

NEW RIGHTS AND NEW LAWS:

What Employment Lawyers
Should Know in 2024



ABOUT THE SPEAKERS

ALENNA K.
BOLIN

Alenna K. Bolin has practiced in the area of employee-side employment and civil rights law for 30+ years and is of Counsel to Fish Potter Bolaños, P.C. The discovery phase of litigation is often her focus and favorite part of the case. She was part of the two-lawyer trial team that won a \$500,000 jury verdict on workplace intentional infliction of emotional distress, upheld on appeal in *Naeem v. McKesson Drug Co.*, 444 F.3d 593 (7th Cir. 2006). More recently, she participated in case development and discovery on the legal team that achieved a \$14 million settlement in a class action sexual harassment case in *Brown v. Cook County, et al.*, No. 17-cv-8085 (N.D. Ill. 2020).

She discovered NELA-Illinois in 1997 and has been a member ever since.

THALIA
PACHECO

Thalia Pacheco is an associate at Fish Potter Bolaños, P.C. She serves as the leader of the firm's employment discrimination department where she litigates the rights of workers in both state and federal courts and the administrative agencies. She is passionate about helping low-wage workers and those from marginalized groups and is fluent in Spanish.

Thalia is a Board Member of NELA/Illinois and Chair of the CLE Committee. She is also the Secretary of the Illinois State Bar Association's Labor and Employment Law Section Council and a coach for her local high school's mock trial team.

I.

THE HEADLINERS

- Amendments to the Illinois Gender Violence Act
- Civil Rights Remedies Restoration Act
- Amendments to Day and Temporary Labor Services Act



ILLINOIS GENDER VIOLENCE ACT - AMENDMENT

- Effective: January 1, 2024
- Statute: 740 ILCS 82/5, 740 ILCS 82/11, and 740 ILCS 82/20
- Public Act 103-0282 - <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0282&GA=103>
- Summary: Permits victims to also sue employers whose employees or agents commit gender-related violence in the workplace, so long as the violence arises “out of and in the course of employment with the employer.”
- Key Provisions/takeaways:
 - liability extends to gender-related violence that happens (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.
 - Employer liable if it: (1) failed to supervise, train or monitor the employee engaged in gender-related violence; (2) or 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.
 - Adds “domestic violence” to definition of gender-related violence
 - 4 year SOL

CIVIL RIGHTS REMEDIES RESTORATION ACT

- Effective: January 1, 2024
- Statute: 775 ILCS 60/1, *et seq.*
- Public Act 103-0150 - <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0150&GA=103>
- Summary: Law is in response to and to counteract the 2022 SCOTUS Ruling in *Cummings v. Premier Rehab Keller PLLC*. Allows a state law cause of action for violations of federal anti-discrimination spending clause legislation. Provides violations of the Rehabilitation Act of 1973; the Patient Protection and Affordable Care Act; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; the Education Amendments of 1972; the Civil Rights Act of 1964, and any other federal statute prohibiting discrimination under a program or activity receiving federal financial assistance, constitutes a violation of the Act.
- Key Provisions/takeaways:
 - Allows courts to award at minimum \$4000 in damages or other relief for violations of the act, including damages for past, current and future monetary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other non-monetary losses.

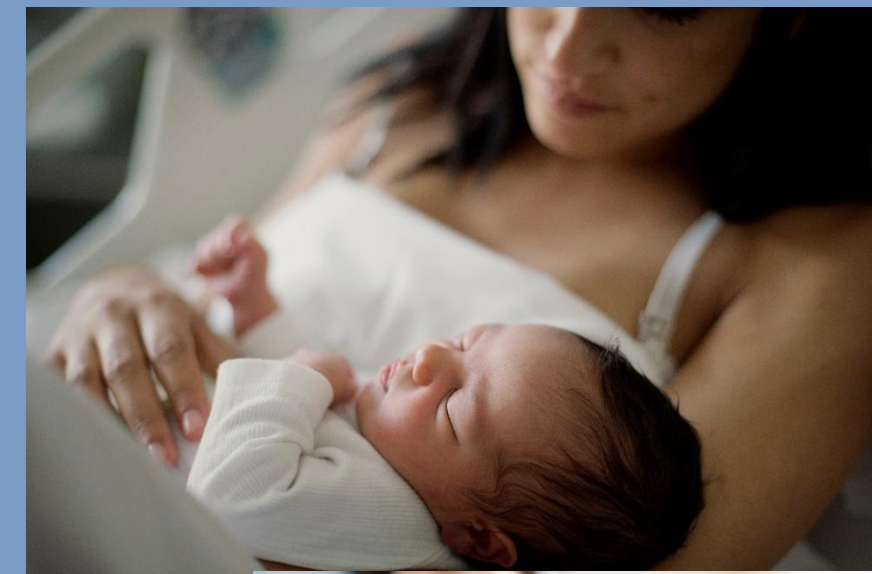
DAY AND TEMPORARY LABOR SERVICES ACT - AMENDMENT

- Effective: August 4, 2023 – Implementation of Section 42 until April 1, 2024
- Statute: 820 ILCS 175/2, 820 ILCS 175/5, 820 ILCS 175/11, 820 ILCS 175/30, 820 ILCS 175/42, 820 ILCS 175/45, 820 ILCS 175/50, 820 ILCS 175/55, 820 ILCS 175/67, 820 ILCS 175/70, and 820 ILCS 175/85
- Public Act 103-0437 - <https://www.ilga.gov/legislation/publicacts/fulltext.asp?name=103-0437&GA=103&SessionId=112&DocTypeId=HB&DocNum=2862&GAID=17&SpecSess=&Session=>
- Summary: Expands rights and protections for day and temporary workers by implementing more requirements for staffing agencies and increasing penalties for violations.
- Key Provisions/takeaways:
 - 4 new significant rights: 1. Comparable pay for temporary workers; 2. Advance notice of existing disputes at the work site; 3. Provide safety and hazard training to temporary workers; and 4. Third party enforcement and expanded penalties.

II.

LEAVE LAWS

- Paid Leave For All Workers Act
- Cook County Paid Leave Ordinance
- Chicago Paid Leave and Paid Sick Leave Ordinance
- Child Extended Bereavement Leave Act
- Amendments to the Illinois Victims' Economic Security and Safety Act (VESSA)
- Employee Blood and Organ Donation Leave Act
- Amendment to the Employment of Teachers Article of the School Code
- Firefighter Training Leave Act



PAID LEAVE FOR ALL WORKERS ACT (PLAW)

Effective: January 1, 2024

Statute: 820 ILCS 192

Regulations: 56 Ill. Admin. Code 200

(proposed) <https://www.ilga.gov/legislation/publicacts/fulltext.asp?name=102-1143>

Summary: Most employees in Illinois are entitled to up to 5 days of paid leave for any reason.

Key provisions

- Employees can earn up to 5 days of paid leave in a 12-month period.
 - BUT: the earliest leave can be taken is March 31, 2024
- Can take leave for any reason.
- Covered employers
 - All employers of any size
 - Exceptions:
 - Public school districts
 - Park districts

PAID LEAVE FOR ALL WORKERS ACT (PLAW) CONT.

- Covered employees: FT, PT, and seasonal employees [temp?] and domestic workers who perform work primarily in Illinois
 - Exceptions
 - Employees in construction and transportation industries covered by a CBA
 - Railroad workers
 - Students working less than FT temporary basis at same college/university
 - Employees of college or university who works for less than 2 consecutive quarters and has no expectation to be rehired in next calendar year
 - Bona fide independent contractors [except domestic workers]
- Employees accrue 1 hour of paid leave every 40 hours worked
 - Pro rata FT employees accrue leave faster than PT employees
 - Nonexempt employees who work more than 40 hours/week accrue more than 1 hour/week
 - Exempt employees who work more than 40 hours accrue at 1 hour/week

PAID LEAVE FOR ALL WORKERS ACT (PLAW) CONT.

- Notice requirement:
 - 7 days' notice, if for need is foreseeable
 - As soon as practicable, if need is not foreseeable
- Documentation: None. Employer cannot require documentation or certification except request for leave.
- Conditions:
 - Minimum increment: 2 hours
 - Employer cannot require employees to find a replacement to cover their shifts
 - Employee can choose to take this leave before any other leave provided under fed or state law.
- Paid leave: regular pay
 - But for employees who receive tips or commissions, must be paid minimum hourly rate in their jurisdiction
- How pay: employer has choice to require employee to accrue the leave over the 12-month period or front-load the leave all at once at the start of the 12-month period

PAID LEAVE FOR ALL WORKERS ACT (PLAW) CONT.

- Carry-over: yes
- But: not treated like accrued vacation pay, not paid out at separation, unless it is credited to a PTO bank
- What if employer front loads based on PT employee's anticipated hours, but employee works more? Employee accrues. What if works less? Cannot take away or recoup
- Waiver of rights under this law
 - can be waived in a CBA "only if the waiver is set forth explicitly in such agreement in clear and unambiguous terms."
 - BUT: an agreement by an employee to waive rights is void and against public policy
- Recordkeeping: employer must keep and maintain records for 3 years, longer if claim pending
 - Hours worked
 - Paid leave accrued and taken
 - Paid leave balance
- Local ordinances
 - must contain the minimum of this law:
- Cause of action?
 - Enforceable thru DOL
 - No private right of action in court

COOK COUNTY PAID LEAVE ORDINANCE

- <https://www.cookcountyil.gov/sites/g/files/ywwepo161/files/documents/2023-12/24-0583%20Certified.pdf>

CHICAGO PAID LEAVE AND PAID SICK LEAVE ORDINANCE

- https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2639843#JD_6-105-045

ILLINOIS VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA) - AMENDMENT

Effective: January 1, 2024

Statute: 820 ILCS 180/15 & 180/20

Regulations: 56 Ill. Admin Code 280

Summary: VESSA is amended to allow employees to take up to two weeks of job-protected leave when a family or household member was killed in a crime of violence.

Key provisions:

- Adds “crime of violence” to the list of VESSA-qualifying reasons for leave.
- VESSA leave to:
 - attend the funeral, alternative to a funeral, or a wake, of a “family or household member” killed in a crime of violence;
 - make necessary arrangements for a family or household member killed in a crime of violence; and
 - grieve a family or household member killed in a crime of violence.

ILLINOIS VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA) CONT. - AMENDMENT

- Family member: Existing definition of “family member” remains the same:
a spouse or party to a civil union, parent, grandparent, child, grandchild, sibling, or any other person related by blood or by present or prior marriage or civil union, other person who shares a relationship through a child, or any other individual whose close association with the employee is the equivalent of a family relationship as determined by the employee, and persons jointly residing in the same household. 820 ILCS 180/10(12))
- Amount of leave: up to two workweeks (10 workdays).
- Must be taken within 60 days after notice of the death of the victim.
- Documentation: An employer may request certification. An employee can satisfy this requirement by providing a death certificate, published obituary, or written verification of death by criminal violence.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?name=103-0314&GA=103&SessionId=112&DocTypeId=HB&DocNum=2493&GAID=17&SpecSess=&Session=>

CHILD EXTENDED BEREAVEMENT LEAVE ACT (CEBL)

Effective: January 1, 2024

Statute: 820 ILCS 154/35

Summary: Provides up to 12 weeks of job-protected leave for parents who experience the loss of a child through homicide or suicide.

Key provisions:

- Covered employer:
 - at least 50 full-time employees.
 - Does not include full-time employees of the State of Illinois unless they are not eligible for other leave.
- Amount of leave depends on size of employer:
 - 250 or more full-time employees in Illinois: up to 12 weeks of leave per year.
 - 50 to 249 full-time employees in Illinois: up to six weeks of leave per year.
- When:
 - Can be taken in increments of no less than 4 hours
 - Must be completed within one year after notification of loss.

CHILD EXTENDED BEREAVEMENT LEAVE ACT (CEBL) - CONT.

- Notice: Employer can require advance notice of leave, unless not reasonable and practicable.
 - Documentation: Employer can require reasonable documentation of death and cause of death, such as death certificate, published obituary, or other written verification of death.
 - Job protections:
 - Right to be restored to the same or equivalent position held when leave commenced
 - Right to maintain existing employment benefits.
 - Cause of action?
 - File a complaint with IL DOL or civil action in court.
 - Statute of limitations: one year.
 - Remedies in civil action: injunction and equitable relief.
 - Interaction with other leave laws?
 - Statute says only that it does not extend the maximum period of leave an employee can take under the FMLA, other leave law, an employment benefits plan, or under a CBA.
 - Keep in mind that grief from loss of a child might not constitute a serious health condition so as to fall within the FMLA.
- <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0466>

EMPLOYEE BLOOD AND ORGAN DONATION LEAVE ACT

Effective: 1/1/2024

Statute: 829 ILCS/1, *et seq.*

Summary: Requires certain employers to grant employees up to 10 days of leave to donate an organ.

Key provisions:

- Covers private employers and units of local government and boards of elections commissioners with 51 or more employees.
- Covers full-time employees who have been employed for at least 6 months.
- Employee must obtain approval from the employer to take the leave.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0450>

FIREFIGHTER TRAINING LEAVE OF ABSENCE ACT

Effective: 1/1/2024

Statute: 829 ILCS/1, *et seq.*

Summary: Requires State agencies to grant leave of absence to State employees for firefighter training.

Key provisions:

- Covers only State employers – local governments are specifically excluded.
- Amount of leave:
 - Up to 200 hours to obtain Basic Operations Firefighter certification while attending a State Fire Marshal-approved fire academy (one time).
 - Up to 80 hours to obtain special or advanced training, for courses that lead to additional certification by the State Fire Marshal (annual).
- Paid leave? Yes. Employee receives regular compensation, seniority, and other benefits continue during the leave.
- Generally, the State agency must grant the leave if the State employee has provided at least 14 days' notice of the need for leave.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0220>

DAYS OFF FOR EDUCATIONAL SUPPORT PERSONNEL EMPLOYEES-AMENDMENT

Effective: 1/1/2024

Statute: 105 ILCS 5/24-2

Summary: Amends School Code. Educational support personnel employees are added to the list of other school employees who are not required to work on holidays.

<https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0395>

III.

WORK SCHEDULES

- Evanston Fair Workweek Ordinance
- Chicago Fair Workweek Ordinance



EVANSTON FAIR WORKWEEK ORDINANCE

- Effective: January 1, 2024
- Ordinance: 3-34
https://library.municode.com/il/evanston/codes/code_of_ordinances?nodeId=TIT3BURE_CH34FAWOWEOR
Summary: Requires certain employers in the City of Evanston to provide advance notice to employees of their work schedules, or otherwise provide compensation for changes.
- Key Provisions/takeaways:
 - 14 days' notice of work schedule for existing employees
 - Compensation for schedule changes
 - Allows private cause of action with damages that includes, compensation for damages sustained, including the payment of predictability pay unlawfully withheld, as a result of the violation, including litigation costs, expert witness fees, and reasonable attorney's fees

CHICAGO FAIR WORKWEEK ORDINANCE - UPDATES

- Effective: July 1, 2023
- Ordinance: MCC 6-110 https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2639907#JD_Ch.6-110
- Summary: Guidance updates went into effect, which increase the earning threshold that defines a “covered employee” (<https://www.chicago.gov/content/dam/city/depts/bacp/OSL/fwwnoticejuly12023.pdf>) and the City issued new guidance(<https://www.chicago.gov/content/dam/city/depts/bacp/OSL/20230322FWWFAQ.pdf>) regarding predictability pay for mutual schedule modifications Key Provisions
- Key provisions/takeaways:
 - Covered employee’s salary/hourly threshold is now \$59,161.50 (salary) or \$30.80 per hour (hourly) or less
 - Clarification that employee initiated change does not merit predictability pay
 - For mutual agreement exception, a mutual agreement must be executed pursuant to an informed consent process whereby the Covered Employee knows that they have a right to decline and knows that they could have been paid predictability pay.

IV.

BENEFITS

-Transportation Benefits Program Act



TRANSPORTATION BENEFITS PROGRAM ACT

Effective: January 1, 2024

Statute: 820 ILCS 63/

Summary: Requires employers to provide to furnish pre-tax commuter benefits to covered employees so that they may purchase a public transit pass.

Key provisions:

- Covered employers:
 - Any public or private employer.
 - Exercises direct or indirect control over wages, hours, or working conditions.
 - Has at least 50 “covered employees” at a location that is within one mile of fixed-route transit service in specified areas (Cook County and 37 surrounding townships).

TRANSPORTATION BENEFITS PROGRAM ACT - CONT.

- Covered employee:
 - Works on average at least 35 hours per week on a full-time basis.
- Employers must offer covered employees a pre-tax commuter benefit on their first full pay period after the employee's 120th day of employment.
- Employees may use the benefit for the purchase of a CTA or RTA transit pass via payroll deduction.
 - Transit pass includes pass, token, fare card, voucher, and the like.

<https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4428&ChapterID=68>

Can be set up as Commuter Reimbursement Accounts, like Health Care reimbursement accounts.



V.



PAY

- Minimum Wage Updates
- Amendments to the Illinois Day and Temporary Labor Services Act
- Freelance Worker Protection Act

MINIMUM WAGE CHANGES

Federal (no changes)	\$7.25/non-tipped workers \$2.13/tipped workers
Federal Contractors – started January 1, 2024	\$17.20/non-tipped and tipped employees *contractors can no longer credit employee tips – tipped employees also entitled to the \$17.20 hourly wage
Illinois – started January 1, 2024	\$14/non-tipped workers \$8.40/tipped workers
Chicago – started July 1, 2023	\$15/non-tipped workers/4-20 EEs \$15.80/non-tipped workers/ >20 EEs \$9.48/tipped lg. ER \$9.00/tipped sm. ER
Cook County	\$14/non-tipped workers \$8.40/tipped workers

FREELANCE WORKER PROTECTION ACT

- Effective: July 1, 2024
- Statute: 820 ILCS 193, *et seq.*
- Public Act 103-0417 - <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0417&GA=103>
Summary: Provides rights and benefits for freelance workers by implementing obligations on the contracting entity.
- Key Provisions/takeaways:
 - Freelance Worker is defined under the act as “a natural person who is hired or retained as an independent contractor by a contracting entity to provide products or services in Illinois or for a contracting entity located in Illinois in exchange for an amount equal to or greater than \$500, either in a single contract or when aggregated with all contracts for products or services between the same contracting entity and the freelance worker during the immediately preceding 120 days.”
 - Contracting entity must have written agreement with freelance worker.
 - Payment for services due on or before the due date.
 - Prohibits discrimination or retaliation against a freelance workers for exercising rights under the Act.

ILLINOIS EQUAL PAY ACT - AMENDMENT

- Effective: Compliance begins March 24, 2024
- Statute: 820 ILCS 112/11
- Public Act 103-0201 - <https://www.ilga.gov/legislation/publicacts/103/103-0201.htm>
- Summary: Equal Pay Registration Requirements - Requires private businesses with 100 or more employees in Illinois to apply to IDOL to obtain an Equal Pay Registration Certificate by March 24, 2024, and then recertify every two years after.
- Key Provisions/takeaways:
 - Covered businesses must submit certain pay, demographic, and other data to show compliance with the law's equal pay requirements.
 - Potentially free discovery!



VII.



OTHER

- Amendments to the Illinois Personnel Review Act
- Minimum Wage Law - Amendment

ILLINOIS PERSONNEL REVIEW ACT - AMENDMENT

Effective: January 1, 2024

Statute: 820 ILCS 40/2; 820 ILCS 40/3 (repealed)

Summary: Amendments to the Illinois Personnel Record Review Act.

Key provisions:

- Prior law stated that an employer could mail a copy of the personnel records to the employee, if the employee demonstrated that he or she was unable to review the records at the work location.
- The amendment omitted that restriction, and now employer must provide a copy of the records upon the employee's request.
- The amendment also provides that the employer is to email or mail the copy of the records to the email address or mailing address identified by the employee.
- The bill repealed 820 ILCS 40/3, the section permitting an employer to charge a fee for providing a copy of the records. BUT: that language was moved into the preceding section.
 - Employer may still charge an employee "the actual cost of duplicating the requested record."
- <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2395&ChapterID=68>

ELECTRONIC POSTING OF WORKPLACE NOTICES- AMENDMENT

- Effective: January 1, 2024
- Statute: 820 ILCS 105/9, 820 ILCS 112/40, 820 ILCS 115/3, 820 ILCS 205/5
- Public Act 103-0201 - <https://www.ilga.gov/legislation/publicacts/103/103-0201.htm>
- Summary: Requires employers to post required workplace notices electronically.
- Key Provisions/takeaways:
 - Employers that have employees who do not regularly report to a workplace, such as remote workers or those who travel for work, must post all the required information under the Illinois Minimum Wage Law, Equal Pay Act, Wage Payment and Collection Act, and Child Labor Law, to the employer's website or intranet, or email a copy of the laws to those workers.



VII.



FEDERAL UPDATES

-Proposed FLSA Salary Requirement Increase

PROPOSED FLSA SALARY REQUIREMENT INCREASE

- Effective: No final rule yet but should be issued in 2024 – watch for updates
- Proposed Rule – 29 CFR Part 541 <https://www.regulations.gov/document/WHD-2023-0001-0001>
- Summary: DOL issued a Notice of Proposed Rulemaking that if implemented will increase the federal minimum salary requirement to be considered exempt from FLSA overtime pay .
- Key provisions/takeaways:
 - Proposed minimum salary required increased to \$1,059 (up from \$684 per week currently) a week or \$55,068 a year for administrative, professional, and executive employees to be exempt
 - Highly compensated employees' salary threshold increase to \$143,988 (up from \$107,432) a year
 - Proposal includes automatic raise of earnings thresholds every three years

VIII.

BONUS RANDOM LAWS

- Amendment to the Illinois Human Rights Act
- Amendment to Illinois Vehicle Code



ILLINOIS HUMAN RIGHTS ACT- AMENDMENT

- Effective: January 1, 2024
- Statute: 775 ILCS 5/3-101, 102, 102.1, 103, 104.1 and 106
<https://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=077500050HArt.+3&ActID=2266&ChapterID=64&SeqStart=1393750&SeqEnd=2200000>
- Summary: The IHRA now includes immigration status as a protected class in any housing-related dealings

ILLINOIS VEHICLE CODE- AMENDMENT

- Effective: January 1, 2024
- Statute: 625 ILCS 5/12-610.2
- Public Act 103-0310 - <https://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0310>
- Summary: Prohibits using an electronic device to participate in any video conferencing application or accessing social media sites while driving.
- Key Provisions/takeaways:
 - Do zoom court in a parking lot or from home or the office!



Additional Resources

- Chart comparing paid leaves under PLAW, Cook County and Chicago Paid Leave ordinances https://www.cookcountyl.gov/sites/g/files/ywwepo161/files/documents/2024-01/Paid%20Leave%20Chart%20%28Public%20Facing%29_Corrected.pdf
- IDOL Paid Leave For All Workers Act FAQ <https://labor.illinois.gov/faqs/paidleavefaq.html>
- IDOL Day and Temporary Labor Service Agency FAQ: <https://labor.illinois.gov/faqs/day-temp-labor-faq.html>
- Extensive list of ALL IL bills going into effect in 2024 (Thanks, Gail!): https://s3.amazonaws.com/ClubExpressClubFiles/853437/attach/3546554_1_il-new-laws-list_2024.pdf

THANK YOU TO ALL
OF YOU WHO WERE
INVOLVED IN PASSING
SOME OF THESE
LAWS—PARTICULARLY
THE MEMBERS OF
NELA-ILLINOIS'
LEGISLATIVE
COMMITTEE!

QUESTIONS?

IT'S A WRAP!

The End.

