

LAW & POLICY GROUP**GRIST**

ILLINOIS AMENDS EQUAL PAY ACT TO PROHIBIT SALARY-HISTORY INQUIRIES

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Changes to Illinois' [Equal Pay Act](#) will generally prohibit employers from asking job applicants for their salary history and broaden current equal pay protections. The measures in [2019 Pub. Act 101-0177](#) take effect Sept. 29. According to the governor's [press release](#), women currently earn 79% of men's earnings in the state.

PROHIBITION ON ASKING ABOUT WAGES AND BENEFITS

Under the act, employers or employment agencies won't be allowed to:

- Screen job applicants using their current or prior salaries — including benefits or other compensation — or ask for their salary history, unless their compensation is available under the Freedom of Information Act or the applicant is transferring roles in the same organization.
- Set minimum or maximum salary before considering applicants for a role.
- Use salary information voluntarily provided by an applicant in decisions about offering the job or setting compensation.

Employers can still give job candidates information about the position's salary, benefits and other compensation and discuss an applicant's salary expectations.

EXPANDED EQUAL PAY PROTECTIONS

Broader scope. Employers won't be allowed to discriminate in wages on grounds of sex or race if the jobs require "substantially similar skill, effort, and responsibility." The law previously banned wage discrimination in jobs requiring "equal skill, effort, and responsibility."

Permitted pay differences. The permitted grounds for pay differences will narrow. Pay differences based on factors other than sex, race or other protected characteristics must be consistent with business necessity and account for the whole pay gap or difference. Other permitted reasons are seniority systems, merit systems, and measurement systems based on quantity or quality.

Anti-retaliation protection. Employees have the right to inquire, disclose, discuss or compare their own wages or the wages of other employees. Employers can't retaliate against employees for exercising this right or require them to sign a contract or waiver agreeing not to disclose or discuss their own compensation. Employers may prohibit a human resource employee or supervisor who has access to employees' wages or salaries from disclosing that information without the employee's written prior consent.

Penalties. Employers face additional financial penalties for noncompliance.

RELATED RESOURCES

Non-Mercer Resources

- [2019 Pub. Act 101-0177](#) (Illinois General Assembly, July 31, 2019)
- [Press Release](#) (Illinois Governor's Office, July 31, 2019)
- [Equal Pay Act FAQs](#) (Illinois Dep't of Labor)

Mercer Law & Policy Resources

- [US: New Jersey To Ban Salary-History Inquiries](#) (Aug. 2, 2019)
- [US: New York Expands Equal Pay Laws, Bans Salary History](#) (July 17, 2019)
- [US: Washington State Enacts Salary History Ban](#) (May 24, 2019)
- [US: Maine Employers Can't Ask Job Seekers About Salary History](#) (May 1, 2019)
- [US: Cincinnati Adopts Salary History Ban](#) (April 8, 2019)

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