a minor, then the action must be commenced within four years after they turn 18).

Section 11 of the amended Gender Violence Act provides that an employer is only subject to potential liability under certain limited circumstances. The law states:

(a) An employer is only liable for gender-related violence committed in the workplace by an employee or agent of the employer when the interaction giving rise to the gender-related violence arises out of and in the course of employment with the employer. Liability only extends to gender-related violence that occurs: (i) while the employee was directly performing the employee’s job duties and the gender-related violence was the proximate cause of the injury; or (ii) while the agent of the employer was directly involved in the gender-related violence and the performance of the contracted work was the proximate cause of the injury.

Proximate cause exists when the actions of the employee or the agent of the employer were a substantial factor in causing the injury.

An employer is liable if the employer has acted in a manner inconsistent with how a reasonable person would act under similar circumstances.

(b) Notwithstanding subsection (a), an employer is only liable for gender-related violence if the employer:

(1) failed to supervise, train, or monitor the employee who engaged in the gender-related violence. An employer providing training pursuant to Section 2-109 of the Illinois Human Rights Act shall have an affirmative defense that adequate training was

provided to the employee; or

(2) failed to investigate complaints or reports directly provided to a supervisor, manager, owner, or another person designated by the employer of similar conduct by an employee or agent of the employer and the employer failed to take remedial measures in response to the complaints or reports.

“Workplace” is broadly defined to include “the employer’s premises, including any building, real property, and parking area under the control of the employer, or any location used by an employee while in the performance of the employee’s job duties.” “Workplace” also includes activities occurring off-premises at employer-sponsored events where an employee is not performing the employee’s job duties.”

The law provides for possible injunctive relief and the potential recovery of actual damages, including damages for emotional distress, punitive damages, and the recovery of attorney’s fees and costs.

Jackson Lewis attorneys are available to assist you with sexual harassment prevention training and with a review of your internal policies and procedures aimed at sexual harassment and discrimination prevention, reporting, and investigation. If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you often work or any member of our team.

(Summer law clerk Oliver F. Page contributed to this article.)

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