Public Act 095-0138

HB1744 Enrolled   LRB095 03625 RLC 25185 b

AN ACT concerning employment.

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

Section 5. The Right to Privacy in the Workplace Act is amended by adding Section 12 as follows:

(820 ILCS 55/12 new)

Sec. 12. Restrictions on use of Employment Eligibility Verification Systems.

(a) Employers are prohibited from enrolling in any Employment Eligibility Verification System, including the Basic Pilot program, as authorized by 8 U.S.C. 1324a, Notes, Pilot Programs for Employment Eligibility Confirmation (enacted by PL 104-208, div. C, title IV, subtitle A), until the Social Security Administration (SSA) and Department of Homeland Security (DHS) databases are able to make a determination on 99% of the tentative nonconfirmation notices issued to employers within 3 days, unless otherwise required by federal law.

(b) Subject to subsection (a) of this Section, an employer who enrolls in the Basic Pilot program is prohibited from the Employment Eligibility Verification Systems, to confirm the employment authorization of new hires unless the employer attests, under penalty of perjury, on a form prescribed by the

Department of Labor:

     (1) that the employer has received the Basic Pilot
training materials from DHS, and that personnel who will
administer the program have completed the Basic Pilot
Computer Based Tutorial (CBT); and

     (2) that the employer has posted the notice from DHS
indicating that the employer is enrolled in the Basic Pilot
program, the anti-discrimination notice issued by the
Office of Special Counsel for Immigration-Related Unfair
Employment Practices (OSC), Civil Rights Division, U.S.
Department of Justice, and the anti-discrimination notice
issued by the Illinois Department of Human Rights (IDHR).

(c) Responsibilities of employer using Employment
Eligibility Verification Systems.

     (1) The employer shall display the notices supplied by
DHS, OSC, and IDHR in a prominent place that is clearly
visible to prospective employees.

     (2) The employer shall require that all employer
representatives performing employment verification queries
complete the CBT. The employer shall attest, under penalty
of perjury, on a form prescribed by the Department of
Labor, that the employer representatives completed the
CBT.

     (3) The employer shall become familiar with and comply
with the Basic Pilot Manual.

     (4) The employer shall notify all prospective

employees at the time of application that such employment
verification system may be used for immigration
enforcement purposes.

(5) The employer shall provide all employees who
receive a tentative nonconfirmation with a referral letter
and contact information for what agency the employee must
contact to resolve the discrepancy.

(6) The employer shall comply with the Illinois Human
Rights Act and any applicable federal anti-discrimination
laws.

(7) The employer shall use the information it receives
from SSA or DHS only to confirm the employment eligibility
of newly-hired employees after completion of the Form I-9.
The employer shall safeguard this information, and means of
access to it (such as passwords and other privacy
protections), to ensure that it is not used for any other
purpose and as necessary to protect its confidentiality,
including ensuring that it is not disseminated to any
person other than employees of the employer who need it to
perform the employer's responsibilities.

(d) Preemption. No unit of local government, including a
home rule unit, may require any employer to use an Employment
Eligibility Verification System, including under the following
circumstances:

(1) as a condition of receiving a government contract;

(2) as a condition of receiving a business license; or

(3) as penalty for violating licensing or other similar
laws.

This subsection (d) is a denial and limitation of home rule
powers and functions under subsection (h) of Section 6 of
Article VII of the Illinois Constitution.

Section 97. Severability. The provisions of this Act are
severable under Section 1.31 of the Statute on Statutes.